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LIMITS ON THE RIGHT TO BE STUPID

By Jonathan Wilson

Dateline Germany, February 26, 2013: During his first trip abroad Secretary of State John Kerry said that Americans have the right to be stupid; some abuse it; but it's tolerated. Too true.

As if on cue, ten Republican members of the Iowa House of Representative stepped up to prove just how sadly true it is. The ten of them co-sponsored House File 444 that seeks two things: it seeks to prohibit County Recorders from issuing same-gender couples marriage licenses to which they are entitled thanks to the Iowa Supreme Court decision in *Varnum*; and it seeks to remove from the Iowa Supreme Court any power to decide whether the denial of those licenses violates the Iowa Constitution.

You know -- the constitution that says all citizens are to be treated equally by their government. Introducing the bill was tacit acknowledgment that, if challenged before the Iowa Supreme Court, the Court would almost certainly strike down the bill as unconstitutional. In essence, the admittedly unconstitutional bill seeks to remove access to an independent judiciary to obtain rights guaranteed by the constitution. In the balancing of governmental powers, incidentally, the US and state Supreme Courts have held the keys to our constitutional rights since at least *Marbury v. Madison* in 1803, half a century before Iowa even had a constitution.

I've always believed that, if circumstances are equally consistent with malevolence and stupidity, one should assume stupidity. These circumstances put that benevolent philosophy to the test. To avoid the conclusion that these legislators are utterly malevolent, you have to assume that their stupidity is so stupendous as to surpass all credulity. [I'm using big words here so that, if they read this, they'll be less likely to know what I'm saying.]

Here's why HF 444 is so thoroughly stupid. First, it doesn't reach Iowa's recognition of gay marriages performed in the eight other jurisdictions where it's perfectly legal. Second, it ignores the access that gay couples have to legally recognized common law marriages; in short, no one, gay or straight, needs a license to get legally married in Iowa. Third, it purports to remove appellate jurisdiction of the Iowa Supreme Court while leaving untouched the power of the district courts to strike down the statute or order the County Recorders to issue licenses under penalty of going to jail if they refuse. Fourth, without appellate jurisdiction available, the multitude of district courts could reach differing conclusions and, there being no requirement that license applicants be residents of the county where their application is made, marriage licenses could continue to issue if just one single district court so ordered. Fifth, the bill isn't going anywhere, given the Democratic majority in the Iowa Senate. Sixth, and most disturbing, it betrays among the ten legislators a fundamental ignorance of our very form of government that should be understood by every Iowa fifth grader or they should be held back.

These legislators simply can't, in my judgment, be that stupid. That leaves me then with malevolence. I would have preferred stupidity. Each of the legislators, in order to qualify for office, swore to uphold the Constitution of the State of Iowa. No legislator can be held to have violated the oath of office because of a mere stupid error -- by mistakenly supporting legislation that is ultimately determined to be unconstitutional. A malevolent -- i.e., intentional -- violation, on the other hand, does rise to that level. The telltale sign of that intentional violation is the attempt to remove appellate access to the Supreme Court. The legislators *knew* the bill is unconstitutional and thought that would prevent a successful constitutional test.

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CALENDAR

- ▼ The next FFBC meeting is 7:00 A.M., Friday, April 5, 2013, at Hoyt Sherman Place, 15th & Woodland, Des Moines, IA.
- ▼ R.S.V.P. by April 3rd to JonathanWilson@davisbrownlaw.com or 288-2500 by phone.

Freedom to Die... (cont.)

You should have the names of these legislators and know the counties whose gay, tax-paying, law-abiding citizens they want to service in the Iowa Legislature. They are: **Dwayne Alons** (*Sioux County*), **Greg Heartsill** (*Jasper, Lucas, and Marion Counties*), **Jason Schultz** (*Crawford, Harrison, and Shelby Counties*), **Larry Sheets** (*Appannoose, Mahaska, Monroe, and Wapello Counties*), **Cecil Dolecheck** (*Montgomery, Page, Ringgold, and Taylor Counties*), **Joel Fry** (*Clarke, Decatur, Lucas, and Wayne Counties*), **Ted Gassman** (*Emmet, Kosuth, and Winnebago Counties*), **Sandy Salmon** (*Blackhawk and Bremer Counties*), **Kevin Koester** (*Polk County*), and **John Landon** (*Polk County*). All Republicans.

