



# First Friday News & Views

May 2014

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*The Monthly Newsletter  
of the First Friday  
Breakfast Club, Inc.*

## **A Last Ditch Stand that Also Fails**

By Jonathan Wilson

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Jonathan Wilson*

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▼ The next FFBC Meeting is 7:00am,  
Friday, May 2, 2014, at Hoyt  
Sherman Place, 15th & Woodland,  
Des Moines, IA

▼ RSVP by April 30 to  
[JonathanWilson@davisbrownlaw.com](mailto:JonathanWilson@davisbrownlaw.com),  
or phone 515-288-2500

The history is clear and, as it turns out, it's circular for our detractors. There was a time when Right Wing Religious Zealots (Theocrats, for short) claimed that gay marriage should not be permitted because no legislature had ever legalized it. In fact, the potential that the state of Hawaii's legislature would do just that prompted the United States Congress to pass and President Clinton to sign the Defense of Marriage Act (DOMA). That Act, unconstitutionally as it has turned out, provided that the federal government would not recognize gay marriage if it were ever legalized in any state.

The same argument was made in the state courts when they began ruling, like the Iowa Supreme Court did, that equal when used in the Constitution actually means equal.

Then state legislatures began legalizing gay marriage and the Theocrats argued that neither the courts nor the state legislatures should recognize gay marriage because such marriages had never been approved by a vote of the people. Thereafter, multiple state-wide ballot initiatives approving gay marriage were passed, handily.

Then the Theocrats retreated to the position that no state should be required to recognize gay marriages of its citizens legally accomplished in another state -- the Full Faith and Credit and the Equal Protection Clauses of the United States Constitution to the contrary notwithstanding. With impetus drawn from the rationale expressed by the US Supreme Court in the Windsor case that struck down DOMA, however, courts across the country have been requiring states to recognize gay marriage legally performed wherever. Ohio is the most recent example.

That phenomenon has driven the Theocrats to their proverbial last ditch stand. Essentially conceding that gay marriages have irreversibly achieved legitimacy and legality at the federal and state levels, and there's no stopping it there, the Theocrats have dug into the truth that's been there all along. They've been unsuccessfully trying to use government to advance their RELIGIOUS agenda. Trying to get government to endorse by law a religious view on which citizens hold "sincerely held" but differing beliefs. Now, in the name of Religious Freedom, they have sought to have the government exempt individual citizens from civil rights laws that protect their fellow

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citizens from discrimination based on their “sincerely held” religious beliefs.

Reading from the same play book -- not the Bible -- such efforts have been introduced and rejected or withdrawn in Ohio, Idaho, Kansas, Tennessee, South Dakota, Oklahoma, and Arizona. In Arizona a Republican Governor, not known for her intellect, enlightenment, or support for equality, vetoed the measure that had narrowly passed the Arizona legislature. A similar effort recently succeeded in the state of Mississippi and the governor signed it into law there. Resort to the courts had not been necessary in order to turn back a single one of the other misguided initiatives. A suit to overturn the Mississippi intimation of such foolishness is inevitable and won't require much constitutional heavy-lifting to accomplish.

And here's where the history becomes circular. Progressives have been enlarging our understanding of equality in a secular society almost from the formation of the Republic. Whether it was the abolition of slavery, women's suffrage, or equality for law-abiding gay citizens, those Theocrats who would discriminate have made “sincerely held” religious arguments, often as not pointing to some Biblical passage as authority.

Thank goodness ours remains a secular society governed by a Constitution and not the Bible. If we were or were to become subject to the latter by force of law, we'd have a theocracy, not a democracy.

What next, discrimination by Catholics against Protestants, or vice versa, because of the presumably sincerely held religious beliefs that separate them? Or Baptists against Presbyterians? Or Lutherans against Episcopalians? Or Christians against Jews, Muslims, or what-have-you?

