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THE Dilemma That Drove the Decision by Jonathan Wilson

The same-gender marriage case decided by the Iowa Supreme Court arises out of the use of the term “marriage” for two distinctly different purposes, a double entendre so to speak. On the one hand it’s used in a religious context to signify a sacred institution, and that is as it should be. On the other hand it has also been used by the Iowa Legislature as a shorthand term denoting access to a wide variety of legal rights and privileges made available from state government. Until 1998, it was recognized merely as a civil contract between any two consenting adults. In that year the Iowa Legislature put the one-man-one-woman “gloss” on the institution. In an ironic sense the religious-right that prompted the statutory change set themselves up to the successful Constitutional challenge.

Every graduate of fifth grade government class has been taught that equal treatment of all law-abiding citizens is fundamental to our democracy, and that principle of equality is guaranteed by the Iowa Constitution that those in all three branches of our government are sworn to uphold.

Many of those who disagree with the Iowa Supreme Court’s decision feel that the Court has taken sides in matters that should be left to churches. That would be a misunderstanding of the Court’s decision. The Court simply recognized that the term “marriage” cannot be used by state government as shorthand for civil rights and privileges available from the state without implicating the Equal Protection Clause of the Iowa Constitution.

By whatever shorthand, rights and privileges afforded by the state must be made equally available to all citizens. It would certainly be possible for the Legislature to withdraw the “marriage” label entirely and recognize only civil unions for all citizens, but that would have adverse consequences for *all* Iowans because federal rights and privileges are also granted using the “marriage” shorthand, and entitlement to the “marriage” label is decided by the states. So eliminating “marriage” for all Iowans would sacrifice the access of all Iowans, gay and straight, to those federal rights and privileges.

It is important to be clear about what the Court did not do in this land-mark decision. The Court did not decide who should have access to “marriage” as a *sacred* institution. The Court has not dictated to people of faith which marriages should be recognized from a religious perspective. The Court has not sought to require any church to recognize same-gender marriages. The Court has not directed clergy to officiate over marriages of people of the same gender. The Court does not have the power to do that. Religions are still free, as they were before the Court’s decision, to decide who can and who cannot marry in a religious context. Every church is still at liberty to decide for itself who will have access to marriage as a sacred covenant. Churches are still allowed to discriminate, something churches have grown very good at over the centuries. That practiced ability has not been compromised by the Court’s decision.

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CALENDAR

▼ The next FFBC meeting is 7:00 A.M., Friday, May 1, 2009 at Hoyt Sherman Place.

Our speaker will be Brad Clark of One Iowa.

▼ R.S.V.P. by Wednesday April 29 to JonathanWilson@davisbrownlaw.com or 288-2500 by phone.

What the Iowa Constitution says on the subject is an entirely different matter. The Iowa Supreme Court has the power, even the duty, to be the arbiter of what the Iowa Constitution says. The Supreme Court has the responsibility of ensuring the equal treatment of all law-abiding citizens so long as equality remains a fundamental right in this state, which it is.

Over the course of recorded history, religious traditions have struggled over the question of who should be married in a religious context and who should not. In Biblical times it was not uncommon for religious marriage to be understood in the context of property rights, and wives were mere chattel (property). Historically, some religious traditions have condemned inter-racial marriage or refused to recognize marriages outside a particular faith or denomination. The answer to the question about who should be allowed to marry in a sacred context has obviously evolved over time and the answer to that question continues to evolve and to divide the religious community even today. There are people of genuine faith who disagree on the subject. Some of them will be disappointed with the Court's decision and others will not.

The level of anxiety among our fellow citizens is running high, right up there with ignorance. Bigotry is just prideful ignorance. The decision of the Court was bound to be controversial either way it came out. It is a testament to the independence of our judiciary that the Court addressed the issue as it has and despite the obvious political overtones. We should all take some comfort that equality under the law has once again been reinforced under the Iowa Constitution. Through animated public discourse and the education that it will engender, we have been given a wonderful opportunity to attack bigotry against gay citizens at its core- ignorance. The Court's resolution of the dilemma created by the "marriage" double entendre will act as a catalyst for dragging the ignorant, kicking and screaming, to a teaching and learning moment.

