



David Lias
Between The Lines

Vote in favor of smoking ban

In what appears to be an about face, we will get the opportunity to vote on HB 1240. This piece of legislation expanded South Dakota's smoking ban statute and repealed exemptions for liquor retailers, video lottery establishments and Deadwood gaming establishments.

Petitions were filed last June to refer the issue to a public vote, but Secretary of State Chris Nelson ultimately rejected them because of the many errors he found in a sampling of petitions filed.

The way has been cleared for voters to decide the fate of South Dakota's smoking ban in next year's general election after Secretary of State Chris Nelson and Attorney General Marty Jackley announced last week the state will not appeal a Circuit Court decision.

Judge Kathleen Trandahl ruled this month that opponents of the smoking ban secured enough valid signatures in a petition drive to meet the threshold for a referendum. The ban was passed by the Legislature in March and signed into law but never enforced.

A coalition of four organizations decided to refer the measure to a vote of the public. The coalition includes: Deadwood Gaming Association, Licensed Beverage Dealers of South Dakota, Music and Vending Association of South Dakota and Video Lottery Establishments of South Dakota.

They call themselves Citizens For Individual Freedom. Last spring, we noted that members of this group, and like-minded individuals who they seem to attract, are fond of equating the ability to smoke with the rights we all enjoy thanks to the U.S. Constitution.

The First Amendment expressly prohibits the United States Congress from making laws respecting an establishment of religion or that infringe the freedom of speech, infringe the freedom of the press, limit the right to peaceably assemble, or limit the right to petition the government for a redress of grievances.

There's nothing in the Bill of Rights that prohibits Congress, or more appropriately, the South Dakota Legislature, from passing a law that places limitations on smoking.

We also must reiterate a stand we took last spring: The Citizens for Individual Freedom will need to come up with compelling reasons for us to vote to repeal HB 1240.

They will have to be somewhat convincing, because let's face it. They want us to be supportive of something — mainly cigarette smoke — that eventually will strike its user with serious illness and probably a premature death.

I suppose they could be selfless, and ask us not to worry about them. You know, it's America with that pesky freedom of choice thing. Of course, they will have to explain how non-smokers who enjoy at least one vice in life, such as video lottery or Deadwood gambling, are supposed to do that without putting their health and even their lives at risk.

According to the American Heart Association, constant exposure to environmental tobacco smoke nearly doubles the risk of having a heart attack, according to a landmark study of more than 32,000 women. The 10-year investigation involving female nurses found a higher level of risk from passive smoking than has been seen before. The study was published in the May 1997 issue of *Circulation*, an American Heart Association scientific journal.

The 1997 study was not the first to indicate the dangers of environmental tobacco smoke. In 1992 the American Heart Association's Council on Cardiopulmonary and Critical Care concluded that environmental tobacco smoke is a major preventable cause of cardiovascular disease and death.

The coalition that represents Deadwood gaming, the state beverage dealers, music and vending businesses and video lottery establishments in the state will also have to convince all of us how making sure that their customers smoke is good for business.

A pack of smokes costs just under \$5 in South Dakota, tax included. That means that a person who smokes a pack a day spends nearly \$150 per month. Which adds up to a bit over \$1,800 a year. It's perplexing — they must convince us that when people spend all of that money on cigarettes, it's somehow supposed to be good for business.

For this group to meet their goals, they're going to have to assure us that smoking isn't a pock on our state's and nation's healthcare systems. They must demonstrate to everyone — smokers and those who have chosen not to start the habit, thank you — that non-smokers won't be at risk from second-hand smoke.

They must explain how encouraging, or least maintaining the status quo, on a habit that takes such a huge economic toll on South Dakotans is strangely good for business.

