

Editorial

Daily
Nebraskan
University of Nebraska-Lincoln

Jeff Korbellek, Editor, 472, 1766
James Rogers, Editorial Page Editor
Gene Gentrup, Managing Editor
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Death penalty

Decision a victory for good law

The complex struggle over applying capital punishment proceeds. Last week U.S. District Judge Warren Urbom struck down as unconstitutional part of Nebraska's capital-punishment statute in an appeal by convicted murderer Richard Holtan. To be understood, Urbom's decision needs to be placed in context.

The broad restructuring of states' capital punishment laws came about as a result of a 1972 U.S. Supreme Court decision that struck down 39 state death-penalty laws.

Because each justice wrote a separate opinion, the precise holding of the case has never been wholly clear. But the per curiam holding was that "the imposition and carrying out" of an arbitrary and randomly administered capital-punishment system constituted "cruel and unusual" punishment violating the U.S. Constitution.

In another case, four years later, Justice Stewart, who announced the judgment of the Court, specified that death-penalty laws can be constitutional if they are authorized "by a carefully drafted statute that ensures that the sentencing authority is given adequate information and guidance."

What this means is that death-penalty laws must be sufficiently clear so that the law is fairly applied. Those in favor of capital

punishment as well as those opposed can certainly agree on that point. That is, the law should be fairly applied in all cases.

It is on this point that Judge Urbom found one part of Nebraska's death-penalty law running afoul.

Nebraska law requires that "aggravating" and "mitigating" circumstances be taken into account in deciding whether a convicted murderer should be put to death. One of the aggravating circumstances in Nebraska law is that the murder "manifested exceptional depravity by ordinary standards of morality and intelligence." Now that's really not clear enough to ensure fairness. That is, the language is not sufficiently precise to guarantee that like crimes will be punished similarly.

Urbom held that the Nebraska Supreme Court, in its interpretation of the matter, did not clarify the unconstitutional language sufficiently to save the provision. So he ruled that part of the law unconstitutional.

All laws should be clear, and since statutes authorizing the death penalty are the gravest of laws, society needs to be especially careful in drafting their language.

Urbom's decision need not be categorized as a "victory" for either side of the capital-punishment controversy. His decision is a victory for good law.

In a paragraph . . .

Orr's appointee good news for NU

Gov.-elect Kay Orr has appointed Hans Brisch, executive assistant to NU President Ronald Roskens, as her chief of staff. That could be a plus for the university. Brisch is aware of the problems created by the budget cuts and would be in a good position to make recommendations.

The Lincoln Star called on pollster Doug Evans of Lincoln's Research Associates to determine the popularity of UNL's mascot, Herbie Husker. Research Associates contacted 449 Nebraskans Oct. 26 through 29 and asked, "Do you think the University of Nebraska athletic mascot, Herbie Husker, gives a good impression of Nebraska?"

Fifth-two percent approved of Herbie, 21 percent said they didn't, and 27 percent said they didn't know or cared. What the Daily Nebraskan would like to know is how many of those 449 people polled were students? Had the Research Associates contacted students, the results would have been different.

Did anybody count how many times CBS's Dan Rather told the viewing audience that the Democrats had gained control of the Senate? At least ABC and NBC stuck with most of their regular programming and didn't bore

viewers by telling them results after only 2 percent of the votes were in.

The United States is intent on an anti-drug campaign, and the Soviets have a campaign of their own. The Soviet anti-drinking campaign, started 18 months ago, has cut liquor consumption and worker absenteeism by one-third, crime by 25 percent and traffic accidents by 20 percent, a Politburo member told the Associated Press.

The seat-belt law, referendum 401, was repealed in Nebraska—a major mistake. Ask law-enforcement officers how many dead people they have unbuckled from a car, and they will tell you very few, if any.

Nearly 750,000 copies of the Harvard Lampoon's parody of USA Today have been sold. The parody contains a variety of fictional news stories and photos. Pick one up if you have the chance.