In the categories of both desperate and dumb: Quoting from an email sent by Iowa House Member Christopher Rants, reacting to the Iowa Supreme Court ruling on marriage equality: *"So what options does Culver have? First, Culver should appeal the case through the Attorney General to the US Supreme Court, and request a stay of the Iowa Supreme Court ruling pending a decision by the US Supreme Court granting 'certiorari.'* The US Supreme Court has no jurisdiction in a case involving the interpretation of the Iowa **State Constitution**. It would make as much sense to propose an appeal to the Alabama Supreme Court, the Australian Supreme Court, or The Hague.



The Incredible Egg

By Randy Happel



Our speaker for the April gathering of the First Friday Breakfast Club was Dr. Neal O'Sullivan, director of research and development for Hy-Line International. Dr. O'Sullivan provided an extremely informative discussion about – of all things – eggs!

After earning a medical degree in his native country of Ireland, Dr. O' Sullivan moved to the United States in 1998 to further his studies at Virginia Tech University where he earned a PhD. He joined Hy-Line in 1991 and has since become recognized internationally for his work in chicken layer genetics.

Since its founding in 1936, Iowa-based Hy-Line International has grown to become the global leader in the chicken layer breeding industry. Hy-Line was the first of the modern layer genetics companies to incorporate hybridization into its breeding program, having developed revolutionary breakthroughs in the science of poultry breeding that has benefited the egg production industry worldwide.

The company currently holds a 44 percent market share through a distribution system that reaches over 120 countries. Hy-Line brand brown and white egg birds are sold in the northern and southern hemispheres and from the Arctic to the Antarctic through a network of national distributors, wholly owned subsidiaries, and joint venture organizations.

Hy-Line has the largest layer breeding stock hatchery in the world at its Dallas Center, Iowa, parent stock production complex producing breeders for the domestic distribution system as well as supplying parent breeders all around the world. The central Iowa complex also maintains grandparent stock farms and a new, modern great grandparent facility.

"There has been a huge increase in global egg consumption around the world resulting from an increase in the quality of people's diets," O'Sullivan says. "This is especially relevant in countries like China and India where a growing sensitivity to the slaughter of beef as a protein source has occurred. These cultures have come to realize the important role that eggs can fulfill in their dietary needs."

Hy-Line International has the only nationwide chick production network in the industry with seven re-

Watchmen

Review by
Gary Kaufman

Starring Malin Akerman, Billy Crudup, Matthew Goode, Jackie Earle Haley, Jeffrey Dean Morgan, Carla Gugino.
Directed by Zack Snyder | 2Hr 43 Min

Watchmen opens in 1985 in an alternative universe. In this universe the Russians and the Americans are being very aggressive against each other, and the Doomsday Clock has been set to five minutes to midnight. The world is close to nuclear annihilation.

Next is the brutal murder of the Comedian, one of the really dark members of the Watchmen. His murder is set to the tune of “Unforgettable”. It reminds one of Stanley Kubrick movies; the union of the two space vehicles in **2001: A Space Odyssey** and the brutal attack of the rural couple in **A Clockwork Orange**. One is impressed with the lyric beauty of the union of the song and brutal imagery. The Comedian’s dying words are, “It’s a joke. It’s all a joke.”

This is followed by an incredible montage over the opening credits that reveal the history of the Watchmen. The Watchmen had been formed in the 30s by cops who were tired of gang members who dressed up in costumes and would not be convicted of their crimes because no one could identify them. The cops countered this by getting dressed up in masks and executing their own forms of justice. The public found out, and the Watchmen were quickly idolized. Over time, the Watchmen declined; one was murdered, one was committed to an insane asylum, and one was the unknown gunman on the grassy knoll that fateful day in Dallas. Finally, the populous turned on vigilante justice as the people asked for the elimination of cops with masks and instead have identifiable policemen. Finally, the last remaining Watchmen were disbanded by the still President Nixon.

One of the Watchmen, Rorschach, investigates the murder of the Comedian and is convinced that someone is trying to kill off the remaining Watchmen. “An attack on one is an attack on all”, he explains. This eventually brings all the Watchmen together, and in flashbacks each of their stories is told; their evolution to their current situation. The most powerful Watchman is known as Dr. Manhattan. Dr. Manhattan was a nuclear scientist who was caught in a horrible fission accident

Our “religious” detractors would do well to rethink the Golden Rule; the Equal Protection Clause of the Iowa Constitution is little more than a restatement.

that transformed him into a superbeing, capable of bending matter. He is working with another Watchman, Ozymandias, the smartest human being on the planet, to develop a source of energy that they will offer free to the world so there will be no want, no need to go to war.

