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First Friday News & Views

RETENTION OF IOWA SUPREME COURT JUSTICES

by Jonathan Wilson

I recently attended a business association meeting where Branstad’s running mate, Kim Reynolds, was the featured speaker. She’s a first-term member of the Iowa Senate and, from all appearances, was already out of her depth when tapped by Branstad to run for Lt. Governor. Like the choice of Palin by McCain, inviting Reynolds onto the ticket says more about Branstad’s judgment than anything negative about her personally. There’s nothing particularly wrong with being inept, there’s a lot of that going around. There’s something wrong, however, with the head of the ticket showing poor judgment right out of the chute.

After laboriously reading and struggling with some prepared, platitudinous remarks, she cheerfully opened it up for questions. Mine was the first and, given the setting, may have caught her a bit off guard. I asked what guidance she and Branstad have for Iowa voters regarding retention of the three Iowa Supreme Court Justices who will be on the November ballot. After recovering from the shock of this question coming from what she’d assumed was a monolithic group of business folks with nothing but business and taxes on their minds, she parroted that neither she nor Branstad had any recommendation for Iowa voters on this topic. She actually said that they felt each voter should research the competence of each of the three justices and make their own decision about how to vote on retention.

To her obvious chagrin, I managed to get in a follow up question. I asked her how exactly voters should do that research and evaluation, and pointed out that I am a practicing attorney and, despite first-hand knowledge, the vast majority of my own clients don’t know whether or not I’m competent so long as I spell their names right. Undeterred and unconvincingly, she suggested that the Internet offers the voters easy access to all the necessary information. She was particularly perplexed when I got in a *second* follow up question asking how realistic it was to expect voters to do that research, and wouldn’t voters deserve to have the benefit of her *presumably thorough* research and carefully considered judgment on the subject – as in “leadership” to be expected of a governor and lieutenant governor. That received a chillier repeat of her prior response and someone else got quickly called upon for a question.

As it happened she fared little better with the questions from others who wanted to know, repeatedly, exactly how it would be possible to cut taxes as she and Branstad have proposed, streamline government while conspicuously ignoring the multiplicity of local and county governments all across the state, improve governmental performance, create jobs in a global economy, and still balance the budget. You’d have thought she was competing in a dance competition and in need of dancing lessons, rather than running for lieutenant governor of the state.

Here’s the truth, and it will come as no surprise. She and Branstad want the potential benefit

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CALENDAR

▼ The next FFBC meeting is 7:00 A.M., Friday, October 1, 2010 at Hoyt Sherman Place.

R.S.V.P. by September 28 to JonathanWilson@davisbrownlaw.com or 288-2500 by phone.

of VanderPlaats's lynch-mob rhetoric on the retention topic even though they know it is utterly misguided and contrary to our remarkably effective and apolitical judicial selection / retention process. Their pandering presents an opportunity for Culver to claim and, despite his frequent missteps, to articulate that the crux of truly "good government" worth our pursuing lies in maintaining the separation of powers and avoiding theocracy. If he can't do that then the outcome will be essentially six one way and half a dozen the other.

Why do you 'put your two cents worth in,' but it's only 'a penny for you thoughts?' Where does the other penny go?

Out, Proud and Insightful

By Bruce Carr

Lawyer and politico Dan Johnston is back in town and living on Chautauqua Parkway, and he lobbied and entertained us hugely on Friday September 3 at Hoyt Sherman Place. Now pretty much retired from the New York endeavors he left Des Moines for 25 years ago, Johnston now does political consulting here, for the Democratic Party to be sure and, as always, for important progressive issues such as marriage equality.

Johnston regaled us with some moving and often hilarious stories of his early career in Des Moines as an 'out-but-not-publically' gay Polk County Attorney and as an ally of the colorful State Representative Norman Jesse, with whom he was partnered for 36 years up to Jesse's death of cancer in 2000. "I miss him every day," said Johnston.

