

# OPINION

DAILY JOURNAL

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"The Daily Journal is dedicated to community service, to defense of individual rights and to providing those checks upon government which no constitution can ensure."

SCOTT ALEXANDER  
founding editor, 1963

## AT ISSUE

A Kokomo teenager was denied access to public files. After challenging the action in court, he won his case.

## OUR POINT

His victory shows that no public officials are above the law.

## Activist teenager wins victory for public access

The Daily Journal

Who says you can't fight city hall? Apparently not Ryan Nees of Kokomo. The teenager recently won a victory in Howard Circuit Court over a list of e-mail subscribers to a city newsletter. Judge Lynn Murray ordered Kokomo Mayor Matt McKillip to honor Nees' request for the list of about 1,400 subscribers to the city's electronic newsletter. The judge also ordered the city to pay Nees' legal fees, which amount to more than \$5,000.

The case started when Nees signed up for the newsletter and received a political message by e-mail. It wasn't part of the newsletter. Nees considered it spam. The Western High School student also wondered how many of the subscribers had received political messages. So he asked for the list of subscriber e-mail addresses.

The mayor resisted, citing a state law that says governments are not obligated to make copies of the list of addresses for mailings. Nees was invited to look at the list and write down addresses, but the city would not copy it for him. Nees disagreed.

"It's either a public record and they should give me a copy, or it's not a public record and they shouldn't be using it themselves for political purposes," he said. So he took his complaint to the Indiana public access counselor.

Access counselor Karen Davis reviewed state laws and determined that "the legislature did not contemplate e-mail addresses as a type of address, which, with corresponding names, a public agency could refuse to copy for a person, and therefore, did not intend for such a list to not be copied."

She said the terms "e-mail address" and "address" are not interchangeable.

Now it was the mayor's turn to disagree. So Nees took the mayor to court. On Feb. 20, Judge Murray ruled in Nees' favor. The mayor has not yet decided if he will appeal the decision.

The teen wanted to make clear that he doesn't have anything against the mayor. He wanted the list on principle.

Actually, he told a reporter, he doesn't like the idea that others could obtain the list and send out unwanted e-mail. "If I had it my way, this wouldn't even be public record," he said. "I think the legislature should do something about that."

"But until then, I think the city's obliged to follow the law."

This is a victory for more than just a teenage Don Quixote. It's a victory for all Hoosiers who believe in and fight for openness in government and the need for officials to follow state law with respect to public documents.

## Focus: Public TV

Cut in federal funds could endanger programs

Pittsburgh-Post Gazette

It's not like it hasn't been tried before, but every attempt by conservative Republicans to cut funding for public broadcasting hits a bump at Big Bird.

Fans of quality programming such as "Sesame Street" and "Frontline" have flooded Congress with protests over proposed funding cuts, forcing the politicians to back down. It worked last year when an overwhelming number of Capitol Hill lawmakers voted to restore the budget cuts proposed by the Bush administration.

Only this time, the cuts President Bush wants for the Corporation for Public Broadcasting are deeper than before, and the challenge to stave off the budget ax is more complex. Republicans who firmly believe public broadcasting is a bastion for liberalism may support slashing the corporation's funding to save other spending priorities on the budget block. The competition for discretionary domestic appropriations is especially tough this year.

Executives at public television stations are hesitant to launch another advertising campaign to mobilize support in Congress for restoring budget cuts. But they have no choice.

Under the president's 2007 budget request, funding for public broadcasting would be cut by \$53.5 million in 2007 and \$50 million more in 2008. And that's not counting related cuts to the Education and Commerce departments or programs scrapped for digital TV conversion and a satellite delivery system. Officials fear a more accurate estimate of the funding cuts they'll shoulder over the two-year period is \$157 million.

To offset huge increases in military spending and the cost of permanent tax cuts, the administration is going after one of the few resources for quality educational programming still available to American television viewers.

"We've dealt with cuts from this White House every year," said John Lawson, president and CEO of the Association of Public Television Stations, who sees "a clear and present danger" in the administration's latest effort.

Lawson may worry that attempting another nationwide effort to enlist the help of supporters might not be as effective the second time around. But he and the growing numbers of public broadcasting fans have everything to lose if the strongest possible case is not made to soundly rebuff the president's transparent agenda.

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YOUR

## VIEWS & COMMENTARY

### Restaurant smoking ban raises safety issues

To the editor:

The smoking ban does not take into consideration the facts or the effects it will have. A smoke-free dining area is different than the whole building.

Most customers in restaurants are there 30 to 45 minutes. Employees can be at work from four to 10 hours or more.