You know it's getting to be that time of year when you see red and green decorations next to the orange and black Halloween ones. Christmas seems to be getting closer every year—at least the retail stores feel that way. Don't they know that everyone puts off Christmas shopping until Dec. 24?

Is the nuclear winter valid?

Scientists lost credibility when politics influence research

"Lies and not truth prevail in the land."

Jeremiah 9:3

Democracy is based on faith. Citizens obviously cannot have access to all primary information sources necessary to discharge their responsibilities. They need to rely on experts. Thus the integrity of the expert is fundamental to the commonweal of the republic.

If those with primary access to facts distort or fabricate those "facts," the very foundation of responsible democratic decision-making is shaken.

Politicians have distorted information so often that they no longer enjoy a widespread perception of integrity among the American people. Even if most politicians are honest and forthright, abuse by the few has destroyed the perceived integrity of the many.

Scientists traditionally have enjoyed a much higher credibility rating than politicians. But some scientists seem intent on destroying this reserve of good will. Just like politicians, even if only a minority of scientists abuse the reserve of trust invested in their profession, the fallout would cast a pall over the entire group.

The proximate cause of this risk is the widely heralded, but false, specter of the "scientifically" modeled consequences of nuclear war—a nuclear winter.

There's no reason to take my word for it. After all, I'm not a climatologist, meteorologist, computer scientist or physicist. But Russell Seitz, visiting scholar at Harvard University's Center for International Affairs, has done an admirable job of uncovering the opinions of the experts. His valuable article is published in the fall issue of "The National Interest," and parts of that article were republished last week in the Wall Street Journal. The following startling items were taken from his

article.

Item: Prof. George Rathjens of MIT and chairman of the Council for Livable World: "Nuclear winter is the worst example of the misrepresentation of science to the public in my memory."

Item: The leading British scientific magazine Nature in its Jan. 23 issue

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noted the demise in scientific objectivity and lamented: "Nowhere is this more evident than in the recent literature on 'Nuclear Winter,' research which has become notorious for its lack of scientific inquiry."

Item: National Center for Atmospheric Research scientists Stanley Thompson and Stephen Schneider in the Summer, 1986 "Foreign Affairs": "... on scientific grounds the global apocalyptic conclusions of the initial nuclear winter hypothesis can now be relegated to a vanishingly low level of probability."

Item: At a meeting organized to present the findings of the nuclear-winter model, Dr. Kista Tsipis of MIT quotes a Soviet scientist as saying: "You guys are fools. You can't use mathematical models like these to model perturbed states of the atmosphere. You're playing with toys."

Item: Physicist Freeman Dyson of the Institute for Advanced Studies at Princeton said this about the nuclear winter model: "It's an absolutely atrocious piece of science, but I

quite despair of setting the public record straight. . . . Who wants to be accused of being in favor of nuclear wars?"

The evidence is astounding given the press play of the issue at the hands of scientists such as Carl Sagan. Russell Seitz has done an inestimable service by compiling this impressive indictment against the scientific veracity of the nuclear winter hypothesis.

The question isn't one of whether the world should avoid having a nuclear war. Rather, the question is one of intentionally representing bad information as "scientific" in order to advance one's political beliefs. That's wrong no matter what the cause is.

All in all, this has been a terrible fall for truth. The Reagan administration began the steep dive to the bottom of the barrel with its "disinformation" campaign about Libya. ("Disinformation" is the Orwellian term for lying to the press and the public.) Additionally, the recent Iranian/terrorist debacle simply has added insult to insult. The administration should be ashamed.

But the revelations about nuclear winter greatly deepen disgust over the demise of expert integrity. After all, the Reagan administration's moves simply confirm an already cynical view of politicians. But scientists are supposed to be different, they're supposed to be more objective, and thus their opinions are supposed to be more trustworthy. Scientists are supposed to be like Joe Friday: "Just give me the facts, Ma'am."

One central foundation of the scientific enterprise is the claim to be engaging in a dispassionate investigation of the truth. That one claim ostensibly divides the scientific community from the community of the politicians, Erasing that line bodes ill both for society and science.

