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First Friday News & Views

VARNUM REVISITED

By Jonathan Wilson

We were recently reminded by a remarkably candid Christopher Rants that, from the outset, opponents of same-sex marriage knew Iowa’s discriminatory law would probably not pass constitutional muster. The political controversy could be easily anticipated, and the members of the Iowa Supreme Court knew their vulnerability to being thrown out of office thanks to an orchestrated mob mentality among the electorate. The fact that the Supreme Court -- unanimously -- struck down the law speaks volumes about the indispensable role of the Supreme Court in upholding the constitution, and the courage and integrity of those entrusted with that high office. With the non-retention of three justices and targeting of a fourth, however, we cannot be confident for the foreseeable future that the cancer of politics has not successfully infected the judiciary. Time and unfolding future events alone will tell.

The *Varnum* case didn’t happen by accident, and it offers the opportunity for additional civics lessons and a better understanding of judicial decision-making.

Typically, a trial court, when asked to decide a constitutional issue, will choose the first and easiest constitutional issue that will dispose of the case on the most limited basis. It so rules, and that’s the end of the trial court’s job. If an appeal is taken by a disappointed party, the appeal will be limited to the single issue decided by the trial court. In *Varnum*, however, Judge Hanson (bless his heart) didn’t stop there; he went on to address each and every constitutional issue challenging the discriminatory law. He basically said, if I’m wrong on any one, the case should have the same outcome on one or more of the others. That essentially (strategically?) forced the Iowa Supreme Court to consider every issue the trial court decided and that, in turn, maximized the likelihood that the case would survive appeal on at least one of them. As it turned out, he was upheld unanimously on every constitutional issue he decided, and that unanimity cannot be over-emphasized. Members of the Iowa Supreme Court are supposed to be among the best, brightest, and wisest in the legal profession, and the decision was without a single dissent.

A somewhat similar process unfolded when the US Supreme Court decided *Lawrence vs. Texas*, the case that declared all remaining anti-sodomy laws unconstitutional. Typically, appellate courts will decide and dispose of cases on the narrowest ground feasible, particularly when applying Constitutional principles. On several different grounds/bases the US Supreme Court could have struck down the Texas version of the law, or limited its decision to the manner in which the law was being applied in Texas (discriminatorily against same-gender folks and not against heterosexuals who were undeniably engaging in the same behavior). Instead, the Court—motivated, I think, by the desire never to subject themselves or their successors to debating anal intercourse with a straight face in the hallowed halls of the Supreme Court—opted to decide the case on the broadest possible grounds and strike down all remaining anti-sodomy laws. That has huge implications for the eventual (and inevitable) legalization of gay marriage throughout the United States.

In *Varnum*, the Iowa Supreme Court could theoretically have declared the marriage limitation void. Had it done so we would have been thrown into utter confusion while it took

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CALENDAR

- ▼ The next FFBC meeting is 7:00 A.M., Friday, November 2, 2012, at Hoyt Sherman Place, 15th & Woodland, Des Moines, IA.
- ▼ R.S.V.P. by October 31st to JonathanWilson@davisbrownlaw.com or 288-2500 by phone.

Varnum (cont.)

the Iowa Legislature however long to come up with something that might arguably pass constitutional muster, plus the time, money, and effort it would take for a proper case to be filed testing that to get back to the Supreme Court. It is a cliché, but also true, that “justice delayed is justice denied.” Besides that, I think the Court was confident that there was no alternative that the Legislature could come up with that would be constitutional unless the Legislature were to get the state out of the business of “marriage” entirely (which the Legislature could still do to this day). The Legislature could decide that the state would issue (non-discriminatorily) civil union licenses to all citizens wanting that; and use that license as the new shorthand for accessing rights/privileges traditionally given to married folks by the state. Couples wanting to get “married” would have to find a church to do it. An unintended but inevitable consequence would be that no Iowa citizen would be *legally* considered married for purposes of accessing federal rights/privileges because those are available to couples deemed “*married*,” with “marriage” defined by each state. No Iowans would be deemed legally married under Iowa law.

