

MEDIA ADVISORY



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Statement of AJS President Gordon L. Doerfer on Iowa Supreme Court opinion in *Varnum v. Brien*

Des Moines, Iowa – The question before the Iowa Supreme Court in *Varnum et al. v. Brien* was straightforward: Is the legislatively enacted Iowa Code statute limiting civil marriage to a union between a man and a woman in violation of the Iowa Constitution? The Court determined that the Iowa Code provision prohibiting gay and lesbian people access to the institution of civil marriage violates equal protection guarantees of the Iowa Constitution.

As the Court notes in its opinion, its responsibility “is to protect constitutional rights of individuals from legislative enactments that have denied those rights even when those rights have not been broadly accepted.” When presented with a case that raises this issue the Court has a responsibility to decide it using the legal principles that must be applied in all such cases of judicial review. The Court took on that task and decided unanimously that the statute in question violated the requirement in the Iowa constitution that all persons are entitled to the equal protection of the law.

The *Varnum* decision continues the Iowa Supreme Court’s long tradition of being at the forefront of declaring and protecting the rights and liberties of all Iowans, even against strong national or popular opinion. As the opinion notes, the very first reported decision of the Supreme Court of the Territory of Iowa, *Ralph v. Morris* (1839) held that a person could not be held as property subject to a contract for slavery. In 1868 and again in 1873, long before the U.S. Supreme Court decision in *Brown v. the Board of Education*, the Iowa Supreme Court was dismantling the institution of segregation. Again, affirming another aspect of equal protection long before it was accepted elsewhere in the nation and even before the U.S. Supreme Court declared otherwise, in 1869 Iowa became the first state to admit a woman to the practice of law.

The American Judicature Society, headquartered in Des Moines, Iowa, speaks as a national, nonprofit, nonpartisan organization committed to the fair administration of justice and maintaining the integrity of the court system as an impartial arbiter of the requirements of the law even when the law impacts on sensitive social issues. The *Varnum* decision was not a case of the Court imposing its preferences on an issue of social policy relating to gay marriage. Rather it was applying the requirements of the Iowa constitution in a case that was brought before it. AJS calls on all Iowans, and all Americans, to recognize and respect that the courts and the courts alone are called upon to determine the boundaries of the rights and liberties of citizens under our state and federal constitutions.

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Founded in 1913, The American Judicature Society is a nonpartisan organization with a national membership of judges, lawyers and other citizens interested in improving our nation’s courts and the administration of justice. The AJS mission is to ensure a fair, impartial, independent judiciary; improve the criminal justice process; educate the public; and build confidence in the justice system. For more information, please visit our website at <http://www.ajs.org>.