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4/14/2005

Apocalypse Not

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By Nancy Goldstein, for RawStoryQ

This time next month both Massachusetts and I will celebrate our first anniversary of same-sex marriage. Despite the warnings of theocons everywhere that torrents of blood would fill Provincetown's streets, that people would turn into pillars of salt in Cambridge, and that heterosexual marriages from Amherst to Arlington would spontaneously combust, Massachusetts remains unharmed.

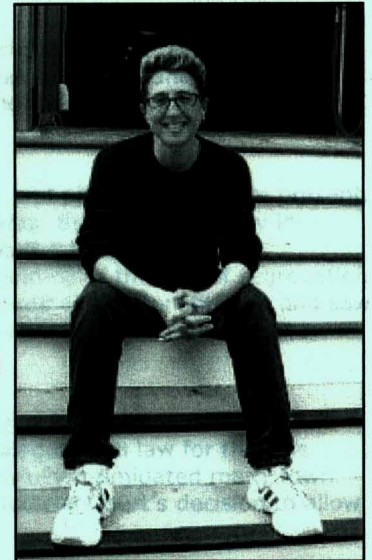
And despite having grown up in the Jewish branch of the House of Atreus and writing a dissertation about marriage as a form of social control in the 19th-century English novel, I remain truly and stunningly happy.

This comes to me as a surprise and a delight. Because I was not a little girl who played dream wedding with her Barbies. On the contrary, I was a little girl who tied my Barbies to my fringed bedspread so GI Joe could rescue them. (This greatly concerned my mother, who later confessed to wondering whether she was raising the world's most precocious sadomasochist.) And as an adult I prided myself on living separately from Joan even after 4+ happy years: her with her Catahoula leopard hound; me with my garden.

But then, like something from an ex-gay reparative therapist's wet dream, the love of a good man changed me.

Gavin Newsom, the straight, hunky Irish-Catholic mayor of San Francisco (fun fact: he went to Redwood High School with Joan), rocked my world last February. Just weeks after taking office he issued a letter to the city's County Clerk stating the obvious: he'd sworn to uphold the Constitution of the state of California when he'd taken the vow of public office, and the Constitution forbade discrimination. Would the clerk please change the forms and documents used to apply for and issue marriage licenses and start marrying queer people, pronto?

I have no idea what my straight colleagues did that week. But every queer person at my job was jammed into my locked office glued to the computer screen watching image after image of people who looked like us getting married. Latinas being serenaded by mariachi bands; bears in tears; Del Martin and Phyllis Lyon tying the knot after 50 years of partnership and activism; guys who looked like something out of a J.Crew catalogue waltzing down City Hall steps with their baby daughters strapped to their chests; David Knight, whose father, as a state senator wrote the California ballot



measure that had banned same-sex marriage, marrying his partner of 10 years.

The theocons have practically been baying at the moon ever since about how same-sex marriage isn't the will of God. Sometimes they switch tactics and talk about how it isn't the will of the(ir) people. But neither argument is strictly true. And neither argument should carry much weight given the tenets of the American political system.

In the absence of a single US Senator or Representative who feels compelled to mention such niceties, it seems worth noting that the first amendment of the United States Constitution takes separation of church and state quite seriously. And that means that while people are free to believe whatever they like concerning God's views on same-sex marriage, neither their religious views nor anyone else's can legitimately serve as the basis for US civil law.

The Constitution also clearly states that the judiciary, rather than the so-called will of the people serves as the interpretive body in this country.

(Note to those who are fond of breathing fire about "unelected judges": judges in this country are always either elected or appointed by elected officials.) That's a good thing, too, because the judiciary has routinely recognized the implications of the 14th amendment, which guarantees due process and equal protection, faster than the average American has regarding civil rights issues over the past century.

In 1948, when the California state Supreme Court became the first of its kind to throw out anti-miscegenation laws, 90% of Americans opposed interracial marriage. Ten years later, when whites only were polled, 96% still disapproved. 10 years after that, when the US Supreme Court overturned all bans on interracial marriage in Loving v. Virginia, anti-miscegenation laws were still on the books of 16 states, and people were still against marriages between blacks and whites by more than 3 to 1.

Only now, over half a century since the first state Supreme Court threw out their anti-miscegenation laws, has that 3 to 1 margin reversed itself. This year's Gallup poll shows 73% of respondents approving of interracial relationships — which, looked at in another way, still means that 1 in 4 Americans take issue with treating even heterosexual couples equally.

These statistics offer two lessons for the discerning reader. The first is that enshrined prejudices can fall away in the United States, but s-l-o-w-l-y and over a long period of time. The second? When it comes to understanding the contemporary implications of constitutional law, the fast money is on the judiciary seeing the light well ahead of the populati.