Our Constitution, in guaranteeing religious liberty, grants us freedom of religion, and so it should be. As the utterly-failed last ditch stand of the Theocrats is demonstrating, it grants us freedom *from* religion as well.

priceless furniture from the ill effects of bat droppings.

Second, the lower level of the library was once a prison for wayward students and faculty. Because the university was a private corporation, distinct from the local authorities, the university prison system remained in force so students would not be housed with common criminals. The prison system was discontinued in the late 1770s. Many of the cells now house lesser collections of the library, but a few are preserved to demonstrate how “justice” was meted out in earlier times. Perhaps Iowa State University should consider such a system during its annual VEISHEA celebration!

## Briefs & Shorts

Be sure to RSVP for the May 2 meeting no later than April 30. Email

[JonathanWilson@davisbrownlaw.com](mailto:JonathanWilson@davisbrownlaw.com) or call him at 288-2500. Our speaker will be Zack Bunkers, restoration specialist at the Iowa State Capitol.



Thanks to Matt McCoy for his introduction of our April speaker, State Senator and Gubernatorial Candidate, Jack Hatch.

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.

From the Pastor's Pen  
**"The End of History" - 25 Years On**  
By Rev. Jonathan Page

Twenty-five years ago the world changed. Starting in the summer of 1989 the Communist Bloc unraveled, which led to the end of the Cold War. In response to this epochal shift, political scientist Francis Fukuyama wrote a famous article entitled "The End of History." Fukuyama argued that with the collapse of communism the last great challenge to Western liberal democratic capitalism was gone. Liberal democracy had won. It was the system that provided the most freedom and the most economic benefit to its citizens. It had triumphed over the powers of totalitarianism and fascism in World War II and then it triumphed again in its victory over communism.

When Fukuyama wrote that history had ended, he obviously did not mean history in the way we most often think about it. The events of time did not stop with the fall of the Berlin Wall. Instead, Fukuyama was referring to history as the great German philosopher G.W.F. Hegel used the term. In that sense history is a process of development in which opposing forces and contradictions work themselves out and lead to progress. We see this dialectic, as it is most often called, throughout the course of human events.

During the Middle Ages the rise of nation states put pressure on the church's hegemony in Western Europe, which led to new relationship between church and state. Later, the rise of capitalism put pressure on monarchies and led to the emergence of constitutional monarchies and eventually democracies. In the 19<sup>th</sup> century industrialization revolutionized societal relations, and out of this turmoil came communism and socialism. As these forces competed with one another Western capitalism became gradually more egalitarian and free. In history progress is the result of opposing forces, which eventually, at least in theory, lead to a final consummation. According to Francis Fukuyama that final step in history was reached with the fall of communism. Western liberal capitalist democracies represented the end of history, the end of this process of political development.

Fukuyama's thesis attracted criticism from the very beginning, the most famous of which was Samuel Huntington's article "The Clash of Civilizations." But rather than critiquing Fukuyama, I am much more interested in evaluating to what degree he was right that liberal democratic capitalism, at least

within the United States, is the end of the road. Have we gotten there? Is our system the pinnacle? Or are the contradictions inherent in our system leading to new tensions and perhaps to a new dialectic?

Take global warming as an example. Just this past week the UN Panel on Climate Change warned that time is running out in our struggle to combat global warming. If nothing drastic is done to reduce greenhouse gases in the next ten years, we will have reached the point of no return and will face potentially devastating global consequences. But will anything happen? Will we change public policy to prevent this calamity? Almost certainly not. Liberal democratic capitalism gets its power by providing maximum freedom and maximum economic output for its citizens. Combating global warming means limiting freedom and limiting economic output, at least in the short term, two things that are antithetical to the system.

We see fissures elsewhere as well. The dual mantra of freedom and economic gain has led to deregulation and successive attacks against the programs of the New Deal and the Lyndon Johnson's Great Society. These trends, combined with the inexorable force of globalization, have led to increased inequality in the U.S., something that is not likely to be reversed. The Culture War, including the struggle over gay rights, is yet one more example of the tension inherent in liberal democratic capitalism. By definition liberalism exalts the freedom of the individual and is suspicious of tradition and traditional mores. It turns out that some people like liberalism in economics but not in other aspects of society.