In short, the Iowa Supreme Court concluded that there was virtually nothing that the Legislature could possibly do to (a) preserve the use of the “marriage” label for accessing rights/privileges granted by the state, and (b) limit the use of that term to opposite-gender couples – constitutionally.

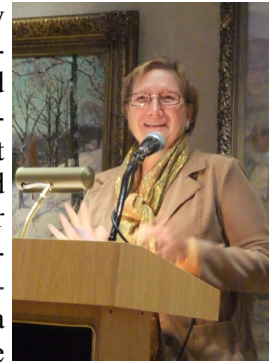
The case at the trial court level was compelling; the trial court decision was written brilliantly on ALL constitutional issues raised; and, in the final analysis, the Supreme Court did what it is supposed to do. Every citizen should feel comforted that we have a constitution that means something; a constitution that hamstring the lynch mob, a constitution that actually protects us against laws that are known or suspected to be unconstitutional from the get-go. Every citizen got a glimpse of what an independent judiciary is supposed to look like. The constitution is not supposed to be simply advisory or a set of policy suggestions; it’s supposed to *mean* something, in real time, and during the life times of those who claim its protections.

To those critics who would have preferred that the Court fashion a decision saying the marriage law is void and, effectively, send it back to the Legislature, I’d ask, “What could the Legislature possibly have come up with that would satisfy the equal protection principles enunciated in *Varnum*?” That burden should be put squarely on the shoulders of those critics. In the final analysis, the Court courageously found the obvious: equal means equal. Duh!

Several Words to the Wise

By Bruce Carr

Our guest speaker on Friday morning, October 5, was Carol Greta, a lawyer who is recently retired from twelve years of service as legal counsel to the Iowa Department of Education, and a long-time friend of our community. Taking as her text Karl Menninger’s pointed observation that “what is done to children, they will do to society,” Greta spoke to us on “Why Student Free Speech Matters.”



Greta’s remarks showed both her intense passion for the constitutional guarantee of freedom of speech and her thorough knowledge of the legal ramifications of maintaining that guarantee. “It all comes down to the facts and the circumstances,” she said, noting that many local school administrations and several appellate courts have displayed extraordinary ineptitude, not to say stupidity, in dealing with those facts and circumstances. And throughout (it seemed to this reporter) she displayed a practical, good-humored, and common-sense -- ok, Iowan! --attitude to the court cases she described.

Beginning with the black armbands of the 1969 *Tinker v. Des Moines Independent Community School District* case (the very first US Supreme Court case to consider student free speech), Greta went on to detail such free-speech issues as gang-related tattoos, offensive T-shirts (these can be real head-scratchers, she said), and cyber-space/social media. Adjudication of these cases, she argued, must always focus upon whether or not there is a “reasonable expectation of substantial disruption” of the educational environment.

Cyberbullying is, of course, an issue undreamed-of in 1969; in 2009, Carol Greta wrote a very important and characteristically apt paper on *Ways to Combat Cyberbullying*, which is available online at <http://opi.mt.gov/pdf/SafeSchools/CombatCyberbullying.pdf>.

A native Iowan, Carol Greta graduated from the University of Iowa and earned her J.D. from the University of Iowa College of Law. Before joining the Iowa Department of Education, she practiced law privately in Eldora and Newton. From 1995 to 2000, she served as an alternative district associate court judge in District 5A; in 2006-07 she was president of the National Council of State Education Attorneys. A member of Plymouth Church in Des Moines, she also frequently officiates at football, volleyball, swimming, and track & field tournaments.