By sponsoring HF 444, these legislators have gone past stupid to malevolence. Secretary of State Kerry is right that we tolerate stupidity in this country. Malevolence -- intentional acts contrary to our constitutional law, should *not* be tolerated. These legislators have implicitly calculated that the majority of their constituents are either too stupid to recognize the significance of HF 444, or too malevolently bigoted to care. I hope they're wrong on either assessment.

Upward and Onward with Primary Health Care

By Bruce Carr

Our FFBC guest speaker on Friday, March 1, was Greg Gross, Prevention Services Manager for The Project of Primary Health Care. At the beginning of this year The Project (formerly AIDS Project of Central Iowa) formally joined with Primary Health Care, Inc. (PHC, a nonprofit, federally qualified community health center) to form a single organization which provides a seamless continuum of HIV services from diagnosis to treatment and support.

In fact, The Project and PHC have been partnering for over 20 years from their two locations (on E. 2nd and S.E. 14th); as a combined organization they expect to be operating very soon out of a new location on Des Moines' near-north side. Greg outlined for us some of the theoretical support for this practical merger, developed from over 30 years of experience in developing an AIDS strategy that encompasses research, community education, and care in the widest sense.

The goal, he urged, is to construct a system that considers the complete person -- physically, psychologically, and socially -- in its progress toward reducing viral loads to undetectability. Mere "prevention" is a helpless concept without dealing simultaneously with the parallel issues of legal status, employment and housing, substance abuse, and the shame and fear (both individual and community) that have for so long surrounded HIV/AIDS. A patient who cannot achieve stability or find support in all these areas will never be able to follow a treatment regimen, however carefully designed.

Born and raised in Scott County, Iowa, Greg credits his tight-knit family, firmly grounded in the social-justice precepts of the Roman Catholic faith, for guiding him toward personal and professional activism. Greg graduated with a B.S. in Psychology and a B.A. in Spanish from Drake University in 2003. Before joining The Project in 2010, he worked, in both the corporate and non-profit sectors, with marginalized communities, including children with mental health disorders and Spanish-speaking clients. In May 2012, he finished his M.S.W. degree through the University of Iowa with a thesis on the impact of norms, attitudes, and control factors on HIV risk reduction strategies among Iowa gay and bi men. As part of a CDC-funded initiative, Greg coordinated the creation of *Project HIM – Healthy Iowa Men* -- that aims to stop HIV in its tracks through innovative programming grounded in evidence-based interventions. He is a committee chair for Iowa Department of Public Health's HIV community planning group.

Additionally, Greg is an adjunct instructor for the University of Iowa's bachelor's level social work program. Outside of work he treasures the time he spends with the Des Moines Gay Men's Chorus as a singer and board member. He can be contacted at ggross@phcinc.net or 284-0245.

From the Pastor's Pen

By Rev. Jonathan Page

In 2008 the Harvard Gay and Lesbian Caucus, Harvard's alumni gay group, celebrated its 25th anniversary with a weekend of workshops and lectures. My responsibility was to put together a brief memorial service to remember those who had died in the AIDS epidemic. During the service, Kevin Jennings, Harvard Class of '85 and founder of GLSEN, shared a story about his college roommate. The year after graduation, while Jennings was teaching at Moses Brown in Rhode Island, he received a phone call from his good friend.

"Kevin, you will never believe what just happened!" Before Jennings could get a word in, his roommate carried on with the story. "So last night, I went home with this guy and he took me to his place in the South End." The South End is the gay neighborhood of Boston and in 1986 a pretty rough area of town. "We are walking down this narrow hallway, with doors on either side. I'm thinking to myself, 'Where the hell are we?' Anyway, we go into his room, and it's this sparse cubicle. It seems a bit odd, but whatever, I was up for some fun. In the morning, this guy starts shaking me, 'You've got to get up. You have to leave NOW!' Needless to say, I'm a little startled by his reaction. I'm thinking to myself, 'Great, this guy's wife is about to come home.' So I grab my neon shirt and leather coat and stumble into the hallway. And, would you believe it, I forgot which door I had come in. So I picked a door and opened it. You'll never guess where I was!"

