Editorial

Judicial elections undesirable

A petition to elect, rather than appoint state Supreme Court and district court judges could be detrimental to Nebraska's justice system.

Charles Gove, chairman of the Nebraska Coalition to Elect the Judges, said in an *Omaha World-Herald* article that his group wants judges elected every four years. Judges currently are appointed by the governor and stand for a retention vote every six years, according to the merit system adopted in 1962.

Gove, a retired Air Force lieutenant colonel from Denton, said the merit system has isolated the judiciary from the electorate. If chosen by popular election, judges would be more responsive to the people, he said.

However, Gove's reasoning contradicts the purpose of the judicial system. Judges are supposed to decide the law and protect the rights of individuals, rather than "be responsive" to the majority.

Another problem with elections is that few people would take the time to review each judge's record. The election would become a popularity contest.

In his second arguement for popular elections, Gove said he thought the merit plan violated the 14th Amendment.

The 14th Amendment, Section Two states:

But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitiants of such State, being 21 years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis or representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens 21 years of age in such State.

Although Gove is correct in his rending of the 14th Amendment, the second section is not used today.

"This provision has never been enforced by Congress, and may today be regarded as obsolete through disuse, and also, possibly through obvious disharmony with the 19th Amendment," states *Understand the Constitution*, third edition, by Edward S. Corwin and Jack W. Peltason.

Judges are supposed to be unbiased third parties who decide questions and form authoritative opinions. Popular elections would destroy judicial fairness because judges would be forced to cater to the majority opinion in order to be re-elected.

— Vicki Ruhga

Electronic surveillance poses privacy threat

Eric Peterson

Thirty years ago, Earl Warren became Chief Justice of the U.S. Supreme court and helped put the Fourth Amendment — prohibiting unreasonable searches and seizures — back in the Constitution. The *New Yorker* editor wrote in the October 24, 1983 issue that under Warren's leadership," the Supreme Court made life in our country notably less oppressive."

The 1966 *Miranda vs. Arizona* decision, which requires police to inform suspects of their right to remain silent and obtain a lawyer, is only the most well-known of a number of Supreme Court cases which corrected traditional abuses of police power. In 1957, the Warren Court stated that congressional investigative committees had to demonstrate the relevance of their questions to a specific legislative need; in 1961, there was a further restriction of warrantless searches in *Mapp vs. Ohio.*

Recent court decisions on electronic surveillance — what the American Civil Liberties Union has called "the most intrusive and inherently unreasonable form of search and seizure" — have eliminated the judicial safeguard against arbitrary searches which existed in the past. The Supreme Court has upheld the warrantless use of bumper beepers — electronic tracking devices placed on cars — and pen registers, which record numbers dialed on telephones, according to the April 1984 *Progressive.* Federal judges have recently ruled that eavesdropping with a parabolic microphone does not need a warrant.

The collaboration of courts with cops in the assault on the Fourth Amendment takes more troubling forms yet. After the Foreign Intelligence Surveillance Act was passed in 1978 to stop the CIA and FBI abuses uncovered by the late Idaho Senator Frank Church's Select Intelligence Committee, a special court, with judges appointed by Chief Justice Warren Burger, was created to monitor and approve electronic surveillance made for national security reasons. As documented in "A Court that Never Says No," also in the April 1984 *Progressive*, the Foreign Intelligence Surveillance Court in its five years of existence and 1,422 cases, has never turned down an administration request for a surveillance warrant.

This court's operations are kept absolutely secret and its only published opinion was one which renounced its own jurisdiction over physical breakins, or "black bag jobs," and left that technique to the discretion of the attorney general and the president.

The current surveillance act allows this court-approved (rubber stamped) electronic surveillance if there is "probable cause" that the target is an "agent of a foreign power." This comes in handy for a president who has said the nuclear freeze movement is a Soviet tool and questions the motives and patriotism of those who attack American aggression in Central America.

The extensive and illegal attacks made on the anti-Vietnam war movement were, of course, justified by the Nixon administration for national security reasons. And the circles of enemy subversion widen like ripples in the water.

The case for using electronic surveillance at all is not that strong. Twenty-three states, including California and Illinois — though not Nebraska — forbid wiretapping by the police; and it would be hard to show they're worse off because of this restriction.

Former U.S. Attorney General Ramsey Clark questions the overall effectiveness of wiretapping. "I've never thought electronic surveillance was necessary," he told *Progressive.* "It's damaging to the investigative function, and very inefficient and expensive." Civil rights lawyer William Kunstler agrees. "The police don't need these things for effective law enforcement," he says. "All they need to do is a little more legwork."

It is time for the nation's federal courts to swing back toward protecting individual privacy and the regularity of police investigation. There is no strong evidence that electronic surveillance is more than marginally better than conventional police methods; and the potential for abuse is, like the flowing fountain we sang about in Sunday School, deep and wide.

Campus Quotes

What do you think of nighttime towing on campus?

Peri Benstead
senior
fashion merchandising
"I don't think it's fair. There's no safety, especially for females. A lot of students at night are from off campus, and that's their means of transportation."

Bruce Beckmann
junior
computer science
"Well, I don't think that they should (at night) on campus if a better way could be found...unless they (the vehicle's owner) have quite a bit of outstanding tickets."

David Miller
sophomore
elementary education
"Why should you have nighttime towing? Daytime you have traffic back and forth. At night, we don't have nothing. I don't know what the problem is about."

Chris Mimnick
junior
history
"I don't park on campus and stuff, but from what I've heard from my friends, it's not very good. You'll be getting out of the library and your car won't be there. It'll be dark out and this is especially dangerous for women. It's a dangerous situation."

Joel Sartore/Daily Nebraskan

Margaret Kramer
freshman
undeclared
"I don't like towing at any time. I don't think it's a good idea. They should have better ways of taking care of things."