Dan Johnston grew up in Marshalltown, a high-school classmate of the tragic actress Jean Seberg ("the sweetest girl I ever knew"). Fresh out of law school, he gained nation-wide attention in the Vietnam era when he took on the "black armband" case of *Tinker v Des Moines Independent Community School District*, which he argued before the United States Supreme Court in 1968--and won when Justice Abe Fortas wrote for the Court's majority that "neither students nor teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate" — thus establishing that students are persons under the Constitution and that states must respect their

rights in the same way they would those of citizens in other contexts.

Johnston's 1984 election campaign against Phil Miller presented a problem to the political staff of **The Des Moines Register**, who wanted to continue maintaining respectful silence on the homosexuality issue. Johnston was handily re-elected and shortly thereafter departed for freer shores. With the rest of us, he is astounded -- and very gratified -- at "how far we've come" in the years since.

But Johnston's main message was clearly, passionately this: We. Must. Register. And. We. Must. Vote. He's disappointed that political activism these days seems so exclusively Internet-driven -- a far cry from the old (effective!) days of getting individuals registered and driving them to the polls on Election Day. The current campaign to deny judicial retention to three of the seven Iowa Justices who ruled that no Iowa citizen may be barred from marriage on account of gender-orientation must not succeed. We can't afford to lose one single justice over this. Said Johnston: "Anybody here today [at FFBC] who doesn't register and vote to retain these three justices ought never to come here again."

The Quality of Empathy

By Jonathan Wilson

In the lead up to President Obama's most recent appointment to the United States Supreme Court, he mentioned his interest in finding a well-qualified candidate that, among other, obvious credentials, possessed empathy. You would have thought from the Radical Right and Fox responses that he'd said that he wanted to find a well-qualified, atheistic anarchist.

According to the critics, empathy is not a quality we should have in our judges. If the critics are to be believed, an empathetic judge is soft on the law, lacks a commitment to blind-folded justice, and will be biased in favor of pathetic, lesser, unworthy litigants unrepresented by high-priced lawyers. Not much could be further from the truth.

The word "empathy," of course, means "identification with and understanding of another's situation, feelings, and motives." **The American Heritage College Dictionary**. Understanding the situation, feelings, and motives of another person (or litigant before the court), is not equivalent to bias in their favor. The quality of empathy is highly underrated and, in fact, is the key to effectiveness and success in many, if not

The Girl Who Played with Fire

Review by Gary Kaufman

The lesbian ass-kicking female is back. Lisbeth Salander, that girl with the dragon tattoo, is back for the second time this summer, with a movie based on the next book in the Steig Larsson series, as **The Girl Who Played With Fire**. It is a Swedish film with English subtitles, but that fact does not diminish the impact of the film.

As in the first film, two story lines are formed that join each other at their resolution. Mikael Blomkvist (Michael Nyqvist) and his staff at *Millenium* magazine are about to expose a female trafficking sex operation with ties to government officials and other prominent individuals when the criminologist and journalist investigating the story are murdered in their apartment. Meanwhile, Lisbeth returns to Stockholm after a year's absence and links up with her hooker girlfriend. Lisbeth provides her with a year's paid-up apartment if she will also maintain it as Lisbeth's legal residence so that Lisbeth can live at an undisclosed address elsewhere. The girlfriend accepts in a beautifully sensual lesbian lovemaking session with Lisbeth. Meanwhile, Lisbeth's guardian, a man who has beaten and raped Lisbeth but has legal guardianship over her, is approached by someone who's client has an interest in obtaining a copy of Lisbeth's assessment reports by the guardian.

The guardian agrees, as long as the client first "silences her." When the two staff members from *Millenium* and, shortly thereafter, the guardian are found murdered, there is plenty of evidence at both sites indicating that Lisbeth is responsible for the murders, and she is on the run again. Through Lisbeth's computer hacking abilities and rather forceful interrogation techniques, she tries to zero-in on the location of the perpetrators. The film concludes with perhaps one of the most unusual and grotesque two-day family reunions ever. The film is not quite as gruesome as the first movie of the series, but its gritty story-telling style about a woman fighting for her freedom in a brutal society still spellbinds the viewer.