At this point, Kevin's roommate paused for dramatic effect. "What?" Kevin asked. "Where were you?"

"So I was standing on the high altar of Holy Cross Cathedral in the South End. In front of me the Archbishop, Cardinal Bernard Law, was celebrating mass."

"Oh my God! What did you do?"

"Are you kidding me? I did what any self-respecting fairy would do. I threw my leather coat over my shoulder and sashayed

(Continued on page 3)



2 Education of its youth is the foundation of every nation. Diogenes Laertius (paraphrased)

my way over the altar and right down the center aisle. If they're not going to marry me there, I thought I should have my own recession!!"

Jennings never described what happened to that poor priest after Cardinal Law finished mass. Something tells me that he did not stay a priest for long. But the story does illustrate something about the Catholic Church as it chooses a new leader. Their reluctance to come to grips with gays in the church will keep distracting them from the work they should be doing.

What frustrates me is that the Church could have gone in a different direction. In 1975 Pope Paul VI issued an encyclical acknowledging that some people are gay by nature and therefore should be treated with dignity and compassion, a bold notion for its time. During the 1980s, St. Mary's seminary in Baltimore was *the* place to pick up gay men in the area, and other seminaries encouraged open and honest talk about sexuality. Priests marched in gay pride parades in the 80s, and scholars like John Boswell and Mark Jordan wrote exceptional accounts of the nuanced history of gays in the Christian tradition. Indeed, because Roman Catholic theology relies on insights in the natural world for theological reflection, many Catholics argued vehemently that being gay was a gift from God and should be treated as such. I remember as an undergraduate the Roman Catholic student center had a vibrant gay group.

We all know what happened next. On January 6, 2002, the Boston Globe released the first in a series of articles that exposed the Roman Catholic Church's history of child abuse and cover ups. In response to the scandal, the Church decided to scapegoat gays, rather than look elsewhere for their own culpability. In 2005, Pope Benedict XVI barred gay men from the priesthood, even those who accepted the church's call to celibacy, thus demonizing thousands of gay priests honorably serving the church at the time. Priests could no longer be honest about their sexuality for fear of repercussions.

This tragic course of events has real pastoral implications. Not long ago, I spoke with a gay man who grew up in rural America. In high school, he taught CCD to younger students and participated in a Catholic summer camp as a leader and counselor. As a senior in high school, he was asked to share some of his struggles and how God had helped him. Bravely, he drafted a speech that revealed he was gay. But before he could deliver the speech to the younger students, he was expelled from the leadership of the camp and told he could no longer teach CCD. Abandoned by the church for his honesty and courage at a time of deep distress, he left the church and embraced a militant atheism.

Until the Church comes to grips with homosexuality, it will be caught in the same hypocritical, self-defeating, and anti-Christian place where it finds itself now. The issue is not clergy celibacy. Plenty of men live healthy celibate lives. The issue is a fear of sexuality and a denial of human nature and God's role within it. The Church's condemnation of homosexuality allows it to avoid confronting the reality of the clergy abuse scandals and distracts it from important social justice work. Perhaps one day when the new pope says his prayers, these words might cause him to think anew, "Almighty God, unto whom all hearts are open, all desires known, and from whom no secrets are hid...."

If you never change your mind, why have one? Dr. Edward doBono

My M.O. (cont.)

ey. It was up to Des Moines.

"Des Moines was desperate. We lay in camp, made political speeches, held sacred concerts, pulled teeth, played baseball and seven-up, and ate our six thousand meals a day, and Des Moines paid for them. Des Moines pleaded with the railroads, but they were obdurate; they had said we shouldn't ride, and that settled it.

"Then some local genius solved the problem. We wouldn't walk. Very good: we should ride. From Des Moines to Keokuk on the Mississippi flowed the Des Moines River. We could ride on it, said the local genius; and, once equipped with floating-stock, we could ride on down the Mississippi to Ohio, and thence up the Ohio, winding up with a short portage over the mountains to Washington. Des Moines took up a collection. Public-spirited citizens contributed several thousand dollars. Lumber, rope, nails, and cotton for caulking were bought in large quantities, and on the banks of the Des Moines was inaugurated a tremendous era of ship-building."