Most restaurants have a separate air unit for their kitchens, and both units bring in 30 percent outside air. Employees could smoke in a designated area and not affect anyone.

Smoke is no more harmful in the back area of a restaurant than the gas fumes or cleaning supplies because of the rate of replacement of air between the exhaust hoods and the air conditioners.

What about the safety issues? Employees on break out back in the dark sounds real safe. Restaurants have skeleton crews late at night and are already vulnerable to robberies. Now all a criminal has to do is wait for the next smoke break to gain access to the building.

Is the city liable when someone gets attacked because they are alone outside a locked door of a restaurant late at night? If the night manager smokes and has one other person, he's supposed to leave the building?

What sense does that make? How are employees at a bar less important than anywhere else?

Obviously they are because the city does not care if they work all night in smoke.

A little thought and common sense could have gone a long way before following lockstep with other cities that have done the same thing. A smoke-free dining room would have satisfied most citizens.

If cigarettes are so bad, quit sucking up the tax dollars and make them illegal. I'm tired of government having it both ways: "Thanks for the money, you people with the awful smoking habit."

Earl Smith

Greenwood restaurant operator

### Taking burning object into business not healthy

To the editor:

I hate to be exposed to toxins of any kind. It has never been socially acceptable to carry any other lit or burning object such as a candle or incense or firewood into a public place, and

### WRITE A LETTER

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these items are not known toxins.

Much of the time, these are pleasant odors. So why has our society allowed such a foul smelling, noxious toxin to be forced on innocent people who are only trying to go out and eat or enjoy entertainment or even walk in or out of a public place?

Some of the smells that I enjoy in my home may not be the same smells that other people enjoy, and I would never feel that it was right for me to carry them around lit and smelling up everyone else's air just because I enjoy them.

When I shower and put on clean clothes and have clean hair to go out, it only takes a few seconds of a whiff of someone else's bad habit to make me feel dirty, give me a headache and make me sick to my stomach.

I can't tell you how many evenings out have been ruined because someone else made a selfish choice to stink up my breathing space, or how many sinus infections we have ended up with, or what will become of our health down the road because for too long the smokers had control.

Thank you to the council members who stood up for the health and well-being of future generations and for those of us who have tried to escape cigarette smoke and still tried to go out and enjoy life.

Erin M. Rush

Greenwood

### Ask, rather than require, people not to light up

To the editor:

One only has to read the fine article "Rule enforcement clear as smoke?" (Daily Journal, Feb. 22)

to realize just how ridiculous the smoking ban ordinances seem to be.

There are rules and regulations banning speeding, running through stop signs and stop signals. It is unlawful to drive an auto without your seatbelt fastened.

Thousands of dollars are spent to enforce these bans, but to no avail. More people are killed by careless, inept, unlawful drivers than by smoking.

I wisely quit smoking 12 years ago, and I don't need someone following me around to see if I do smoke in an "unbanned" locale.

It is ludicrous for a city mayor to take the calls regarding smoking ban regulations. Don't mayors have more to do than to sit by the phone and take smoking ban violation reports?

It has been my experience (and my experience has now extended over a longer period of time than I could have imagined) that if you will ask folks to please not smoke, they are more than willing to snuff their smoking apparatus. Try it sometime; you will like it.

Don Mundorff

Franklin

### Garton move on wineries puzzles letter writer

To the editor:

So state Sen. Robert Garton is squelching legislation regarding Indiana farm wineries. Instead, we will wait for a decision by one of those oft-cited "activist courts." Huh?

Richard E. Heiney

Greenwood

### Moving I-69 route won't solve problems on SR 37

To the editor:

I was surprised and disappointed to see that Sen. Brent Waltz is sponsoring an amendment that would, in essence, keep State Road 37 from becoming Interstate 69 and traveling through Johnson County.

This is another example of a government official not fully understanding the needs and desires of his constituents.

The stretch of State Road 37 from Greenwood to Interstate 465 is a mess: too much traffic, an increasing number of stoplights and a poorly designed interchange area at I-465. Due to the growth along this route, the traffic problems that we see today will only increase in the future.

With the Major Moves bill along with the I-69 project, we have a chance to fix this stretch of highway, building interchanges and better flowing access roads. Without the I-69 project, I doubt

that we will see improvement anytime soon.

I challenge Sen. Waltz to prove where there would be job loss due to I-69 running along State Road 37.

Is he adding the gains from construction jobs and new businesses that sprout up along with the new highway? What about the business and job expansion that small businesses like mine will see due to upgraded transportation routes to Martinsville, Bloomington and Evansville?

More importantly, is he looking out for the opinions of special interest groups or of his constituency?

