

For too long we left the Iowa judicial branch to its own devices. Just like the rest of government, it has grown out of control without the blessing of Iowans or the watchful eye of voters.

With the judicial retention vote looming, the debate has shifted into two separate, but vitally important topics. First is the **Varnum v. Brien** (Same-sex marriage) opinion that highlighted the Iowa Supreme Court's willful determination to legislate from the bench. The other question is: what to do about it.

Actually, the lawless decision in **Varnum** can only be debated as to how far-reaching and limitless the current court could rule if unchecked. When the Iowa Supreme Court justices claim omnipotent power to imagine and confer constitutional rights that "were at one time unimagined"* it is time to remove them on that basis alone. It is obvious they feel empowered and will follow their whim in future decisions rather than the law. They have usurped the constitutional authority of the legislature and will do so at every notion until they are stopped by a vote of the people. To read their opinion brings one to the conclusion that these justices believe they have the authority to find the Constitution – unconstitutional.

On the matter of what the citizens of Iowa can do about their rogue judges, the retention vote is the only recourse. When judges usurp the letter of the Constitution and the Code of Iowa to suit their whim, they must be removed from office. The very fact that our Constitution calls for a retention vote on a general election ballot means the Constitutional intention is for the voters of Iowa to use their moral authority and judgment to check the runaway judicial branch.

However, judges do not want to acknowledge that fact. They encourage rubber stamp acquiescence from the citizens they want to rule. Some days ago, Judge Robert B. Hanson, the creator of Iowa's same-sex marriage status, revealed the political nature of our current judicial system when he called opponents of his ruling "misguided." He continued to characterize a 'no' vote on judicial retention as "an abuse of the system." The U.S. Constitution and the Constitution of the State of Iowa were both designed so that, if any branch of government gets out of hand, it is the right of the people to alter or abolish it.

Elitism and judicial arrogance are on full display. They have for so long controlled their own hierarchy and culture that they openly consider our constitutionally granted right to vote our conscience and judgment as "an abuse of the system."

Heretofore, judges have wrapped themselves in the cloak of jurisprudence. The average Iowan believes that judges carefully and scholarly study the Constitution, the statutes, and case law, then render a decision that is the objective result of jurisprudence. Some do. Justice Scalia told me that when he is unhappy with the effect of a decision he has made, he is confident that he has made the right legal decision. Not so with activist judges. They match their personal, political and policy preference with their conclusion, and then rationalize using creative and convoluted legal jujitsu to work backwards into their opinion. This is the stuff of Iowa's judge made same-sex marriage policy.

Iowa law says that marriage is only between "a male and a female"*** . No judge can be allowed to remain on the bench who would turn thousands of

years of law and human history on its head by discovering rights that “were at one time unimagined” in our Constitution. If Iowans read the decision, [Varnum v. Brien](#)

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as I have, they will realize that their only recourse is to vote “NO” on all three Iowa Supreme Court judges who are on the back side of the ballot. I will vote “NO” on all three judges because it’s my sworn duty to uphold the Constitution and because it’s time to put the control of all three branches of government back in the hands of the people.

* Varnum v. Brien, 763 N.W. 2d 862 (Iowa 2009). Pg 15 of the opinion.

** Iowa Code section 595.2(1)

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