Most of Wall Street is possessed with the false belief in the predictability of unpredictable things.
Michael Lewis

There is no beltway around the valley of death. J. Wilson

Janeane From Des Moines

Review By Jonathan Wilson

So, on a bit of a whim, I went to a late showing of **Janeane From Des Moines** at the Fleur Cinema. I'd only heard about it obliquely; knew that it was politically oriented; and starred the author, Jane E. Wilson (coincidentally, the name of one of my sisters). I also knew that it was filmed at various locations around Iowa and took place during the lead-up to the Republican presidential caucuses.

Janeane Wilson, playing herself, is a rather frumpy 48-year-old, married woman with a decidedly conservative bent, hooked on her fundamentalist church, and facing an array of mounting problems in her personal life that she didn't deserve if God had anything to do with it. She successively becomes enamored with one Republican candidate after another, goes to their events, wheedles her way to the front of the pack of reporters that surrounds them, and poses questions to each of them in her effort to decide which one she will support.

The questions are increasingly anguished as her problems multiply. Her employment hours are being cut, partly because she doesn't relate well to people. Her husband loses his trucking job, and with that the family loses its health insurance and can't make house payments. The tortured woman then discovers a lump in her breast, and her long-time doctor declines to see her without proof of insurance or financial means to pay. She seeks guidance from her prayer group, without success, and tries to get her husband to counseling with their pastor, but hubby refuses. Then she discovers that her husband is hanging out at the Garden (a gay nightclub), where she goes to confront him, and mortifies herself in the process.

In one exchange with Mitt Romney she is in tears wanting to know what he would do to help families like hers that are struggling financially and lack health insurance. He, like all the other candidates, utters platitudes that are useless to her, and he hugs her in an apparently genuine attempt to comfort her. In another exchange, Janeane and Michelle Bachmann share a cup of coffee to discuss for probably ten minutes Janeane's concerns, especially over health care. Other than the coffee, Janeane merely got more useless platitudes from the exchange.

Finally, in desperation, Janeane goes to Planned Parenthood, a "murder factory" as she describes it. To her surprise (and consistent with Planned Parenthood's operating policies), she is given tests and diagnosis free of charge. The diagnosis confirms the cancer, in both breasts, and the recommended treatment is double mastectomies, chemo, and radiation. Again she is assured that this can be accomplished without cost to her. She cautiously agrees, adding, "So long as it isn't Obama Care."

I was torn trying to figure out whether the portrayals were real or fake. Clearly the interactions with candidates were real, the campaign events were authentic, and her other interactions seemed believable. By the same token, I couldn't figure out how a woman in her circumstances would have had the foreknowledge and wherewithal to arrange in advance for a professional film crew to follow her every move. The latter, while compelling in making the case that it was all staged with the candidates being unwitting supporting actors, was largely trumped by how convincingly the performances were present-

ed.

As soon as I got home, I went on line and determined that, in fact, the film is a "mockumentary." A damn good one at that, and one I highly recommend.

Waxing Politically Poetic

By Bruce McCabe

They say the debate Willard ("Mitt") won
And if he prevails in November,
"Hope" will have had a too-brief run
And the fire of "Change" will fade to an ember.
Laughs will be loud from Dave and Charles Koch
At what they were able to buy
Most of us will be the butt of their joke
And the forty-seven percent can just die.
The Conservative Christians won't know for a while
They've been played once again by political hacks.
The Tea Partiers will lose their smug little smile
When they find they're still paying tax.
Big Bird may decide to self-deport,
And China will loan us some more
Caymen will still be a warm tropic resort
To deposit that money off-shore.

BRIEFS & SHORTS

Be sure to RSVP for the November 2 meeting no later than October 31st. Email JonathanWilson@davisbrownlaw.com or call him at 288-2500. Our speaker will be Polk County Sheriff (and candidate for re-election) Bill McCarthy.

Consider a tax-deductible contribution to the FFBC Scholarship Fund. Also, consider designating FFBC as a targeted recipient of your United Way pledge; FFBC is an approved designee. You'll get credit at work for your participation and help FFBC at the same time.