The director, Zack Snyder, who previously directed **300** and **Dawn of the Dead**, paints this world with exceeding detail and includes background development of the characters that is way beyond the norm in these films based on commix. Some of the Watchmen are exceedingly dark characters. Both the Comedian and Rorschach have been brutal murderers, but Dr. Manhattan, Silk Spectre, and Nite-Owl are striving to better the world, even if it means brutally beating up a bunch of punks now and then.

This film really has it all. It has a debate on the fundamental nature of man, imminent nuclear holocaust, incredible imagery, sometimes beautiful writing, and the debate as to whether the end justifies the means. On top of this it has a killer soundtrack including Simon and Garfunkel, Bob Dylan, Jimi Hendrix, and Nena (99 Luftballoons) to name a few. The film includes a plot with a twist and a splattering, and I do mean splattering, of humor – sometimes dark humor, but very funny and witty. I don’t know what more you could ask in an action/fantasy film. I highly recommend it.

One last word about the film is that this film and the film I reviewed last month, **Waltz with Bashir**, show a definite change in the movie rating system. **Waltz with Bashir** had a very detailed animated sex scene of that type that got **Fritz the Cat** “rated X, baby” but was instead rated R. In this film, the most powerful Watchman, Dr. Manhattan, is nude almost all of the time. This is a character who can grow himself to be 3 or 4

(Continued on page 4)

BRIEFS & SHORTS

Be sure to RSVP for the May 1 meeting no later than April 29. E-mail JonathanWilson@davisbrownlaw.com or call him at 288-2500. Our speaker will be Brad Clark of One Iowa.



Thanks to Gary Moore for his introduction of our April speaker, Dr. Neal O’Sullivan of Hy-Line International.



Consider making a tax-deductible contribution to the First Friday Breakfast Club Scholarship Fund.



The Watchmen (cont.)

(Continued from page 3)

stories high in an instant, and his character is definitely a “shower not grower” if you get my drift. Bruce Willis once had a nude shower scene cut from one of his films because since it showed frontal nudity and would have been rated “X”. It is nice to know that the film industry has matured to the point where male and female nudity are now more equated and both now get an “R” rating instead of past discriminatory practice.

The Incredible Egg (cont.)

(Continued from page 2)

gional production centers located in Iowa, California, Washington, Texas, Georgia, Indiana, and Pennsylvania. From these state-of-the-art hatcheries commercial day-old chicks are delivered on time, in the large quantities desired and with a minimum of stress on the chicks to anywhere in the country.

Utilizing one of the world’s most extensive gene pools, Hy-Line researchers employ the latest scientific and statistical methods to pursue genetic breakthroughs in poultry breeding. “As a result of our genetics research, today’s hen lays about 300 eggs in a year compared to 50 eggs per year,” O’Sullivan says, “This productivity is important because of sustainability. Our efforts to produce animals that need to be replaced less often have helped in reducing the carbon footprint that results from the reproduction and growing cycle.”

Behavior characteristics and natural habitat inherent to each of the thousands of chicken species are of utmost consideration to O’Sullivan and Hy-Line in their genetic breeding activities.

Reactions to the Ruling

Tony E. Hansen

I was waiting for my flight when I heard the news. I was suddenly overjoyed that the years of work seemed to have finally paid off. I also realized in that instant that there was an army of “traditional marriage supporters” waiting to march upon the statehouse. While many in Iowa were planning celebration rallies and passing a cheer or two at local taverns, I was

quietly enjoying the moment with a smile and coffee while waiting to board, thinking that I can get married now, and honestly, I would not be able to use the law as an excuse to avoid a commitment to someone special. In that moment, I felt an instant closer connection to my love than ever before (despite the miles between us at that moment).

After a while, looking around and noticing no differences from the few moments, I noticed wives were still hugging and kissing husbands. Kids were napping in seats or occupied with little toys. Parents were enjoying breakfast with the family. Nothing seemed fundamentally to change with folks.