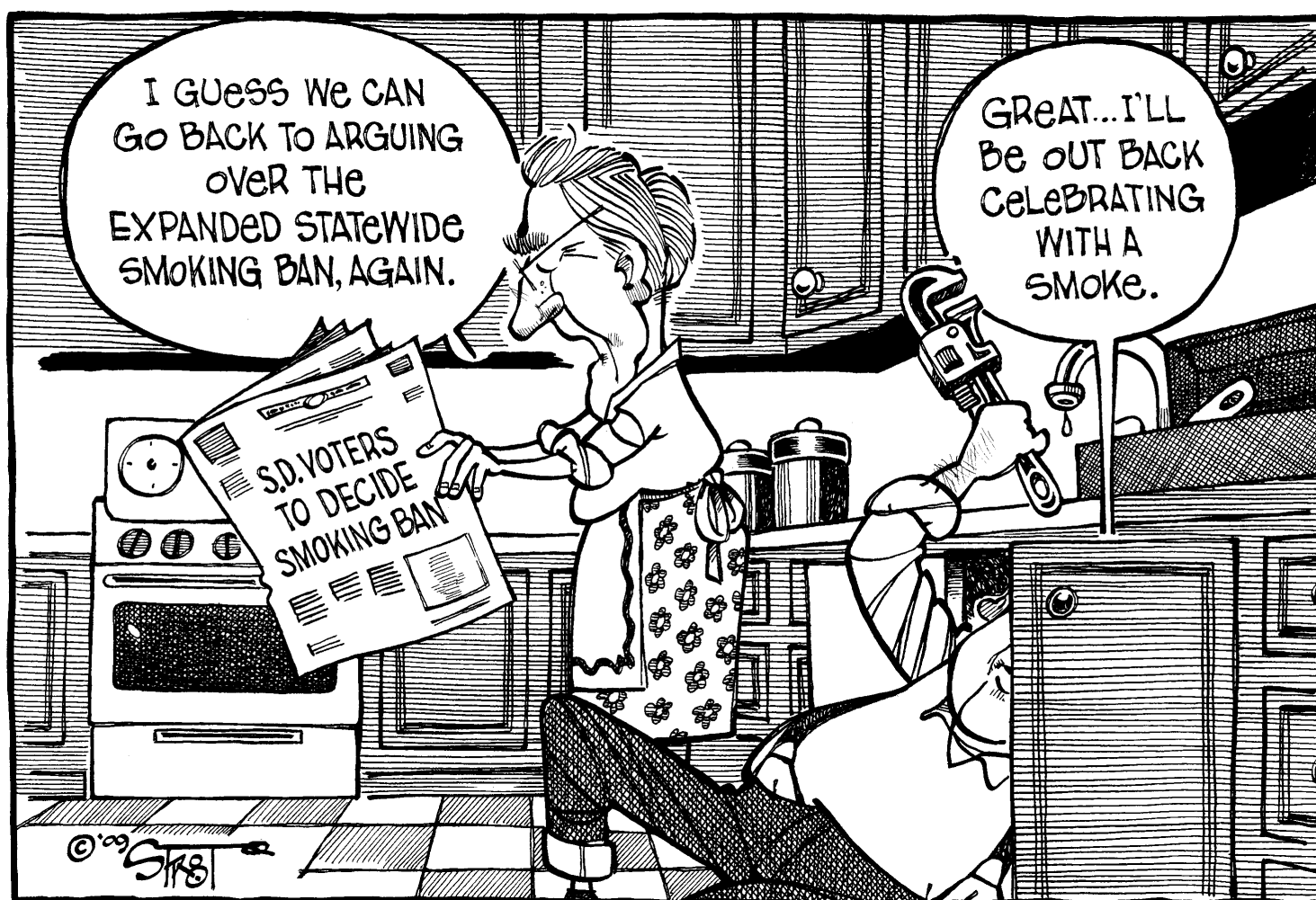
Ultimately, they must deal with all of those things while persuading the non-smoking population in the state to vote in favor of something they don't especially enjoy or appreciate.

They are going to have to sincerely explain to us the "benefits" of smoking, especially since smokers are likely a minority among South Dakota voters.

If Citizens For Individual Freedom want support that goes beyond the very arguable "it's my right," argument, non-smokers must truly be convinced that smoking is a really good idea.