Out Networking meets the second Wednesday of every month at 5:30 p.m. at the Kirkwood Lounge (the new home of The Des Moines Social Club), 400 Walnut Street. It is the social, business, and philanthropic networking organization for anyone who is gay, bisexual, transgendered, questioning, or supportive.

Don't forget or neglect to vote!!

Voting has already begun; you can vote early by absentee ballot, or you can vote early in person at your County Auditor's office. Turn over the Ballot and register your vote for judicial retention

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Religion of Anger

By Tony E Hansen

www.tigersndragons.com

A frequent claim is that one should shy away from discussing religion when in civil company. Assuredly, someone will offend someone else's different religious belief or opinion. Yet, the reason that people make this claim is that religion tends to be deeply personal. The lightest comment by one can be an instant insult to another. The world seems ever more leaning towards finding the insult than light conversations. Considering how easy it is to offend someone here in America on the topic of religion, no one should be surprised that a video insulting Islam would be met with violence. With the recent riots in the Mideast provoked by extremist Christian elements, I could only think of how angry religion has become.

There always has to be someone that wants to push the boundaries of what is acceptable and makes others look bad. The extreme religious factions here in America have made business more difficult and tourism more dangerous for all Americans. Foreigners have to be thinking how will America insult someone today instead of being that "beacon of light" and hope. Yet, there is something similar of both the crazies in Florida who promoted the crap that provoked the radical violence in the Islamic world as well as the crazies who sought violence as the primary reaction to them. Both follow an almost "demonic" kind of reasoning that insults modern religions. Both disregard any sense of security and justice for the rest.

Despite teachings of compassion and love as the basis for modern world religions, or even their foundations in the Golden Rule, we see instantly angry reactions from religious folks in all stripes without haste. Religion has turned first to anger "to firing first and then asking questions later." These people are rejecting their own fundamental teachings and instead, worshipping their anger and hatreds. The promotion of this aspect of humanity is a sacrilege and an admonishment of the teachings of Jesus Christ, the Prophet Mohammed, the Buddha, and the many other reverences around the world.

The merits of organized religion are lost when people (extreme or mainstream) disregard the basic tenets of their religious doctrines. Instead of promoting the compassion and tolerance of those peaceful doctrines, these people focus efforts to incite riots, destruction and violence at everyone's expense and regardless of reason. Such people disregard facts and any notion of tolerance. They become fodder for spewing hate and more anger within the extreme elements that promote the worst of humanity (those anti-Christ-like ways.)

Unfortunately, these people will also wallow in the misery of their hatred and anger. These people will not find peace regardless of how many are killed or how many lives are ruined. They are exhibiting actual "gluttony" and "greed" to have all people believe in their perspective of God and religion. These



people can be guaranteed to turn blind eyes to genocide and even actively participate in the holocausts.

These elements of Christianity, Islam, Judaism and others welcome shallow showmanship with a disregard of others with the loudest inconsiderate boasts. The Buddha teaches, "the shallow is easy to embrace, but the profound is difficult; that to discard the shallow and seek the profound is the way of courage." I am not saying that all showmanship, like Tim Tebow, is destructive because seeing someone who believes in their convictions clearly lets people know what they believe. Yet, showmanship, especially the extreme kind, is clearly at odds with Matthew 6:5, the Buddha and the Qur'an because real faith is within the self that can help guide one's actions. Further, consider James 1, "You must understand this, my beloved: let everyone be quick to listen, slow to speak, slow to anger; for your anger does not produce God's righteousness." The Qur'an (3:134) suggests that those, "... who restrain anger and who pardon the people - and Allah loves the doers of good..."

The quick, knee-jerk anger is denounced both in the Bible and the Qur'an, but you would never know that from Robertson's CBN, Fox or Al-Jazeera reports. It is almost like these guys are helping to incite the violence in order to have something to report. "One tin soldier" cannot compete with the constant baiting these shallow "news" outlets and the extreme religious people project. As Dave Mustaine sings, "Ask the sheep for their beliefs, 'do you kill on God's command?'"

