

# Editorial

## Independent council ruling thwarts justice

In a 2-1 ruling the U.S. Circuit Court of Appeals for the District of Columbia struck down as unconstitutional Friday the 1978 law authorizing independent prosecutors. The ruling is a severe blow to justice and hence democracy in a nation that supposedly serves as the paradigm of democracy and justice for the rest of the world.

The independent council law was enacted after President Nixon fired prosecutor Archibald Cox, who was investigating the Watergate scandal. The firing became known as the "Saturday night massacre."

Friday's court decision restores the executive's power to fire any investigator who acts in disregard or raises the ire of the president. As such, the ruling is a virtual coup for the Reagan administration, because many of its constituents and former employees have been or still are under investigation by special prosecutors.

For example, former White House Deputy Chief of staff Michael Deaver recently was convicted of perjury by a special prosecutor. Deaver's lawyers immediately urged the appeals court to dismiss his conviction. (Accompanying the Oregonian's front-page story of the decision was a picture of Deaver with a wide, though devious grin on his face.)

U.S. Attorney General Edwin Meese is under investigation by a special prosecutor for his alleged role in the Wedtech scandal and his alleged attempt to cover up the Iran-Contra scandal.

Also under independent council investigation are Lt. Col. Oliver North and Adm. John Poindexter for their roles in the Iran-Contra affair. So too is former White House aide Lyn Nofziger, who allegedly lobbied friends for the benefit of Wedtech, a defense contractor.

Regarding the independent council law, some experts have stated that the ruling may have an impact on the investigations of independent councils Lawrence Walsh, who is investigating the Iran-Contra scandal, and James McKay, who is investigating Nofziger's role in the Wedtech scandal. These investigators may become subject to restrictions imposed by justice department officials, who gave both Walsh and McKay backup appointments.

In other words, those appointed to investigate potential wrongdoings within the executive branch now are subject to oversight and regulation by the executive branch itself. And this clearly is what Reagan wants. It's been no secret that Reagan has believed the independent council law to be unconstitutional; he has spoken out against it ever since some of his associates have come under investigation.

Furthermore, it is no coincidence that the two judges who voted to strike down the independent council law were appointed by Reagan, while the one judge who was not appointed by Reagan dissented in favor of retaining the law. This shows the possibility that the ruling was politically motivated.

In her dissenting opinion, Judge Ruth Bader Ginsburg, who was appointed to the court by President Carter, wrote: "The Ethics Act effects only a limited incursion into executive territory. . . . The Ethics Act is designed to function as a control against abuse of executive branch power."

"The independent counsel provisions of the Act were developed in response to the Watergate era abuses of executive branch powers, abuses which themselves threatened the balance between the three branches of government. The Act is rooted in the principle that 'no man can be the prosecutor or judge in his own case.' . . . It is a measure faithful to the 18th-century blueprint, yet fitting for our time. I find the Ethics Act constitutional. . . ."

Members of the Reagan administration, similar to the Nixon administration, have abused their executive power, resulting in independent council investigations into not only individual cases but also the Wedtech and Iran-Contra scandals.

But now the administration has acquired the power to investigate its own suspected wrongdoings — wrongdoings that can not be given fair and objective treatment if investigated by those who allegedly have been involved in some of the scandals, such as Meese.

Those within the Reagan administration have claimed that the independent councils are accountable to no one. This, however, is untrue. The independent councils are accountable to the American public, and to the service of democracy and justice.

Justice will be served only if the Supreme Court vindicates the independent council law.



## Letters

### Clear choice

Eugene is indeed a Nuclear Free Zone (NFZ). The question the city council wants answered is what kind of a NFZ did the voters want: a strong enforceable one or one which simply makes a statement against the nuclear arms race?

This is why we'll be given two proposed ordinances to choose from this May. After speaking to nearly all of the councilors on how this election will operate it became clear to me that there is no consensus among them on how this process will work.

They agreed the voters will be given the choice to vote yes or no on one or both and that if either receives a majority it will become law. Other than that all have a differing view as to what the results may mean.

Here's the scenario I presented. Take the results of the November, 1986, elections in which approximately 60 percent were in favor of some kind of a NFZ. Let's assume the vote remains the same this May with 40 percent opposing either choice and voting no on both; while those in favor split their vote between the two. Because

neither wins a majority, neither is enacted and we're left with what? No NFZ at all!

The dilemma this election poses is that it divides the proponents and unites the opponents. This may not have been the intent, but it surely will be the result, unless some changes are made before election day.

John Exline  
Springfield

### Think

Is one attorney for every 280 Lane County adults more than we really need? Think so.

Is \$60,000 a year hardship pay for a judge? Think not.

Come May, half of our Circuit Court seats are up for election: those held by judges Allen, Beckett, Cottrell, Foote and Van Rysselberghe. Should the incumbents slide into six-year terms without healthy challenge? Think not.

The judges boycotted, during a crucial 21 months in 1985-86, cooperative planning by our Lane County officials and laymen for the expanded criminal corrections programs

that are costing us more than \$15 million. They feared intrusion on their judicial turf.

State law mandates circuit court participation on such committees (ORS 423.560). Did they flaunt the law? That same law also mandates a minority member. There has been none for the past eight meetings. The judges have not objected. Is this latent racism? Think so.

The judges abuse jail space: abandoning intensive pre-trial supervision of defendants, though it is 95 percent successful in Portland; refusing since 1979 to provide 24-hour custody referee service without the jail; sentencing to community service half as often as Portland judges do. Who pays? We do.

Should we field a reform slate of qualified men and women by filing day, March 8? Think so.

And in their statements in our voter's pamphlets, let's look for a dedication to crime prevention and crime reduction, and the assurance they'll render us an annual state-of-the-court report.

Ruth Daynes  
Lay member  
1984 Lane Jail Task Force

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