

Thursday, March 4, 2004

## EDITORIAL

### San Francisco took unlawful steps to grant gay marriages

The past few weeks have been immeasurably busy ones for activists on both sides of gay-rights issues, not to mention for many homosexual couples in certain U.S. counties.

This Wednesday at 10 a.m., Multnomah County — Oregon's most populous — began issuing marriage licenses to same-sex couples after County Attorney Agnes Sowle contended that denial of licenses would violate the state constitution.

"The Oregon Constitution prohibits the county from discriminating against same-sex couples when they are applying for marriage licenses," Sowle explained, "because that kind of discrimination based on gender and based on sexual orientation is not allowed in Oregon."

Sowle specifically referenced Article I, Section 20, of the Oregon Constitution: "No law shall be passed granting to any citizen or class of citizens privileges, or immunities, which, upon the same terms, shall not equally belong to all citizens."

And Sowle's argument, though not airtight, is at least tenable. Oregon Revised Statutes Chapter 106 is ambiguous on the point: "Marriage is a civil contract entered into in person by males at least 17 years of age and females at least 17 years of age, who are otherwise capable, and solemnized in accordance with ORS 106.150."

The county's constitutional interpretation and subsequent policy ruling is just the latest in the gay marriage imbroglio. Senate Majority Leader Bill Frist, R-Tenn., asserted that "We simply will not let activist judges redefine that definition of marriage." In light of some counties' recent decisions to sanction gay marriages, Frist warned "the wildfire will begin and in many ways it already has begun. ... It is becoming increasingly clear that Congress must act."

Just weeks before Multnomah County began doing so, San Francisco city authorities started issuing marriage licenses to (and subsequently marrying) same-sex couples, too. New Paltz, N.Y., followed suit, compelled by what Mayor Jason West says he considers a "moral obligation." The conduct of San Francisco's authorities differs from their Multnomah County counterparts in one important way: It's unambiguously illegal. One of about 38 states that has a so-called defense of marriage act, California's voters in 2000 approved a ballot measure that defines marriage explicitly as a union between a man and a woman.

Regardless of how anyone feels about the same-sex marriage issue, they can certainly agree that officials blatantly violating laws (that don't immediately interfere with fundamental rights) they are obligated to enforce is an intolerable philosophical inconsistency. Worse, these officials are using the power vested in them by the state in good faith to commit those violations. Were every official to violate actively and casually every rule they oppose on principle, the government would be an incoherent mish-mash of enforcement and half-formed justifications, and would suffer from a dearth of due diligence.

This sort of personal override resembles a judge who arbitrates a case based on personal or religious principle while ignoring established law, and that is simply unacceptable.

## EDITORIAL POLICY

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Steve Baggs Illustration

## The Draft

*Yeah, you laugh till your muthafuckin' ass gets drafted,*

*While you're at band camp thinkin' the crap can't happen ...*

*All this terror America demands action, Next thing you know you've got Uncle Sam's ass askin'*

*To join the Army or what you'll do for they Navy*

*You just a baby, gettin' recruited at 18 ...*

*- Eminem*

Compulsory military service has no place in a free society. A war that cannot be supported by volunteer fighters is not a war we should be fighting.

If you think the draft will never be reawakened in America then you need to wake up: The draft is coming soon unless we can stop it.

Prognostications like this have been made in the past; before the 2000 election there was talk that members of Congress were concerned about drops in young enlistments and were considering drastic action. I dismissed it at the time as media hysteria.

But things have changed. Back then we weren't in Afghanistan and Iraq. Back then we weren't fighting an undefined, unending war against terrorism. Back then we didn't have a policy of preemption that could be used to justify war against at least a dozen world leaders who I can think of off the top of my head. Back then we didn't have a president who would go on television and proudly describe himself as "a war president," as if it were an admirable quality.

I had the opportunity to interview Dennis Kucinich in February and I asked the congressman if young people should be concerned about the draft.

"Oh, are you kidding?" he said. "They should be very concerned. If we stay in Iraq there is going to be a draft. There is just no question about it."

"People don't get excited until they get

a notice in the mail. But let me tell you something. Do the math: 130,000 troops; they are keeping people more and more past their time; look at all the guards persons that were called up, all the reservists that were called.

"The longer we stay, the longer we are going to be there and the deeper we are getting into it. You have got to realize,



David Jagernauth  
 Critical mass

100,000 Iraqis marched through the streets of Baghdad a few weeks ago in a show of solidarity opposing the United States position. Our soldiers are being asked to protect a policy which the Iraqi people are in revolt against. This is dangerous.

"So are we looking at the possibility of a draft? Yeah, we are. And it's very dangerous. Very dangerous."

If you think the Democratic Party is going to save us from the draft, you are living in Liberalia, the land of liberal fantasy. The call for a draft is bipartisan. Democratic congressmen Fritz Hollings, D-S.C., and Charles Rangel, D-N.Y., introduced legislation, in the Senate and the House respectively, that would reinstate the draft for both men and women, dubbed the Universal National Service Act.

Rangel is one of the good Democrats in Congress and I sympathize with his position. The men and women who sacrifice their lives for this country are disproportionately poor and lack political power. Those who fight for our freedoms have the least to gain from those freedoms. And as

long as the elites can shield their own families from military service, they will be willing to send America to war for less than admirable reasons.

But reinstating the draft is not the answer. Let us have a draft for political families alone. Putting all the nation's young people through a military experience is not the answer. Filling jails with antiwar activists is not the answer. Watching many of our citizens attempt to flee from their homeland is not the answer. I hate to say it, but anyone, including Rangel, who is in favor of the draft should be voted out of office for this unforgivable act.

So wake up: The draft is coming. And it would be very different than the draft of the past, writes Maureen Farrell.

We would not see college deferments like we saw during the Vietnam War. That practice ended in 1971 when reforms were enacted designed to make the draft more equitable. Were a draft to be reinstated, students could defer service only until the end of the semester, or for those graduating, the end of the academic year.

Moving to Canada to escape the draft would be more difficult than in the past thanks to the Smart Border Declaration. This anti-terrorism measure has the added effect of helping to keep draft-dodgers in the country.

We need to stop the draft before it starts. It is up to us to make our voices clearly heard and to push this issue to the forefront of the election season. No politician — not Kerry, not Bush — is going to advocate it before the 2004 presidential election. That would be political suicide. But, as Kucinich said, any candidate without a plan for getting U.S. troops out of Iraq is flirting with the draft, whether Democrat or Republican.

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