The petition circulators are going to need some non-smoking votes to stop HB 1240. They must prompt non-smokers to defend their "right" to smoke when they obviously have just shown us all they don't care about non-smokers' right to be healthy.

As we have at least once already on this page, we are urging our readers to vote in favor of the smoking ban and allow HB 1240 to become law.



Bob's got 'symptomitis' — whatever that is

Sir William Osler — whoever that is — said: "The desire to take medicine is perhaps the greatest feature which distinguishes men from animals."

Frankly I've reached the Age of Symptoms — by that I mean little aches and pains that I used to take in stride have suddenly become harbingers of dire consequences. The passing of years has a lot to do with it, of course, but more than that we've been bombarded with so much medical information from newspapers and the Gloom Tube, that most of us are now amateur diagnosticians without portfolio.

When we were kids, it was a mark of distinction to have the most warts on your hand. Now it's a worry! Cancer maybe!

Now when I finish an out-



Bob Karolevitz
Writer At Large

side chore, I analyze each tingle and twinge to determine how much longer my stay in this vale of tears will be.

Someone once said that the greatest curse of a college education is that it permits you to worry about things in all parts of the world. I've gotten so good at it that I can read the National Geographic Magazine and immediately catch diseases which have never been known outside the jungles of Borneo or the island of Madagascar.

Once I got carried away

and tried to recapture my youth by stuffing myself with mulberries from an overloaded tree. I got a good old-fashioned stomach ache just like I used to get a half century ago when we youngsters stained our hands and faces purple, trying to out-eat the robins.

If we complained too much, it usually meant a dose of castor oil, so we suffered in silence until the next day brought blessed relief. Well now, at my age, I was not permitted the luxury of simple intestinal cramps

(which we also knew so well during green apple season). I immediately thought of diverticulitis and followed that by conjuring up a series of complications certain to have me off to the Mayo Clinic by morning.

The old line that ignorance is bliss might be an exaggeration, but I'm not so sure that it doesn't have a bit of truth to it after all.

Don't get me wrong. I'm a firm believer in medical science and the importance of preventive care, but nowadays I'm afraid too many of us suffer from excess symptoms more than we do from the malconditions they're supposed to warn us about.

Frankly, though, I've got a bad case of "symptomitis!" Whatever it is, I've got it!

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I will do someone's chores, pay more attention, smile more

"Who does not thank for little will not thank for much." — Estonian Proverb

When I noticed the neighbor's house was unusually dark and their van was curiously missing from the driveway, I knew something wasn't right.

It's not that we talk everyday or every week, for that matter. It's just that I had come to count on their presence day in and day out like a wall of security.

Shook up, I asked around and learned that he fell and broke his hip. She doesn't drive, so their son was using the van to transport her back and forth to the hospital for dialysis and to visit her husband.

For nearly 35 years, I had taken these neighbors for granted without even realizing it. My gratitude for them suddenly became inestimable. Nervous over their health issues, I stopped what I was

MyStory YourStory



Paula Damon
Columnist

doing and rapped on their door. That was in March. Since then, I remain startled by the feelings of loss this awakening provoked and find myself calling on the elderly couple more often.

But now that it is Thanksgiving, it's hard to focus on anything other than where to have dinner and who's coming.

Although, underneath my plans for Turkey Day, a renewed consciousness elbows me to demonstrate more gratitude to my husband, my children and my neighbors. Sometimes it takes courage to outwardly express thanks.

Bonnie Ceban, author of

"101 Ways to Say Thank You," offers advice on how to show gratitude.

What I love about Ceban's instructions is that her ideas are simple; most of them cost nothing except time.

Of course, with my consumerism DNA, I naturally think I have to spend money to show appreciation. However, in reality, there are far more meaningful ways to say "thank you."

Besides the usual verbal affirmation, I am considering putting into practice several of the author's less obvious suggestions.

With a little practice and more courage, I'm going to

show my appreciation by doing someone's chores, paying more attention and smiling more.

Oh, yes, and I'm not going to wait until the lights go out and the car is gone to show how much I care.