Why is it that people like to say they "slept like a baby," when everyone knows babies wake up like every two hours and have likely wet themselves, or worse?

Wanted: FFBC Treasurer

Qualifications: Honest; pays attention to detail; can add and subtract (generally, no multiplication or division is required); willing to be at the FFBC registration table regularly; and, preferably, has some transferable bookkeeping and computer skill sets.

The long-time and highly competent FFBC Treasurer, David Teachout, is interested in finding a suitable replacement. He will provide training and will remain available for consultation as needed. The Treasurer, in addition to staffing the registration table at our meetings, handles the FFBC financial affairs in cooperation with the FFBC president and his faithful secretary, Brenda Pringle. The Treasurer is also a member of the FFBC Board of Directors.

If you have the qualifications and an interest, *please* contact Jonathan Wilson (515-288-2500 or 515-991-8881).

How important do people have to be before they are considered assassinated instead of just murdered?

BRIEFS & SHORTS

Be sure to RSVP for the October 1 meeting no later than September 28. E-mail JonathanWilson@davisbrownlaw.com or call him at 288-2500. Our speaker will be Kathie Obradovich, political reporter for **The Des Moines Register**.

Thanks to Rick Miller for introducing our September speaker, Dan Johnston, former Polk County Attorney.

PROS party on Saturday Septmeber 25, 2010 at the home of Denny Schrock and Pat Phillips, 4714 148th St, Urbandale. RSVP by calling 986-3966.

Be sure to peruse the front table for a book you might like to read. Book donations are always welcome.

SAVE THE DATE: Red Party Scholarship Fund Raiser February 4, 2011.

Consider a tax-deductible contribution to the FFBC Scholarship fund or designating FFBC for your United Way pledge.

What FFBC Has Meant to Me and Can for You

By Ryan Weidner

The following is a personal account of how the FFBC has impacted my life.

About three years ago I started on the arduous journey of coming out. It was a scary time for me, with a spouse and two young children. Despite the progress that has been made at this point, it is not easy, safe, or fun to come out. Once we're comfortably out, it can "appear" easy, but it was anything but easy in the position in which I found myself!

By chance, an attorney that I had located through **Accessline** mentioned Jonathan's name and also that he was the president of the FFBC. Jonathan invited me to attend a meeting as a guest. It still took several months (over a year) before I finally considered myself out – a healthy, fully integrated personality for the first time in my life.

In addition to fearing the worst with my family, I also feared the worst when it came to my career success. There I sat at my first meeting, realizing that the host of the event, Jonathan, was a successful attorney. Next to me sat an Iowa Senator. Someone else mentioned that there were also two other financial advisors in the room. I was able to realize that life "out" would be okay.

I have made so many friends, many of whom have also introduced me to others not even in the club! One of those individuals has become the best friend I have ever had in my life! I cannot imagine life without his friendship. We have traveled together on three vacations over the last few years, seldom does a week go by that we are not going for dinner, taking the kids to do something, or chatting over coffee. I am truly blessed to have a best friend that I realize I would not have if it weren't for the FFBC.

The club has had a huge impact, not only on my personal life, but also on my professional growth.

If I could formulate a motto for this indispensable aspect of the club, it would be this: "If you are not 'out' yet, know

Poetry in Downtown Des Moines

By Fred Mount

I see a hundred different scenarios on an early Sunday morning in downtown Des Moines.

My mother said "that one has a wild imagination." I prefer to think I have a vivid imagination.

I see a nicely dressed couple with young children walking up 6th Avenue and suppose they're headed to mass at St Ambrose.

On the skywalk are people at 8:30 a.m. and I wonder where they would be coming from or going to. Perhaps, in either case, nowhere.

There are hapless people on the downtown streets. Have these poor souls been there all night and, if so, by choice maybe? What's become of shelters for such folks?