Even our president will admit to that — when it's an election year, the occasion is right, and photographers are present. On Monday, May 17th 2004, the first day of legalized same-sex marriage in Massachusetts, Bush was far away in Topeka, Kansas speaking at the Grand Opening of the National Historic Site erected to commemorate the 50th anniversary of Brown v. Board of Education, the landmark decision that marked the beginning of the end of segregation in this nation's schools. "Fifty years ago today, nine judges announced that they had looked at the Constitution and saw no justification for the segregation and humiliation of an entire race," intoned the man whose party introduced the Federal Marriage Amendment and inveighs against "activist judges."

That same morning, Joan and I became the first out-of-state couple to register to marry in Provincetown. Mormon Governor Mitt Romney had, fittingly enough, dusted off a never-enforced 1913 anti-miscegenation law for the sole purpose of trying to prevent out-of-state couples from getting married. And he'd successfully intimidated many town clerks into enforcing it, despite its obviously contradicting the Massachusetts Supreme Judicial Court's decision to allow same-sex marriage in the Bay State.

But theocons have no idea just how wrong they are when they bank on America's indifference to our rights. They thought that they could just pick on us forever, and that no one with any real power would ever come to our defense. That's why they didn't see Gavin Newsom coming.

And Romney didn't count on the officials of several Massachusetts towns who wouldn't be intimidated, especially in Provincetown, where the Board of Selectman and town clerk Douglas Johnstone simply upheld the law. They all risked jail time, and Johnstone risked his job, by carrying out the measures specified for the equal treatment of all couples in the SJC's Goodridge decision and registering us for a marriage license that morning.

We had planned on getting our license on Thursday, and marrying Friday, but Wednesday we received an unexpected wake-up call from Johnstone: its essence was that he might be prevented from following the SJC's ruling if Romney went to court to stop all out-of-state marriages.

So we threw on our wedding clothes and fled to Barnstable for a waiver, where the very straight, very middle-aged ladies who worked behind the desk smiled at us and wished us well. Then back to Provincetown Town Hall, where Johnstone and his colleagues had vowed to stay as late as necessary to insure that we got our license. And finally to the house where a justice of the peace had stayed on call all afternoon to make sure that we got married and that our marriage was certified by the town clerks that very afternoon. Less than 48 hours later, Romney's Attorney General, Thomas Reilly, went into court and successfully shut down the licensing of out-of-state same-sex couples.

Next month the Massachusetts Supreme Judicial Court will take up the question of whether Romney can use the 1913 statute to declare my marriage void.

That challenge is being led by the men and women of GLAD, the advocacy organization that successfully argued Goodridge. Oral arguments should begin in the fall.

In the meantime, the town of Provincetown is acting as the lead plaintiff in a 12-town suit to overturn the 1913 statute.

Provincetown's taxpayers are footing most of the legal bills for this suit on behalf of all LGBT people, so contact the Town Treasurer's Office at 508.487.7015 and make a generous donation to the "Same-Sex Marriage Defense Fund."

Joan and I have moved into a beautiful apartment in the People's Republic of Brooklyn, where the woman at the COSTCO counter gives us the married couple's discount card without a shrug and admires my wedding ring.

And by all accounts, the skies over Truro remain refreshingly frog and locust-free.

Nancy Goldstein (pictured above) earned her doctorate from Brandeis University, and has taught at Harvard, MIT, and Connecticut College. She is the co-editor of "The Gender Politics of HIV/AIDS in Women" (NYU Press, 1997), which includes her article on the invisibility of women who have sex with women in the pandemic.

Last May, Nancy and her partner were one of 36



out-of-state couples to wed in Massachusetts prior to the governor's cease and desist order prohibiting additional weddings in the state for non-residents. Nancy lives and writes in New York.

Nancy's column appears every Thursday on **RawStoryQ** You may write to Nancy at goldstein.nancy@gmail.com

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1. Congratulations on your anniversary!

I've noticed, just based on the 120+ people in my office (with myself being the only openly gay man), that not only have no marriages or relationships broken down in this, the heart of corporate suburbia, but in the last year there have been several weddings and engagements. It's as if the legalization of gay marriage had no effect on their relationships at all. Imagine that!

What does it say about someone's marriage, though, if they think that two men or two women

marrying each other on the other side of the country is going to ruin their relationship just like that? Seems that would be a less-than-perfect union. Remember, as Betty Bowers says, 4 out of 5 Baptist divorcees want gays to stop ruining the sanctity of marriage.

Congrats again.

Comment by Johnny M — 4/14/2005 @ 1:00 pm

- I was in Cambridge, MA the first week same sex couples were wed and I walked past the courthouse everyday and here's what I told folks when I returned to Wisconsin: "The best thing was seeing straight folks, old folks, young folks, all sorts of folks, walk past two brides or two grooms like it was just another day, which it was."

You're right, Nancy. The world didn't end when gay folks married.

Comment by Katie — 4/15/2005 @ 10:48 am



- Congratulations to you and Joan! And, I'm really impressed with your contributions to Rawstory. John (and Thom)

Comment by John Welch — 4/15/2005 @ 11:04 am

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