



I am writing on behalf of the American Judicature Society (AJS) in response to the *Des Moines Register* article on Feb. 20 concerning an Iowa lawmaker urging constituents to remove four Iowa Supreme Court justices. To do so would damage the independence of the judiciary.

Under our system of government actions by our legislative and executive branches are sometimes called into question. The responsibility of determining the constitutionality of these actions falls squarely on the judiciary. This is part of the well-designed process of checks and balances that has served our nation exceedingly well since its founding.

At times, in fulfilling this responsibility, the judiciary must make politically unpopular decisions. While some members of the public will disagree with the outcome in every controversial case, no rational person would ever want to see our judges so intimidated by public opinion or threats of job loss that they were afraid to rule based exclusively on the law and facts before them. In this country, thank goodness, the rule of law is supreme. Even when judges personally would like to see a different outcome based on their own ideology, they are obligated to render a decision that is mandated by controlling principles of law.

Unfortunately, courts and judges today are being subjected to increasing (and increasingly intemperate) criticism, assignment of blame for the ills of society, and attempts at retaliation for doing their job. It is most disturbing when this response to judicial decisions comes from other government officials who should understand the judiciary's function and responsibility.

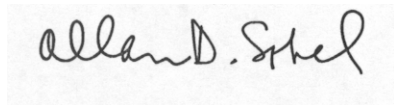
Therefore, whatever any of us may think of the outcome in *Racing Association of Central Iowa v. Fitzgerald*, a case decided by the Iowa Supreme Court based on an interpretation of the Iowa Constitution holding that the legislature may not establish different tax rates for land based casinos than those that apply to water based casinos, all of us should be deeply concerned about reactive attempts by certain legislators to stimulate an interest in rejecting the retention of justices who participated in the decision at the next opportunity. If they would have bowed to political pressure and decided the case differently, I would be the first to say that they have no business serving as judicial officers. The test in a retention election is not whether a judge carried favor, but instead whether the judge lived up to her constitutional obligation to decide each case based on good faith

interpretation of the prevailing legal precedents and the record before the court, and acted both on and off the bench in a manner that protects the image of the judicial branch.

I write as Executive Director of the American Judicature Society, a national organization that developed and promotes merit selection of judges, the judicial selection process followed in Iowa and in over 30 other jurisdictions. Merit selection was designed as an alternative to elective systems, so that states could improve judicial administration by making judges independent of politics and assure them continued tenure so long as their services are satisfactory.

AJS has called Iowa home since last year and therefore has a special interest in Iowa. I invite all Iowans to join AJS in promoting a judiciary that is free to, and in fact does, render decisions based solely on the law and the facts of each case, without bowing to popular, political, or other extraneous pressures, and reject any effort to remove from judicial office any person who has simply performed her constitutional duty.

Very truly yours,

A handwritten signature in cursive script that reads "Allan D. Sobel". The signature is written in black ink on a light-colored, slightly textured background.

Allan D. Sobel  
Executive Vice-President and Director