I-69 running through Johnson County is a good thing. Let our representatives know it.

Pat Hagan

Franklin

### Morning-after pill keeps eggs from implanting

To the editor:

This letter is in response to the one sent by Liz Carroll of Planned Parenthood, "Women's health agency aims to inform, protect," (Daily Journal, Feb. 18).

She discussed the effects of the "morning-after pill" and stated, "Emergency contraception will not induce an abortion in a woman who is already pregnant, nor will it affect a developing pre-embryo or embryo."

I wanted to clarify what seems to be a misstatement. First, it should be noted that the morning-after pill is not the same as the RU-486 pill, which is an abortifacient and may be used to induce abortion in women up to nine weeks pregnant.

The morning-after pill contains high doses of estrogen and progesterin, which are the same hormones contained in birth control pills.

One of the ways in which the morning-after pill works is to prevent implantation of the fertilized egg. Once the ovum is in the fallopian tube, fertilization can begin as soon as 15 minutes after intercourse. Implantation occurs a week later. The morning-after pill prevents implantation, which results in the death of the embryo.

Dr. Ralph Miehch (Brown University, associate professor of medicine) has written, "This type of pill causes an abortion." (Providence Journal, Aug. 3, 1998). "From a pharmacologic perspective, this type of pill should be called an 'abortion-after pill.'"

Thus, contrary to Ms. Carroll's statement, the morning-after pill does indeed affect the embryo.

Christine Niles

Indianapolis

## 'I pledge a legion to the flag of the Untied States'

My colleague, social studies teacher Randy Phipps, says he has known it since he was a child.

I told him I couldn't remember a time when I didn't know it. Other adults in the building agreed that, yes, they knew it at a young age, too.

Why, then, wouldn't he assume that his 12- and 13-year-old students knew the Pledge of Allegiance?

It all started, I guess, last session when the Indiana legislature passed a bill requiring public schools to recite the Pledge of Allegiance. The policy for years at the middle school where we work has been to recite the pledge every Monday morning, so it was not a major problem to set aside a few extra moments the other four mornings of the week.

Among his other duties, Randy produces "Clark-Pleasant News." Each morning, announcements and other news are broadcast to classrooms within our building.

Would it be too much trouble, he was asked, to have students lead the pledge on TV? Not a problem, he said.

He drafted four random students from his class, led them to the



Norman Knight

taping room, pointed the camera and told them to start pledging. After just a few moments, he stopped when he realized that two of the four — 50 percent — didn't know the words.

You must understand that Randy is passionate about his discipline. He considers knowledge of the culture and politics of the United States and of the rest of the countries of the world not only interesting but also vitally important for a well-rounded education. He was shocked to realize what they didn't know.

To find out just how serious the problem was, Randy offered extra credit on a recent test: "Write the Pledge of Allegiance" were the instructions. The results were interesting, to say the least. A composite of some of the responses would read something like this:

"I pledge of allegiance (to legions) to the flagg (flage) of the untied states of America and to the public (into the republic; unto the republic; until the Republican) of which we stand (for witch it stands; for witches stand; for witched stand; of we just stand). One nation under god (lower case) to the visible (individual; invisible; in the visible; invincible; indefeasible) and after all."

One student added, "Thank you very much. Good nite, Indiana." Many students, wanting to save time perhaps, simply left words and phrases out. Oddly enough, the phrase "under God," which has been the subject of court battles to eliminate it from the pledge, was in every one of the versions I read — lower case, to be sure, but there it was.

Randy wondered about the student who wrote "until the Republican of which we stand." "Does he change it when the Democrats are in control of the government?"

I thought it was just an indication of how deeply ingrained the GOP has become in the minds of those who live in Johnson County. "It's probably part of the genetic makeup of county residents by now," I suggested.

Maybe I learned the Pledge of Allegiance in Cub Scouts. Then again, I was an elementary student during the Cold War, so maybe there was a serious push by the government to indoctrinate kids in the pledge as another weapon to beat the Communists.

I honestly can't remember when or where I learned it. (Then again, these days I often can't remember why I walked into a room.)

Legislators have a habit of piling mandates onto public schools, and I often get frustrated that I must use English class time to teach ideas, concepts and/or moral lessons that more rightly should be taught by parents.

But the Pledge of Allegiance is something we Americans should know. Whether you are conservative, liberal or moderate, whether you are a Democrat, Republican or independent, it's still one great country to which we pledge our allegiance.

Or is that "witch" we pledge our allegiance?

Norman Knight, a teacher at Clark-Pleasant Middle School, writes this weekly column for the Daily Journal. Send comments to letters@thejournalnet.com.