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San Francisco Defies the Law: The Mayor Who Would Be King

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San Francisco's assault on marriage, led by Mayor Newsom and several members of the city council, opens a massive new front in America's Culture War. If these marriages, performed in violation of California law, are able to stand and be recognized, marriage as we know it will cease to exist in California.

Mayor Newsom and his co-conspirators know full well that they are in violation of California law. In 2000, California voters passed an amendment defining marriage as a relationship between a man and a woman—an action taken in anticipation of just the sort of audacious act undertaken by Mayor Newsom.

Appearing on ABC's "Good Morning America," the Mayor said: "I'm not interested as a mayor in moving forward with a separate but unequal process for people to engage in marriage. The people of this city, and certainly this state, are feeling that separate but unequal doesn't make sense."

The mayor's statement is absolutely ludicrous when seen in light of the voters' action just four years ago in defining marriage as a union between a man and a woman. Mayor Newsom has committed a strategic act of sabotage directed at the heart of California's political process and at the institution of marriage. Acting like a newly enthroned Caesar, Mayor Newsom has taken the law in to his own hands, defied the people of California, and pandered to the homosexual political base in his city.

Speaking at a wine reception held to celebrate many of the new homosexual unions, Mayor Newsom claimed credit for this act of civil disobedience. "I'm here to tell you how encouraged we all are," he said, "how proud we are to stand up and fight for civil rights, stand up for individual rights, and stand up against discrimination and advance this cause."

The move is certain to be popular with the large homosexual community in San Francisco, and Mayor Newsom has positioned himself as one of the nation's most brazen advocates for the redefinition of marriage.

The mayor's audacity, as reflected in the more than six hundred same-sex couples holding San Francisco marriage licenses, led conservative defenders of marriage to appeal to the courts for relief in the form of a temporary restraining order. Nevertheless, Judge James L. Warren of the San Francisco County Superior Court declined to act on an appeal made by the Alliance Defense Fund. Benjamin W. Bull, chief counsel for the ADF, claimed that unless the court acts to disqualify the San Francisco "marriages," the mayor will have pulled off a political and legal coup, effectively changing the law by defying it. "Unless a court identifies it as bogus, as a charade," Bull explained, "then people begin to take it

seriously, and then we have turned the rule of law on its head.”

Matthew D. Staver, president of Liberty Counsel, acting as lawyers for the Campaign for California Families, expressed hope that the court would put an end to the same-sex marriage licenses granted in San Francisco and declare the unions formalized over the last several days to be null and void. Mayor Newsom, explained Staver, “has no more authority to issue same-sex marriage licenses than he has to issue pilot’s licenses.” Just give Mayor Newsome time. If a sufficient number of voters demanded a license to fly, Mayor Newsom would probably pander to them as well.

Most legal experts remain certain that California law takes precedence over the actions of any municipal authority. Nevertheless, the San Francisco action is most likely calculated as an effort to get same-sex marriage before the courts –and eventually on the docket of the U.S. Supreme Court. Erwin Chemerinsky, professor of public interest law at the University of Southern California, claimed that a case based on the San Francisco action would present the court with an entirely new development–marriages already claiming legal status. Chemerinsky, a lawyer known for his advocacy of leftist causes, understands that the San Francisco act of civil disobedience presents gay rights advocates with an enormous opportunity.

Some Californians declared that the San Francisco action was leading the state into “municipal anarchy.” Dennis Herrera, San Francisco’s city attorney, claimed otherwise: “People are willing to move forward and sanctify relationships knowing full well that there is going to be a legal battle in the state. I don’t think this is municipal anarchy.”

Media reports drew attention to the ceremonies conducted beneath the San Francisco City Hall’s ornate gold dome. As couples were joined in the assembly line ceremonies, applause broke out throughout the building.

As the ceremonies reached a peak, over two hundred city officials were involved in the granting of licenses and the performing of ceremonies. San Francisco officials announced that they would receive license applications through the weekend and on Presidents Day, a governmental holiday.

Mayor Newsom was elected last fall in a hotly contested battle–even by San Francisco standards. His action defies the law of California and violates his oath of office, which requires him to uphold the law rather than to defy it.

Evidently, Mayor Newsom takes his office with a significance never contemplated by those who framed California’s state constitution. Randy Thomasson, director of the Campaign for California Families, commented on the Mayor’s hubris: “No one made the mayor of San Francisco king; he can’t play God. He cannot trash the vote of the people.”

Well, Mayor Newsom is doing his best to prove Randy Thomasson wrong. His action will almost certainly put the issue of gay marriage before the courts of both California and the United States, and Mayor Newsom is betting that his audacious act of civil disobedience will lead to the recognition of same-sex marriages across the country.

In another setback for marriage, Massachusetts lawmakers were unable to agree on an amendment to that state’s constitution that would prevent gay marriage. The Massachusetts legislature held an unusual constitutional convention in response to last year’s stunning decision by the Massachusetts Supreme Judicial Court that demanded that the state’s legislature legalize same-sex marriage. In recent weeks, the court went further, rejecting civil unions as “separate but unequal.” As the two-day constitutional convention came to a close, the 199 members of the Massachusetts legislature had failed to agree on common language that would protect marriage as a union of a man and a woman.

According to The New York Times, the legislators broke down into three different groups. The smallest group is made up of advocates of same-sex marriage. The second and third groups oppose homosexual marriage, but differ over whether the state should recognize civil unions–legal covenants that would grant same-sex couples rights basically equivalent to marriage.

At the constitutional convention, three proposals failed to gain a majority of votes while a fourth never made it to the floor. The legislature will reconvene its constitutional convention on March 11, even as the Supreme Judicial Court has ordered that gay marriages will move forward in May.

The developments in California and Massachusetts raise the possibility that same-sex marriage cannot be stopped. Driven by a legislative, judicial, and political steamroller, the momentum toward same-sex marriage is building day by

day, and proponents of homosexual marriage believe that time is on their side.

They have good reason for confidence. Supporters of traditional marriage are on the defensive, arguing for the inherently heterosexual nature of marriage, even as the courts and the cultural elites declare this to be nothing more than a form of unwarranted discrimination.

A society that will not protect marriage has lost its moral sanity. The failure of the Massachusetts legislators to agree on a common proposal at their constitutional convention reflects both political disarray and moral cowardice. The illegal action undertaken by San Francisco Mayor Gavin Newsom and his co-conspirators flies in the face of the laws of God and man. Needless to say, last week was not a good week for marriage. The question remains—Will America summon the courage and the political will to defend marriage in light of this onslaught? The answer to that question is likely to come sooner than any of us can imagine.

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