Children of Gay Marriage Playing in a Neighborhood Near You

by
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The title is a pun. It was meant to mislead. 'Children' stands for the precedents of the California Supreme Court's May 15, 2008 decision to legalize gay marriage. 'Playing in a Neighborhood' near you is the old movie advertising phrase, which represents the precedents of the decision in the place where you live .

By changing definitions of widely used words, and planting innocuous words in public documents, and using unfunny and non clever puns, laws are changed a without the necessity of consulting the People.

A Culture of Sophistry The sophistry can be found on the **Federal** level where a final congressional bill's wording was "***corrected***" by persons unknown. What could be more difficult than having to decide on whether the law was secretly changed when interpreting it? The altered law involved an earmark for a developer. Senator Barbara Boxer was "so mad about this" that she got the Senate to ask the Justice Department to conduct an investigation. Since then, I haven't heard more about it. Apparently it's not very news worthy. I was looking forward to voting against Boxer, but now I will vote for her.

At the **State** level, after the Massachusetts Supreme Court changed the definition of marriage in 2004, California's citizens passed proposition 22, which defined marriage as a union between opposite sexes and required that any change the Legislature made to the law had to be approved by a **referendum**. The Proposition passed with over 60% of the vote. The new law was incorporated as section 308.5 in the Family Code, The legislature tried to change the definition of marriage without requiring a vote of the people by arguing that since section 308 dealt with marriages made in other states, 308.5 also referred only to 'out of state gay marriages'. They tried twice, but Schwartzenegger vetoed the law because he said it violated the citizen referendum law. I will vote for Schwartzenegger next time.

When the Supreme Court got the case, they agreed that the number 308.5 did not change the meaning of the law, but they noted that the Legislature twice tried to redefine marriage and finally passed a Domestic Partnership Law which gave gay marriages nearly the same rights and benefits as traditional marriages. Then they argued that since the Legislature had made the legal status of gay marriage and marriage nearly the same, they were in fact **equal.** But the different names, 'marriage' and 'gay marriage' made them **separate**. Since the U.S, Supreme Court abolished the **Separate but Equal** doctrine in 1953, it applies to the State Constitution. So in order to satisfy the State Constitution, the name 'marriage' had to be applied to 'gay marriage'. So marriage was **redefined** to include same sex marriages despite the law that the People had the right to review the change. 'Marriage' was just reduced to a label and so it wasn't so important anymore and to avoid the appearance of separate and equal, it was a small matter to change the definition of marriage. It is both amusing and troubling to note that the majority opinion did not deal with the other logical possibility that arose at this point in their reasoning: They could have abolished the 'equal' part of the the phrase and ruled the Domestic Partnership part of the law unconstitutional and preserved the ancient definition of marriage.

Sophistry in Marina del Rey Marina del Rey was designed as a small craft harbor and was to be used primarily for **recreation** for the people of Los Angeles County. But is was a very nice place and the County wanted to develop it with hotels and condos and shopping malls. But what about the law that reserved it for recreation? Well, the **definition** of **recreation** was expanded include shopping and tourism, so the County began letting leases to shopping malls and hotels. Weak panoramic views were to be replaced by s**trong view corridors** of the water between buildings. Some unknown agents slipped in a finding in the Local Coastal Plan which **excluded mountain views** from the **meaning of scenic views**. '**Mitigation**' received an **ominous meaning** as in the sentence: The beating of your head with a baseball bat will be mitigated by playing soft soothing music (from a spot three miles away). The wall of a building on Dell Avenue was to be **replaced** by a wall which preserved the **dimensions** of the building. In fact, the new wall extended 5 feet into Dell Avenue.

Slippery Slips The People wanted to protect the unique California Coast. They set up the California Coastal Commission (CCC), to monitor local government's compliance with the California Coastal Act. At a meeting held in Marina del Rey on January 9, 2008, the CCC found LA County not in compliance with the Coastal Act. They unanimously passed several resolutions, one restored the mountains views to the protected scenic views. Another ordered that no more small boat slips should be removed from the Marina. At the next meeting of the Small Craft Harbor Commission, the County arrogantly recommended approving the lease of a project which would substantially lower the number of small craft slips. They acknowledged the CCC order protecting the small slips, but they stated the CCC will come to its senses later. This is an exact parallel to the Supreme Court's rational that the public was moving in the direction of changing the definition of marriage to include gay marriage. Only in this case, the Court was ignoring a citizen's initiative passed law, while the County was merely ignoring the CCC. We were furious with the County. We didn't know that ignoring laws was sanctioned by the Supreme Court!