It seems to me, twenty-five years after the fall of communism, that Francis Fukuyama was wrong when he declared the end of history. He was wrong, not just because he downplayed other forces in the world like Islamic fundamentalism, but also because he did not give enough weight to the inherent problems in western liberal democratic capitalism. As these inherent problems lead to new difficulties we need to be realistic about the inevitable rise of competing ideologies. New ideologies will emerge which will threaten some of the core tenets of our society. The Tea Party is an example of a nascent competing ideology, one that is nativist, anti-liberal, and unreflectively libertarian. It is a dangerous world ahead, and the greatest pitfalls lie in the world of ideas. Given this reality, it behooves us to put more emphasis on principles and lesson the minutiae of public policy.



## **TAXPAYER MONEY WILL NOT BE USED FOR SECRET AGREEMENTS**

Over the last month, the Senate Government Oversight committee has learned that more than \$500,000 in taxpayer dollars has been paid in secret settlements since January 2011 to former state employees who were asked to sign confidentiality agreements. There have been more than 321 settlements, and the committee is still trying to uncover how many of them included hush money payments.

In a democratic government that believes in the merit and quality of state government employees, the sheer number of settlements and hush money payments is shocking and unacceptable. As vice-chair of the Senate Government Oversight committee, I am charged with doing the necessary investigative work, asking the hard questions and preserving the balance of power in our government. I will continue to do so.

After weeks of delay and denial, Governor Branstad finally fired a top administration official responsible for "hush money" payments. The Governor has also issued an executive order to end the use of confidentiality agreements, make employee settlements available to taxpayers and increase scrutiny of settlement agreements.

In the Legislature, we are taking our own steps to prevent secret settlements with "hush money" payments from happening again, including:

- Amending all state budget bills to ensure that no taxpayer money is used for secret settlements.
- Amending the Administration & Regulation Budget ([SF 2342](#)) to call for an independent audit of "hush money" and secret settlements. The State Auditor will review personnel settlement agreements with terminated state employees, especially the agreements made outside of normal channels. The audit will focus on "hush money" payments, where the money came from and those who authorized secret settlement agreements.
- Approving legislation on who qualifies as an "at-will employee" ([SF 2244](#)). In recent years, hundreds of merit employees have been converted to at-will employees. Unlike merit employees, at-will employees can be fired at any time and for any reason. Our legislation allows state employees who had been merit employees to retain their job as merit employees.

Senate Democrats take seriously the oversight of the state budget and taxpayers' dollars. We expect the money we appropriate to agencies and programs to be used in an open and transparent way.

### **Additional information**

*This is a legislative update from Senator Matt McCoy, representing west part of Des Moines, portions of West Des Moines and Cumming in northwest Warren County. For newsletters, photos and further information, go to [www.senate.iowa.gov/senator/mccoy](http://www.senate.iowa.gov/senator/mccoy).*

*To contact Senator McCoy during the week, call the Senate Switchboard at 515-281-3371. Otherwise he can be reached at home at 515-274-0561. E-mail him at [matt.mccoy@legis.iowa.gov](mailto:matt.mccoy@legis.iowa.gov).*

*Senator McCoy is an Assistant Senate Majority Leader, chair of the Commerce Committee and chair of the Transportation & Infrastructure Budget Subcommittee. He also serves on the Appropriations, State Government, Transportation and Ways & Means committees.*



## *April's Guest Speaker, Senator Jack Hatch*

by Bruce Carr



Our guest speaker on Friday morning April 4, 2014, was Jack Hatch, assistant majority leader of the Iowa Senate and Democratic candidate for Governor of Iowa in this fall's election. It was Hatch's second appearance before our group; he had been one of our very first speakers, in May 1996 (our fifth meeting), when he was a candidate for election as a state representative.

