

HERE ARE THREE THINGS TO REMEMBER about the Retention process and a fourth to think about for our future:

I. A Retention Vote is NOT new nor does utilizing it politicize the process.

- a) Retention votes have been a part of the process for eons of time. It is the only opportunity a voter has to restrain, remove, or retain a judge. Most often judges are retained, but this is the legitimate way for voters to have input in the decision. It is NOT politicizing the system to utilize the process in place. That is simply an argument of those who find the Constitution a problem for their political agenda.
- b) If anyone has politicized the process, it would be judges acting like political arms of interest groups to change law rather than interpret it. Justice Sandra Day O'Connor flying into the state to "campaign" on campuses has politicized the process; others misleading Iowans into believing this vote is a new idea or inferring that it will somehow cause businesses to suffer¹ or women to be harmed because they cannot get protective orders² have politicized the process.

II. The Iowa Supreme Court is out of control. They broke precedent to make new policy and fundamentally change Iowa's Code.

- a) The opponents of traditional marriage are working to make this look like it is all about one vote, but the truth is that vote simply illustrated to many how "out of control" the courts have become. Seven justices fundamentally changed the Iowa Code on marriage without the due process of the legislature changing law or the people voting for an amendment. They stole the voice of the people and affectively abolished established law (DOMA – Defense of Marriage Act adopted by the legislature and signed by the governor at the will of the people). Unlike California, Iowans do not have a referendum process to bypass the legislature and force an amendment. Elections are the people's only voice.
- b) Only months before the marriage decision, this same Court overturned several lower court rulings in the case of a convicted sex offender stating that under the current Iowa Code his case did not meet the elements for a conviction. They then gave the legislature model legislation so they could fix the Code.³ If they felt the Iowa Code or Constitution should be changed concerning same sex "marriage" they should have followed the same procedure of giving their opinion and suggested language, but it is up to the legislature to change or make law. The Iowa Supreme Court tried to make new law from the bench.
- c) In doing so, they corrupted the balance and separation of powers between the branches. The legislature has never reconciled the Court's decision with the Code; the legislature has never changed the Iowa Code defining marriage. There is still no law legalizing same sex "marriage" in Iowa. Elected legislators know the people of Iowa DO NOT support same sex "marriage", and the Court has no power or authority to make such a demand. Attorney General Tom Miller refused to uphold the existing law and, in fact, ordered 99 county recorders to go against their oath of office upholding the State Constitution and/or Code, which again crippled the process and stifled the people's voice.

III. Remember In November – judges are retained at the will of the people; it is an honor to serve and not an inherent right to rule.

- a) This is the only direct input you have in the judicial system. You not only have the opportunity, but the responsibility, to vote for people who you believe will uphold the intent of the Constitution and the separation of powers. Reaction to the retention vote process is alarming and demonstrates the arrogance of those who think they are owed such honor. They are not; it is earned and maintained at the will of the people.
- b) If judges don't have the same collective values as a society how can they rule with "Justice for ALL?" When the retention vote was put in place decades ago, it was so the people could remove a judge who did not protect the

views (laws) of that society. For instance, can a judge reflect society's values against underage drinking when minors were arrested with alcohol levels over the legal limits at a party held by her son while she was home?⁴

- c) In the Iowa Supreme Court, Justices are retained only at the will of the people with a vote to retain or remove them every eight years.⁵ Our framers knew "absolute power corrupts absolutely" and gave the people a say. If the Iowa legislature had any backbone, they would impeach these judges, but since they have not the people will now speak through the retention process.

IT IS TIME FOR "WE THE PEOPLE" TO TAKE BACK OUR REPUBLIC FOR OUR FUTURE.

- a) It's time for Americans to take back our Republic and for Iowans to gain back the voice the Iowa Supreme Court stole. The judicial branch has overstepped its authority. If we do not put a stop to it, we will lose our Representative Republic to an oligarchy (ruled by an unelected elite few) and lose our ability to choose our leaders.
- b) No matter how you feel about issues, public policy should be debated and deliberately defined by those we select to represent us in legislatures not ordered upon us by a rogue judge with special interest. It was the judicial branch that 'legalized' abortion – there was never a law passed to legalize murder in the womb which has now killed 50 million preborn Americans. It was the courts that took prayer out of the schools when an overwhelming majority of Americans believed in God. Courts, not legislatures, are creating policy without the public's approval.
- c) Unlike many other countries, we are fortunate to have a say in our leadership. However, if Americans do not revolt against over-aggressive elected officials, we risk a true revolt as rights and liberties continue to be stripped, and all freedoms eventually disappear. Civil disobedience could be the only recourse for justice if it continues. We must protect what people in other countries are literally dying to accomplish.

1 - Sen Harkin to WHO reporter 10-25-10 see www.whotv.com and click on Judge Retention Rallies with Harkin's photo

2 - Speaker at protect-the-judges retention rally upper level Capitol West Steps 10-25-10

3 - John Carlson's column in DM Reg, 9-10-2009

4 - http://wfcourier.com/news/breaking_news/article_147f8be6-1f48-5af2-9f77-398daf946741.html Underage drinkers over legal limit.

5 - http://judgepedia.org/index.php/Iowa_Supreme_Court Retention every 8 years.