Court Source You can find the opinions of the court at the link
http://www.courtinfo.ca.gov/opinions/documents/S147999.PDF .
It is a 172 page document. But what I did was read enough to realize the key facts centered around sections 308 and 308.5. So I searched for '308' and found out most of what I wanted to know in the Opinion. Also the dissenting opinion is very well written, much clearer than I could write. You can find it by searching for the word 'troubling'. But no one one the court brought up the harm the precedents would do. We at Marina del Rey are not happy that the techniques used to mute our voices on the proposed developments have been ratified by the California Supreme Court.

Defining Definitions I actually published an article on Gay Marriage online at
http://www.math.purdue.edu/~gottlieb/Law/law.html .
It is entitled: *A Defining Moment in Mathematics and the Gay Marriage Decision*. I was attempting to define Mathematics, and I thought I had a mathematical definition. Then the Massachusetts' definition of marriage case was decided, and I had some thoughts on it based on my definition of math. After considering what I called the hijacking of the word marriage, I realized that my definition of math was hijacking the word 'math'. So I retreated and decided to hijack 'pure mathematics' with my definition. My consideration of the Gay Marriage decision was of a theoretical nature. Now I see that our situation at MdR vs the developers has three parallels with the California Supreme Court's decision. The use of **redefinition** to avoid changing a law in a transparent fashion; the use of sophistic arguments based on **accidental or planted words (IED's)** in the code to confuse the clear intent of the law; the attempt to put **facts on the ground** to short circuit the process.

Redefinition There is a zoning rule in the Local Coastal Plan for MdR which limits the number of stories a non hotel can have. In order to build to a higher level, the definition of Hotel was to be changed. The staff report for the CCC came up with a list of Recommendations to LA County to be ratified by the CCC. There was a plain word summary of the recommendations given in the Introduction of the report. One summary recommendation stated that no timeshare hotel will be built on land dedicated to Public use. And in fact the formal recommendation began with the same words, but then a few strangely inappropriate sentences followed. Now 'Public Uses' seems to mean what the public uses. But suspicion aroused, we searched on 'public uses' in the Land Use Plan and found it had been given a particular definition, meaning land not leased to private parties. In other words, anyone but the County can build time share facilities on their leased land. This is analogous to the setting up of the 'separate but equal' principle used to circumvent the popular will expressed in section 308.5 in the Gay Marriage decision.

IED'S in the code The choice of 308.5 as the section number for the law encoding the passed proposition 22 provided the rationale for the legislature's attempt to bypass it, is an example of what I call an IED. One such argument concerning MdR was the name **Design Control Board**, whose official powers included approving impacts on scenic views. But the argument was made, that the word '**Design**' has nothing to do with scenery, and so there was no consideration of the impact of most of the approved MdR projects on scenic view sheds.

Facts on the Ground The Gay Marriage decision finds the traditional definition of marriage is unconstitutional. Part of the argument is an assumption that the citizens of California are moving towards an enlightened opinion in favor of gay Marriage. This will be tested by a ballot initiative in November. However, instead of waiting a few months to see if their assumption of the California electorate is correct, the Court orders Gay Marriages to proceed as soon as possible. Similarly, the County of Los Angles, on being told by the CCC that they are not in compliant with the Coastal act, instead of stopping approvals and lease adoptions to fit in with some of the recommendations of the CCC, is in fact accelerating construction and permit approvals. creating irreversible impacts to views and traffic flow, etc. They are no doubt confident that their staff will be able to introduce enough IERs into the Recommendations to eviscerate them.

Conclusions This is not just about gay Marriage or wild development in MdR. This is about the Rule of Law. If the words of laws are tampered with, either by stealthily changing the wording, or redefining commonly accepted words, or ignoring laws which protect vulnerable interests, our respect for laws, which are based on a precise use of language, is in peril. Without a general respect for Laws, our Democracy will end.