The majority of all people do not hold these extreme views or the anger that has been on display. What we need is to reject the religion of anger and be each other's keeper. To respect each other means not to force others to believe one way, but to allow people to believe. That is the essence of "freedom of religion." To have faith is to let go of perceptions of truth, to not be idolatrous to that perception, and to let the truth reveal itself. If we base our faith and beliefs in anger, then our religion is anger, hatred and negativity. The religion becomes nothing of what the good people have taught us. If we are more concerned about others' beliefs, we are foregoing growth in our own. Be willing to speak about your religion and how it enables you, but also be mindful that religion is deeply personal and can be easily insulted. Steer the discussion away from heated anger and into how we share common interests, both in the spiritual and the physical. Maybe then we can live in each other's neighborhoods, and maybe then we can walk in other countries without fear some jerk at home is going to create more religion-based anger.

Peace be unto you.



"If we learn to open our hearts, anyone, including the people who drive us crazy, can be our teacher."
~Pema Chödrön

From the Pastor's Pen

The Election as a Moral Compass

By Rev. Jonathan Page

In 2004 I was still struggling with what it meant to be gay. As with many gays I suffered bouts of severe depression and self-loathing. My father disapproved of my sexual orientation, and I felt paralyzing anxiety when I ventured into a gay bar. In the midst of this, I had to watch the Republican Party use homophobia to get an unpopular president reelected. State after state passed constitutional amendments to ban gay marriage, often with huge popular margins. Evangelical Christians mobilized in droves to get out the vote to oppose the gay menace. It was all part of an intentional strategy devised by Karl Rove and his talented assistant Ken Mehlman, a strategy that echoed Nixon's "Southern Strategy" in 1968. Hatred sells. The strategy worked. In 2010 when Ken Mehlman came out of the closet, he joined a long list of homophobes who zealously persecuted their own. Upon hearing that Mehlman was gay, I seethed with anger. He could hang out with all the gays in Washington and be embraced by the gay community there. I never heard any apology for the damage he caused. I remember remarking to a friend, "I will forgive Ken Mehlman after he goes door to door and begs forgiveness from all of the families of the kids who committed suicide due to his campaign of fear and hatred." Perhaps that is not very Christian of me. For the record, Mehlman finally apologized earlier this year for his role in the 2004 campaign.

I was raised in a thoroughly Republican household and hesitantly voted for Al Gore in 2000. Yet, in 2004 I became a Democrat. In addition to the obvious personal reasons for being a Democrat, there were larger moral issues at stake. The worst the Democrats can be accused of is wanting to help people too much. They support programs for the poor, disabled, elderly, and children. They back teachers and unions that work to improve wages and conditions for the average worker. They seek equality for women, racial minorities, and gays, and favor a sensible immigration policy. They believe that access to affordable healthcare should be a basic right for all Americans. Critics of the Democratic Party usually question whether we can afford to help people as much as they want, or whether government assistance will actually accomplish its stated goals. While those are potentially valid criticisms, the basic moral motivation for the Democrats is compassion.

On the other hand, Republicans have increasingly become the party of selfishness, violence, inequality, and greed. While there was a time when the Republicans proposed alternative solutions to help the disadvantaged, those days have passed. In Iowa, the state Republicans voted last year to cut drastically emergency shelters for youth who try to escape difficult domestic situations. Iowa had the money. It was not about money,

but principle, and the principle was that society had no responsibility for abused or endangered youth. Republican healthcare proposals would leave millions without coverage. Proposed Medicaid cuts would wreck programs for the elderly and the disabled. The renewal of the Farm Bill is being blocked by House Republicans who want to cut food assistance, which is primarily directed towards families and children. They seek the elimination of basic environmental protections and want to end the progressive income tax structure that has been in place ever since we established the income tax in the early 20th century. As always, the burden will fall on the poor. Even the conservative columnist David Brooks has complained about the increasing selfishness within his own party.