London goes on to describe in a humorous tone the perils of flat-boating on the shallow Des Moines River and how the "army" eventually made it to Washington, D.C., thoroughly depleted by the time it arrived. Fewer than 300 of the original 2,000 made it to the nation's capitol where they were heartily rebuffed. Government didn't listen then, and it doesn't listen now. Typical of a government that cares only for itself and its continued existence at the expense of the many to benefit those in power. Some things never change.

"Stewardesses" is the longest word typed with only the left hand. "Lollipop" is the longest word typed with you right hand.

BRIEFS & SHORTS

Be sure to RSVP for the April 5 meeting no later than April 3. Email JonathanWilson@davisbrownlaw.com or call him at 288-2500. Our speaker will be State Representative Daniel Lundby of Marion, Iowa.



Thanks to Gary Moore for his introduction of our March speaker, Greg Gross.



Consider making a tax-deductible contribution to the FFBC Scholarship Fund.



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



FFBC

*First Friday
News & Views
Des Moines, Iowa*

APRIL 2013

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My M.O. (Monthly Observations)

An "Army" of Sorts

By Steve Person

It proved to be an industrious year in Des Moines in 1894. Construction on the Civil War Soldiers and Sailors Monument on the Iowa Capitol grounds began; on August 10, Governor Jackson declared a state holiday so the parade of Civil War veterans, with their revered battle flags, could proceed from downtown to the Capitol for permanent display of the banners; the City of Des Moines had just completed its fiftieth year of existence; and one of the most bizarre episodes in the city's young history took place.

In 1893, the United States underwent one of its worst economic depressions to date. Conditions deteriorated to such a desperate state that an "army" of 2,000 destitute men from California, under the leadership of "General" Charles T. Kelly, undertook a pilgrimage from that state with the intention of marching on Washington, D.C., to impress upon the nation's lawmakers the pitiable state to which they had been reduced.

Initially, this caravan of hoboes, "formed in San Francisco, and headed east through Ogden, Utah, to Denver, Colorado. In the small towns and cities along the way, thousands of people welcomed the army, donating food and money and waving at the men crammed into and on top of the train," according to an April article in the **Omaha World-Herald**.

This "army" of the poverty-stricken commandeered trains for their eastward trek with the railroads' cooperation. When they reached Omaha, however, the cooperation ceased. It was at this point on their journey that the writer Jack London joined the rag-tag group.

In an article written for the October 1907 issue of **Cosmopolitan** magazine, London chronicled the events of his time with "Kelly's Army" twelve years earlier. The "army" became mired at Council Bluffs for a number of days since the railroads east of the Missouri River would no longer accommodate the miserable rabble. According to London, "It was not until Kelly's Army crossed the Missouri that it began to walk, and after that it never rode again. It cost the railroads slathers of money, but they were acting on principle, and they won.

"Underwood, Avoca, Walnut, Atlantic, Anita, Adair, Casey, Stuart, Dexter, Earlham, Desoto, Vanmeter, Booneville, Commerce, Valley Junction—how the names of the towns come back to me as I con the map and trace our route through the fat Iowa country! And the hospitable Iowa farmer folk! They turned out with their wagons and carried our baggage and gave us hot lunches at noon by the wayside; mayors of comfortable little towns made speeches of welcome and hastened us on our way; deputations of little girls and maidens came out to meet us, and the good citizens turned out by hundreds, locked arms, and marched with us down their main streets."

Upon reaching the stove-works in Des Moines, "the army lay down and swore a mighty oath that its feet were sore and that it would walk no more. We took possession of the stove-works and told Des Moines that we had come to stay—that we'd walked in, but we'd be blessed if we'd walk out. Des Moines was hospitable, but this was too much of a good thing. Do a little arithmetic, gentle reader. Two thousand hoboes, eating three square meals a day, forty-two thousand meals a week, or one hundred and sixty-eight thousand meals for the shortest month in the calendar. We had no mon-

(See My M. O., page 3)

Just for poets: *No word in the English language rhymes with month, orange, silver, or purple.*