

INTRODUCTION TO CHIEF JUSTICE MARSHA TERNUS

*Donna Young**

It gives me great pleasure today to introduce you to Chief Justice Marsha Ternus—the first female Chief Justice of the Iowa Supreme Court.

In 1972, Chief Justice Ternus graduated Phi Beta Kappa from the University of Iowa with honors and high distinction. She received her law degree from Drake University Law School in 1977, where she served as Editor-in-Chief of the *Drake Law Review*.

Before joining the Iowa Supreme Court, Chief Justice Ternus worked in the Des Moines law firm of Bradshaw, Fowler, Proctor and Fairgrave, specializing in civil litigation and insurance law.

In naming Justice Ternus to the Supreme Court of Iowa in 1993, Governor Terry Branstad indicated that it was her—and I quote—“proven record of integrity, hard work, and even-judgment that made her particularly well suited for appointment to the court.”

In 2006, she became the first female chief justice of Iowa’s highest court when her colleagues on the court selected her for the position.

As a justice on the Supreme Court, Justice Ternus was passionate about improving court oversight of child welfare cases and made child welfare a priority for the Iowa Judicial Branch. Her work on behalf of children involved in the child welfare system was a particularly important contribution in her ongoing efforts to improve the administration of justice for all Iowans.

Her term on the court ended in December 2010 after she and two other justices of the Supreme Court failed to receive a majority vote for retention on the court.

So I’m going to explain this, because this is not the system that we have in New York State. In Iowa, justices are initially appointed by the Governor and then are required . . . to stand for a retention vote after a short initial period of service and every eight years thereafter.

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Chief Justice Ternus was on the November 2010 ballot seeking her third eight-year term. It's widely known that the outcome of that vote was the result of the efforts of special interest groups, many from outside the state, who ran a well-funded and highly mean spirited campaign against the three Justices.

Their campaign against the Justices was in response to the Justices' participation in the 2009 *Varnum v. Brien* decision in which a unanimous Iowa Supreme Court struck down a statutory same-sex marriage ban as unconstitutional.

The *Varnum* case is a truly great example of judicial clarity and principled constitutional interpretation.

In it, the Iowa Supreme Court stated:

The right of a gay or lesbian person under the marriage statute to enter into a civil marriage only with a person of the opposite sex is no right at all. Under such a law, gay or lesbian individuals cannot simultaneously fulfill their deeply felt need for a committed personal relationship as influenced by their sexual orientation, and gain the civil status and attended benefits granted by the statute. Instead, a gay or lesbian person can only gain the same rights under the statute as a heterosexual person by neglecting the very trait that defines gay and lesbian people as a class—their sexual orientation.

Our responsibility is to protect constitutional rights of individuals from legislative enactments that have denied those rights, even when the rights have not yet been broadly accepted, or at one time unimagined, or challenge a deeply ingrained practice or law viewed to be impervious to the passage of time.

Justice Ternus has written many significant decisions during her time on the bench. So in a way it's a bit misleading to simply focus on the *Varnum* decision. However, the decision itself played an essential role in the retention vote, and its larger significance extends beyond this particular place and point in time.

So in order to place Chief Justice Ternus' contribution to our constitutional jurisprudence in context, I'd like to say a few words about how *Varnum* fits into the rather remarkable historical record of Iowa Supreme Court decisions.

In the first recorded decision of the Supreme Court of the Territory of Iowa in 1839, the court refused to treat a human being as property to enforce a contract for slavery, and held that its laws must extend equal protection to persons of all races and conditions.

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This was seventeen years before the *Dred Scott* decision and twenty-six years before the end of the Civil War.

In 1868, the court rejected separate but equal schools. This was eighty-six years before the U.S. Supreme Court ruled in *Brown v. Board of Education*.

In 1869, Iowa became the first state to admit women to practice law. This was twenty-five years before the United States Supreme Court affirmed a refusal of the Commonwealth of Virginia to admit women into the practice of law.

In 1873, the Court ruled against racial discrimination in public accommodations. This was ninety-one years before the Supreme Court reached the same decision.

And then in 2009 in *Varnum v. Brien*, in a unanimous decision, the Iowa Supreme Court struck down the statutory same-sex marriage ban as unconstitutional.

So understanding this historical context, I think, is important in understanding the Iowa Supreme Court's influence in our federal and state constitutional jurisprudence.

And while understanding the important contributions that the Iowa Supreme Court has made to constitutional law, it's also important to credit Chief Justice Ternus for presiding over the court at what I believe to be a significant turning point in constitutional law.

A consistent theme throughout Chief Justice Ternus' career has been her call for equal access to the courts and equal justice for all.

Her life's work, both on and off the bench, reflects her commitment to fundamental principles of fairness and equality, a commitment that is absolutely essential in skilled and impartial adjudication.

Justice Ternus has clearly gained her place among the list of the greatest chief justices of the state supreme courts.

Please join me in welcoming Chief Justice Marsha Ternus.