The fishermen are already on the bridges. Is this a hobby or do they need this for survival? Perhaps to feed hungry children at home? I have never missed a meal in my life, nor did my parents.

And there's the meat rack on the Grand Avenue side of the YMCA – an interesting mix of life. One is a fellow with 13 children whose wife threw him out of the house. She should have done this shortly after child number four, or maybe even just before number 6 or 7.

The sights, the sounds, and the smells of an early downtown Des Moines on a Sunday morning, maybe can best be relished by this fellow who returned to the place of his birth after 50 years in a much smaller town where nothing really ever happened on a Sunday morning, except of course the doleful toll of the courthouse clock.

On Broadway One Night

By Bruce McCabe

*On Broadway one night,
I saw two
Beautiful young men, hand in hand.
They had Love I knew;
Perfect Love.
My soul ached,
to turn back the years,
or, wanting to be one of them.
Before the tears
Came into my eyes,
they disappeared
into the evening crowd.
I had Love once;
flawed, imperfect Love.
And my soul ached.
He never saw the tears
that he caused,
before I made him disappear.*

Why did Kamikaze pilots wear helmets?



Boycott of Toyota of Des Moines Proposed

By Matt McCoy

For a number of years I have listened to WHO-AM's Jan Mickelson belittle minorities, make judgmental and hateful remarks directed at individuals of non-Christian faith and GLBT people, to name a few. However, lately I believe Mr. Mickelson has gone too far with his hate-speech.

On September 2, 2010, **The Des Moines Register** reported that Mickelson remarked on his radio program that AIDS education de-stigmatizes "stupid behavior" of homosexuality, likening AIDS to lung disease, cirrhosis, or heart disease. Right after the story broke, WHO-AM quickly distanced itself from Mickelson's statements and ran a clarification in the **Register** stating that his assertions were factually incorrect.

Mr. Mickelson and WHO, however, continue to profit handsomely because of loyal radio sponsors like Toyota of Des Moines who pay for his live broadcasts and daily endorsements of their products. I believe it's time that we speak up and inform the show's sponsors/advertisers, like Toyota of Des Moines, that if the divisive and hate-filled dialogue continues, we are prepared to take our business elsewhere.

Many retailers and businesses don't pay much attention to threats of boycotts from the GLBT community because they assume it to be a small group of people. Furthermore, Toyota has expressed very little concern about the proposed boycott. They have underestimated the power of the GLBT community for the following reasons:

First, GLBTs have strong economic power. Second, GLBT's families and friends also have economic power. Let's assume 10 percent of the Des Moines metro population identifies as GLBT; most GLBTs have families made up of at least two parents and/or sibling(s). Finally, assume most GLBTs have at least one or two non-GLBT friends and/or employers who are supportive. According to my calculation that 10 percent of the population are GLBT, 20 percent are family, and 20 percent are friends/employers of GLBTs, making upwards of 50 percent of the Des Moines metro population. Imagine such a group voicing the collective choice to

Why did Superman stop bullets with his chest, but duck when an empty revolver was thrown at him?

purchase their automobiles elsewhere – perhaps by simply traveling to Wilson Toyota of Ames to purchase a new or used Toyota.

I am asking that we all work together, along with our families and friends, and let Toyota of Des Moines know that we will not purchase a car from that dealership until the advertising for Mickelson's show is pulled. Please contact Toyota of Des Moines's general manager, Steve Luebke, at sluebke@toyotadm.com or 515-276-4911, and ask that his dealership immediately cease advertising on Jan Mickelson's program or face further boycotting.

The easiest way to find something lost around the house is to buy a replacement.