Perhaps I was too subjective and there were some unobserved and undetected connections that had changed. Perhaps, people were too tired or did not concern themselves with their marriages at the moment. Perhaps this was a crowd untainted and remote from the revelations in Iowa.

Upon arriving in Minnesota for a connection flight, I noticed a similar crowd there and again in Florida upon arrival there. While in Florida, news seemed more interested in water issues, traffic, a cold front, Obama’s Europe trip and tourism, but there was nothing to be said about apparent disturbances or tremors in the institution of marriage. Thus, my schedule went the course without any discussion about the ruling or apparent hysteria that was expected by people. The Iowans, sharing the weekend with me, had no Earth-shattering experiences to exhibit or to describe due to the ruling. In fact, people, couples, and families seemed more interested in sales calls or the Mickey Mouse souvenirs that were with them. No one seemed concerned about a marriage because of the ruling. Conversations seemed more focused upon other topics of the day, and no one revealed a vulnerability to the ruling.

Coincidentally, while waiting for the flight back to Iowa, CNN reported that Governor Palin’s daughter was having issues with her previous “fiancé” while showing footage of his ridiculous remarks about their “safe sex” habits. While I disagree with the governor’s politics, her daughter deserves better than this fellow was exhibiting. Even more striking is that no one in the room was affected by the intimate affairs of young Palin, and no one suggested that the ruling for equality undermined the relationship of the governor’s daughter.

Returning to Iowa, I did not observe the expected mass hysteria foretold by Hurley’s friends. These people seemed most directly affected by the ruling and the “shaking” of the institution, but there seemed to be as much peace and tranquility as when I left the state the days before. No one confessed that their marriage was in peril because of the ruling. Maybe the people in the rotunda of the capitol after the ruling felt tremors in the institution of marriage that I was unaware existed. Perhaps, one had to be in marriage to feel this tremor. My parents and my partner’s folks did not reveal any sense of such “tremor or disturbance”.

On the contrary for Iowa, a number of jubilant couples suddenly found a way to legally recognize each other as a committed partners. On a quiet day in April in Iowa, couples finally will not have to pretend that they are married or think that their relationship was less than the neighbors’. Finally, couples did not have to hide their relationship to the law, to feel inferior or unequal to others around them in loving relationships. Further,

Mark my words: *the next waive will be cases in other states challenging laws against same-gender marriage based on the Full Faith and Credit Clause of the United States Constitution, and that promises to be a real tsunami.*

no "traditional" or current marriage seemed to be on the edge of collapse because of the ruling.

Hopefully, the veils of hatred can come down to allow all people to continue their personal, loving and legal relationships. Our relationships did not affect theirs. They should have the decency not to destroy ours, and where we respect their private affairs as personal, so they should with us.

A Gut Reaction to Gay Marriage

By Bruce Lehnertz

You know what they are. Something happens. Your brain instantly engages. It's right there smacking you in the face with all the facts, assumptions, beliefs, values so that you can determine how to react to what just happened.

Your gut engages the same way, but it's much more subtle. The effect can still be a sledge hammer, but the gut engages your experience and knowledge and values in an entirely different way -- on an emotional level, rather than on a factual level.

Most of us are WAY more comfortable with facts than we are feelings. We spend a lot more time with facts; they're easier to deal with. Most of the time we can just run them through our "computer" because they are already binary- 1 or 0. True or False. Yes or No. Like or Dislike.

Our feelings are an entire color pallet, and each color has its 256 shades. Our gut understands them a lot more than our brain. I think the way it works for me is that my gut will typically evaluate the situation almost immediately, wait for the brain to finish its work, and then wait for the brain to consult the gut on its analysis.

The brain doesn't always consult, though. That's when I get in trouble.

Last Friday morning, when the Supreme Court of Iowa legalized same-sex marriage, my brain was elated for gays in love who wanted to get married.

Personally, my brain was elated simply because it's a major step forward in the civil rights battle for GLBT persons, of which I am one.

So, it is now that I find myself confessing to that fact. My brainiac reaction is driven because, secretly, I've always looked at it from the legal perspective and asked myself, "Do they really understand what they are asking for?" For I have been married. My brain remembers what it was like. And it remembers the legal and emotional mess that ending it created.