Hatch began his presentation by marveling at "the extraordinary journey" that civil rights for LGBT people have taken in the 18 years since he first spoke to us, and at the high point represented by the *Varnum* decision -- now the law of the land -- whose fifth anniversary we celebrate this month.

Moving to his campaign, he outlined a plan to define his opponent in the coming campaign as a politician who thinks and behaves above the law. He cited a myriad of cases, from arrogance on the highways to failures of leadership on hush money, economic-development cronyism, telemedicine, a fair minimum wage, and the Dream Act. "These are Iowa Values issues," he said. "Iowa's people are honest and fair, and Terry Branstad simply doesn't meet that standard. Iowans deserve better."

Questions from the audience included Branstad's supposed lock on rural Iowa voters ("How does refusing to lead on a gas-tax increase to improve our roads help the Iowa farmer?," Hatch asked) and how to engage minority voters (Hatch said that addressing them in Spanish, for example, is vitally important).

## *Ponder This*



*Stop waiting for Friday, for summer, for someone to fall in love with you, for life. Happiness is achieved when you stop waiting for it and make the most of the moment you're in now. Source Unknown.*

*Those who believe the End Times are imminent should not be trusted in public office making decisions about the national debt, pollution, or climate change. Those who genuinely lack faith in the future cannot be trusted to weigh the consequences of their decisions.*

Did you know this about you? An article on male contraception says it's been in development for over a half-century. The real hurdle is suppressing sperm production. While females produce, typically, a single egg during a month, the average male produces 1,000 sperm with every beat of the heart.

Why isn't "phonetic" spelled the way it sounds?

If vegetarians eat vegetables, what do humanitarians eat?

Why isn't "palindrome" spelled the same way backwards?

Old age is when you still have something on the ball but you are just too tired to bounce it.

Everyone has a photographic memory. But some folks don't have film.

Why do psychics have to ask you for your name?

How do you tell when you run out of invisible ink?

What happens if you get scared half-to-death twice?



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## MY M.O. (MONTHLY OBSERVATIONS)

*by Steve Person*

### The Prisoners of Coimbra

As an Iowa Capitol tour guide, I have the pleasure of showing the public through the beautiful building dedicated to the people of this state. As we progress through the interior to the second floor, I usually ask the group what has been their favorite room so far. Answers range from the old Supreme Courtroom to the governor's office to the legislative chambers of the House of Representatives or the Senate. I then tell them to be prepared to see the Law Library. For those who have never been in the building before, the oohs and ahs when I usher them into that great room are palpably audible. It is a magnificent library built with money from the citizens of this state. Its equally impressive parent, the State Library, located in the Miller Building, is less frequently visited, unfortunately.

I recently returned from a visit to Portugal. Among the towns we visited was the university town of Coimbra—picturesque and historic and home to the major university in that country. Our guide took us into the most spectacular library I have ever seen! Talk about oohs and ahs! The Joane Library of the University of Coimbra is a feast of rococo architecture and decoration. The World Monuments Fund website describes the library as, "Built in the early eighteenth century at the behest of King John V of Portugal, the Joane Library was completed and constructed for the University of Coimbra to house its book collection. The library was built in the university courtyard on the ruins of the former medieval royal prison. The interior was finely decorated by bronze workers, glaziers, painters, and other craftsmen throughout the 1720s. The stone floor is patterned in geometric motifs, and the plaster ceilings are decorated with allegorical *trompe-l'oeil* paintings. Today it is one of the most significant archival libraries in the world and contains some 56,000 books...many of which date from the sixteenth to eighteenth centuries."



Two fascinating details about this library make it stand out from any I have ever seen. First, it is the home to a colony of bats. The bats are not seen during the day but come out at night to devour the insects that like to eat the leather book bindings and the paper between them. The antique library tables and chairs are covered at closing time, and the sheets are removed in the morning, thus saving the

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