The Quality of Empathy (cont.)

most, interactive endeavors. Think about it. Doesn't the champion chess player need to be empathetic to anticipate the opponent's next move(s)? Doesn't the military general need to be empathetic to figure out what the enemy is likely to do in order to make contingency plans in response? Doesn't the successful lawyer need to be empathetic in order to formulate working assumptions about what is motivating an opposing litigant in order to counter that most effectively? Doesn't a spouse/partner with any hopes of a long-term relationship need to put himself in the other's shoes in order to preserve and nurture the relationship? Is there a patient in the world who would not want treatment from an empathetic doctor? No one wants to hire a marketing or PR person who is devoid of empathy.

If the Golden Rule to do unto others as you would have others do unto you is to have any meaning, it relies upon empathy. Without empathy, it is not possible to follow the Golden Rule. For all their supposed adherence to selfless Christian principles, the Radical Right betrays the ultimate selfishness when it purports to reject the character of empathy. Empathy is the antithesis of selfishness.

The hue and cry over President Obama's acknowledged interest in finding a well-qualified Supreme Court Justice that has demonstrated the quality of empathy presents me with a dilemma. I either have to assume that his detractors are too illiterate to know what the word means, or assume they know full-well what it means and their protestations are disingenuous and perniciously political. Being unwilling to assume their illiteracy, I'm left only with the latter explanation. And, exercising my powers of empathy, I'm content with that.

FFBC

*First Friday
News & Views
Des Moines, Iowa*

OCTOBER 2010

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My M.O. (Monthly Observations)

A Tea Party I Wouldn't Mind Attending

Steve Person

A friend of mine gave an English tea for members of her book club last month. She made the scones from scratch, along with the other goodies that go along with an afternoon high tea. She served three kinds of specialty teas, all purchased from a gourmet tea shop (or would that be “shoppe”?). That is a tea party I wouldn't have minded attending since it had nothing to do with a group of racists and homophobes.

I find it disconcerting that the mainstream media have taken the so-called “Tea Party” as a group that is seriously concerned with too much government spending and refusing to identify it for what it truly is. If these purportedly sincere Americans were so concerned about waste in government, where were they when the United States nakedly and shamelessly plunged headlong into an illegal and immoral war by invading a country that made no aggressive move against us? Oh, sure, Saddam Hussein made lots of noise and bragged about “Weapons of Mass Destruction,” but their existence never was, and George W. Bush would not allow the United Nations time to PROVE their nonexistence. That war, by the way, is now approaching one TRILLION dollars in cost—not to mention the 4,400 American soldiers who died protecting us. From what? The desert? Add to that the 32,000 wounded American soldiers and the more than 100,000 Iraqis who died in this conflict, and yet not ONE Tea Party member ever mentions those statistics.

The Tea Party is concerned with parading portraits of Obama labeled as a socialist, a communist, and a Nazi. That alone should tell people what an ignorant group these people are. What concerns them more than anything is that he is a black man—and more disturbing yet—our black, legitimately elected President. If you doubt that, take a road trip, and stay off the interstate highways. Travel the back roads of America, and you will realize the extent of hatred that exists in our country among the poorly educated and unenlightened. Understand that I am no great fan of President Obama. I gave him my vote, but it was a gift. Still, I know he is not a socialist, a communist, or a Nazi. I appreciate the tremendous mess he inherited when he took office, and I further appreciate his efforts to deal with the recession without much help from Congress, both Democrats and Republicans, including our own hypocrite, Senator Grassley.

All any thinking person would have to do is look at who is promoting this group of loonies: Glen Beck, Sarah Palin, Rush Limbaugh, and locally, Jan Michelson. If someone were to ask me to identify a basic problem in America, it would be easy to respond--Talk Radio and Fox News (a contradiction in terms, by the way). Free speech has its price, and unfortunately it can be steep when people of this ilk are actually listened to and believed.

While Tea Party members claim not to be of any particular political party, research has proved that they are overwhelmingly Republican--not only Republican, but right wing, evangelical Republicans. Again, any thinking person knows that such people are homophobic to the nth degree. I have no time for dissemblers and liars, and the Tea Party members are nothing more than that. Worse still are those who claim to be their leaders.

Unfortunately, they give real tea parties a bad name!