Rogers is an economics graduate and law student and the Daily Nebraskan editorial page editor.

Americans don't consider ideologies if candidate has charisma, Big Mo

Does anybody remember Big Mo? Sure you do. He was a character who was introduced to America by George Bush in 1980.

That's when Bush hoped to be the Republican candidate for president and after every primary he would prattle about how Big Mo—whose full name is Mo Mentum—was behind him.

As it turned out, Big Mo was with Ronald Reagan, and Bush had to settle for being—as George Will describes him—a lap dog.

And Big Mo has been with Reagan since, no matter what he said or did. With Big Mo behind him, Reagan could do no wrong, even when he didn't know what he was doing.

At least that's the way it was until Tuesday, when the Democrats took control of the U.S. Senate.

It happened so suddenly and decisively that I had to wonder: Had Big Mo abandoned Reagan?

So I went outside, put a wet finger in the air to see which way the wind was blowing, and, sure enough, I soon found Big Mo sitting on a park bench.

What's up? I asked him. "I assume that you're talking about Tuesday?" he said.

Of course. It looks to me like you have changed loyalties.

He shook his head. "That's because you don't understand. Sure, I, Big Mo, was with Reagan. But that doesn't mean I'm with all those other characters."

You mean the Republican senators who were beaten?

"Sure. They were on their own."

But what about the rest of the Republican Party?

"Look, I don't have time to mess around with every rinky-dink in a blue suit and a power-red tie who goes on 'Meet the Press.'"

So it was only Reagan all along?

"You got it. And now it's time for me to start looking around for someone else."

I see. You're already looking ahead to '88.

"Sure. It takes me, Big Mo, a while to build up a head of steam. It's not like in the old days, before TV and primaries, when I could save my energy for a con-

Mike Royko



vention. Now I have to hoof around New Hampshire with all those mopes."

Then give me a tip. Who's it going to be? Dole? Bush? Kemp? Laxalt? Robertson?

He shook his head. "Forget it." But what other Republicans are there?

"Who says Big Mo has got to be with a Republican? I'm non-partisan."

You mean it could be a Democrat?

He leaned forward. "Let me tell you a secret. I'm not a winner."

"Right, I looked at him and told myself, this guy has got it. When he talks, people listen, even if he's not really saying anything. When he makes a speech, he can bring a lump to your throat, a tear to your eye, and he doesn't look like he used a blow dryer on his hair."

What does a blow dryer have to do with it?

"Blow dryers are out. Big Mo is never going with anybody who tries to look and talk like a cousin of the Kennedy clan."

Then that rules out most of the Democrats.

"Not all of them. There's one Democrat who has everything Reagan has—that lump-in-the-throat, tear-in-the-eye sincerity. The fatherly manner. And he's got something that Reagan never had. Brains. Of course, Reagan never really needed any. In politics, if you've got charisma, you can always hire brains."

So, tell me, who is this ideal Democrat?

"Mario Cuomo."

You've got to be kidding. Sure, he's dynamite on TV. He looks mature and strong. But what about ideology? It's just the opposite of Reagan's.

"Forget ideology. The Democrats have wised up. They've picked over the Republican ideology and are taking what they can use themselves. Their mainstream ideology is not going to be much different than the Republicans' mainstream ideology. And they're not going to let themselves get McGoverned or Mondaled again. At their next convention, all the extremist special-interest whackos are going to be stashed in the back row or standing in the alley. It's the Republicans who are going to have those problems."

Republican extremists?

"Sure. You know what the single most powerful group in the Republican party is today? The religious fundamentalists. Wait'll they really get going, giving everybody the fish-eye who they suspect of being a humanist, and saying that it's sinful for a kid to see 'The Wizard of Oz' because only God could give the Cowardly Lion courage. I mean, how would you like to be a Republican candidate when the litmus test is whether you think the Tin Man could have a heart?"

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Royko is a Pulitzer prize-winning columnist for the Chicago Tribune.