[Thank you to my many readers. You are the reason I rise early and stay up late to listen for the soothing and sometimes pained voice of stories untold. For you, I am grateful.]

A resident of Southeast South Dakota, Paula Damon is a national award-winning columnist. Her columns have won first-place in National Federation of Press Women, South Dakota Press Women and Iowa Press Women Communications Contests. In the 2009 South Dakota Press Women Communications Contest, Paula's columns took three first-place awards. To contact Paula, email pauladamon@iwi.net, follow her blog at www.my-story-your-story.blogspot.com and find her on Facebook.

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Is justice attainable in the case of fatal accident?

By Volante Staff

Editor's note: This editorial appeared in the Nov. 11 issue of *The Volante*.

Is a \$210 fine enough of a penalty for taking the life of another? In September, two USD students were involved in a collision that left one dead — Liz Lias, and the other — Alyx Harter — paying a fine for careless driving and driving on the wrong side of the road. Following this legal outcome, how is this justice?

Clay County State's Attorney Teddi Gertsma said the two misdemeanor charges were filed because it was what the circumstances dictated.

Drugs and alcohol were not involved, and despite Harter being a diabetic, that also was not the accident's cause. For the two charges, Harter was fined \$105 for each misdemeanor, which carried a maximum penalty of 30 days in jail and a \$500 fine.

Still, something does not seem right. How do our laws allow for such an insignificant punishment when one person's careless decision results in the death of another? However, the proposi-

GUEST COMMENTARY

tion is faulty. We no longer follow the "eye for an eye" philosophy of justice. Today, we rely on the notion that the punishment should fit the wrongful act, but not be substantially disproportionate. It is hard to justify that a \$210 fine is the proper and proportionate penalty, but unfortunately, that was what the law provided.

Former Gov. Bill Janklow was found guilty of reckless driving, failure to stop at a stop sign, speeding and ultimately second degree manslaughter. Janklow served 100 days in a county jail, a result also considered insignificant by many. So, why not charge involuntary manslaughter?

The state proved that Janklow was "reckless," the key element in a second degree manslaughter conviction. The South Dakota Supreme Court has held that "the operation of a motor vehicle in violation of the law (is) not in and of itself sufficient to constitute reckless conduct, even if a person was killed as

a result thereof." Yet, Janklow was speeding prior to the accident and had knowledge that the blind intersection could result in an accident.

The case quoted above involved a tractor driver who failed to yield at an intersection. The tractor collided with another car, immediately killing the driver. Despite a witness to the accident who testified that the accident was imminent, the state lacked proof of recklessness beyond a reasonable doubt.

Given this standard and circumstances relatively similar, not to mention the above case hails from this judicial circuit, the state's attorney was likely left with no other option, in terms of a stronger criminal remedy.

While the criminal resolution may be unsettling, one thing is for sure, the consequences will be endured for the rest of Harter's life. Deep down in our gut we want more from the law. However, justice is not merely about vindication, there exists a component of compassion — without which, our society would lose its most important feature, humanness.

Vermillion
PLAIN TALK
Since 1884
Official County, City and School District Newspaper
201 W. Cherry, Vermillion, SD 57069
Publication No. USPS 657-720
Editor: David Lias
Published weekly by YANKTON MEDIA, Inc.
Periodicals postage paid at Vermillion, SD 57069.
Subscription rates for the *Plain Talk* by mail are \$27.56 a year in the city of Vermillion. Subscriptions in Clay, Turner, Union and Yankton counties are \$41.34 per year. Elsewhere in South Dakota, subscriptions are \$44.52, and out-of-state subscriptions are \$42.
POSTMASTER: Send address changes to *Plain Talk*, 201 West Cherry Street, Vermillion, SD 57069.
Vermillion Plain Talk Staff
Advertising Director: Michele Schievelbein, Advertising Sales Rep: Sheila Prosser, Composing Staff: Heidi Henson, Kathy Larson, Tara Portillo, Jennifer Newton, and Matt Richardson, Reception Office Manager: Penny Tucker, Distribution & Circulation Manager: David Jeffcoat.