Yet, I have fought for the right to marry for any two people who are in love.

Friday, my gut told me why.

I was working when the decision was rendered. I had an early shift that day and was going to go downtown for the rally after work. Since I can't really think and chew gum at the same time and do both effectively, I worked, some of us talked about it a little bit, but it faded into the background of my workday.

Then I got in the car and drove downtown. It's about a 25 minute drive. I was alone. My brain was thinking about it, the people I know, and how wonderful it must be for some of them. About a mile away from the rally site, my gut got tired of waiting for the brain to think of it, and slapped the brain upside the head and told it to shut up for a minute and listen.

What my gut had to say was nothing short of profound. It was a simple message: "Wow, wouldn't it be great to fall so deeply in love with someone that I really knew that I wanted to spend the rest of my life with him?" I could call my mom and ask her to be a bridesmaid. I laughed, though I knew how happy she would be to get such a call. And I cried.

For now, I'm crying again.

For the joy of being able to express my love and commitment for someone in a truly meaningful way. (A key, alone, is not all that meaningful). And for the fear and sadness that I may never find that someone.

The point is that marriage gives love meaning. Without it, commitment within a relationship is only half of a commitment.

Legalization of same-sex marriage in Iowa -- where I live, and where I will, hopefully one day, love -- woke something up in me that has been dormant (I thought it was dead) for many years. Desire. Desire for an emotional bond to another human being that was so strong that I would want to get married.

That's new. New to me, anyway. And now it changes my life. God, I want to get married. Not just because I can, but because of what it means.

If you find the ruling objectionable, if you want to do away with gay marriage in Iowa, you will lose. You battle to protect some vague understanding of what you think is right and wrong.

But there is NOTHING stronger than the passion this has awakened in those who are directly affected by the ruling. And their battle to protect marriage rights is nothing short of waging war at the front step of their homes to protect themselves and their families.

The compromise that marriage brings: finding someone who is BOTH worthy AND Willing. Someone too willing may not be worthy; someone too worthy may not be willing.

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Des Moines, Iowa*

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From the Editor England Expects...

I spent two weeks in England between March 24 and April 7. I have visited that Fair Isle many times, but this last trip was the first time I had access to the Internet while there. Even though I could not be on hand in Des Moines for the Iowa Supreme Court decision on April 3, I received the news just about the same time everyone else did. I was reminded of Lord Nelson's famous quotation just before his great victory at Trafalgar in 1805: "England expects that every man will do his duty." Wow! I was stunned at the unanimous decision of the court. Now Iowa can expect that every gay man will do his duty!

The day after the decision, I began an Internet search of the nation's major newspapers to see how they reported the court's decision. I checked newspapers in New York, Washington D.C., Los Angeles, St. Louis, Chicago, and San Francisco. The Iowa Supreme Court's decision was front page news in every edition but one—the **San Francisco Chronicle**. I guess I expected the decision to be big news in that city, but the only mention of it was on a separate web article that did not appear in the paper itself. I guess ennui was the order of the day in the Bay Area.

Once home, I got back into the work routine. I was working at the Capitol on April 9, the day chosen by the anti-marriage-ruling-folks to lobby their legislators for an amendment to the Iowa Constitution prohibiting marriage by same sex individuals. It is no understatement to say that their behavior in the galleries in the House of Representatives was less than civil. Chanting, "Let us vote! Let us vote!" the mob disrespected the rules regarding attendance in the galleries. I was pleased that the One Iowa folks, those supporting the Court's decision, kept their cool.

Those who do not believe in equality try to wrap themselves in religious piety and feigned virtue. Bigotry is bigotry, regardless if you call your organization a family policy council or a church. As for voting, those folks already had their chance. In 1998--when the people they elected wrote the law that marriage was defined as between one man and one woman—they had their say. The Iowa Supreme Court was only doing its job when it unanimously declared the law was in violation of the state's constitution.

What I find more incredible than the decision itself was that it took so long for someone to challenge the law in the first place. Thank God for the six same-gendered couples who did. They deserve our highest admiration. I cannot help but think that the "domino theory" will soon take effect, and what Iowa's Supreme Court did will help pave the way for universal recognition of equal rights.

Steve Person