This election is about morality as much as anything else. If the Republicans get elected and if they successfully enact their domestic agenda, the poor, the elderly, and youth in our communities will be devastated. Churches and non-profits will not be able to pick up the slack. That is reality. Women's rights will be curtailed. The hard-fought victories of the gay community and our allies will be put in jeopardy as the Supreme Court becomes even more conservative. If the Democrats get elected, we will continue to face big problems. At least as those problems are addressed, the needs of everyone in our communities will be factors in the discussion.

The sad part for me personally is that on November 6 most of my family will vote Republican. Pleas to support my right to marry, adopt children, have protection against discrimination, and to enjoy other rights denied to gays fall on deaf ears. I can only hope that my Republican friends and family speak out for compassion with their party comrades so that someday the GOP might rediscover its moral compass. Lord knows, we as a country need it.

This election is about morality as much as anything else.

FFBC member Jonathan Page is senior pastor of the Ames United Church of Christ, 217 6th Street, Ames, Iowa. Sunday service at 10:45. He can be reached at jon@Amesucc.org.



Sometimes it appears that the primary difference between open and monogamous relationships is honesty. Loren Olson

There are none so self-righteous as the recently reformed. J. Wilson

FFBC

*First Friday
News & Views*

Des Moines, Iowa

NOVEMBER 2012

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My M.O. (Monthly Observations)

In Control of the Purse Strings

By Steve Person

From Act I of **The Importance of Being Earnest** by Oscar Wilde:

Jack: The fact is Lady Bracknell, I said I had lost my parents. It would be nearer the truth to say that my parents seem to have lost me....I don't actually know who I am by birth. I was...found.

Lady Bracknell: Found!

Jack: The late Mr. Thomas Cardew found me, and gave me the name of Worthing, because he happened to have a first-class ticket for Worthing in his pocket at the time. Worthing is a place in Sussex. It is a seaside resort.

Lady Bracknell: Where did the gentleman who had a first-class ticket to this seaside resort find you?

Jack: In a handbag.

Lady Bracknell: A handbag?

That sets the background for an incident I had a few weeks ago when I was on a train in England going from Worthing to Victoria Station in London. With me were my friend Jane and our host in England, Graham, who lives in Worthing. (Worthing, by the way, is the town where Wilde wrote **The Importance of Being Earnest**. Unfortunately, the Victorian resort where Wilde wrote the play has been torn down, but there is a plaque on the building that now stands there stating that is where the play was written.)

Upon arrival at the Worthing train station, we purchased what is known as our "Cheap Day Return" tickets. This allows passengers who do not travel at peak rail times to use the trains at a more reasonable fare. To our surprise, the train was quite full on this particular Thursday morning. We managed to find seats, three-facing-three, on one of the rail cars. In each of the seats next to the window were two English ladies who were chatting and having a fun day planned for London.

Jane sat next to one of the ladies and read her Kindle on the train. Graham sat next to Jane, and I sat on the opposite side facing them. We didn't say much of anything because the two ladies were talking, and we couldn't help but hear them.

Now, when I travel, I carry with me what I refer to as my "Man Purse." It is a small black bag about the size of a lunch sack with zippers and lots of compartments. I never keep anything important such as money or passport in my "Man Purse," just things that one may encounter that he needs while traveling: a paperback book, toothpicks, moist towelettes, etc. On the morning in question, I—for some reason—put into my bag a travel kit with nail clippers, tweezers, nail file, and scissors.

The two English ladies were talking away when the one sitting next to Jane asked her friend if she had a nail file in her purse because she had a snag on one of her nails. Her friend searched and searched and finally admitted she did not have one. Since I couldn't help hearing their conversation, I casually unzipped my bag, took out the manicure kit and handed it to her. The two ladies howled with laughter to find a man carrying a purse had what neither of them have and usually would have had. It was a nice icebreaker, and we had a pleasant journey to Victoria Station.

Never underestimate the power of the purse!