

Prop. 8 Goes to Court

✖ **March 5, 2009** – Christians are carefully watching the California Supreme Court, which today hears oral arguments in a case challenging the validity of Proposition 8, a ballot measure that defines marriage as the union of one man and one woman.

The proposition passed in November with 52 percent of the vote, overturning the state Supreme Court's May ruling legalizing gay marriage. But supporters of same-sex marriage subsequently filed three separate lawsuits claiming the measure was not a constitutional amendment but a revision that should never have been put before voters.

A constitutional revision requires a two-thirds vote of the state Legislature before it can appear on the ballot.

California Attorney General Jerry Brown's office is also arguing that Proposition 8 violates an "inalienable right of liberty" promised in the state constitution. The court will make its decision within 90 days.

"I'm deeply saddened for the condition of my country that after twice voting on the same propositional phrasing ... that we would be so perilously close to losing the fundamental [tenet of] democracy, which is the consent of the governed," said Jim Garlow, pastor of Skyline Church in San Diego and organizer of the -Yes on 8 campaign. "This is a serious time in American history."

California's governor, Arnold Schwarzenegger, both of its U.S. senators, Dianne Feinstein and Barbara Boxer, and Rep. Nancy Pelosi have all denounced Proposition 8. And on Monday, the Democrat-controlled state Legislature passed a nonbinding resolution declaring the measure an improper revision of the state constitution and asked the court to overturn it, the

Sacramento Bee reported.

"We're talking about a radical revision to our constitution," said openly gay state Sen. Mark Leno, D-San Francisco, who sponsored the resolution. "Do we have a constitutional democracy in California, or do we have mob rule, where a majority of Californians can change the constitution at any time?"

But Proposition 8 supporters say overturning the law would constitute tyranny. Attorney Mathew Staver, founder of Liberty Counsel, which filed an amicus brief in the Proposition 8 case, said if the court invalidates the law, "they would essentially be taking away the right of the people to amend their own constitution on marriage."

"When the people passed Proposition 8, it became part of the state constitution and no judge, irrespective of how high or mighty, may stand above the rule of law," he said.

Calling California's high court "the personification of an uber/hyper activist and defacto junta," the Rev. Samuel Rodriguez, president of the California-based National Hispanic Christian Leadership Conference, said Christians would not let the justices trample on their rights.

"If they overturn the decision, I guarantee you the faith community will not sit idly by and let this take place," he said. "You're going to see a movement emerge out of California a lot more powerful than what you saw last year [lobbying for Proposition 8]."

Garlow is discouraging traditional marriage supporters from participating in protests at the courthouse today, but is urging them to watch the oral arguments, which are being broadcast live at . Garlow is attending the hearing and host a Webinar at 4 p.m. PST to discuss the oral arguments with pastors across the state.

Christians across California are praying today that the proposition will be upheld. Lou Engle, founder of TheCall prayer movement, called a 40-day fast beginning Feb. 25 to stem the advancement of gay marriage in California and across the nation.

"My concern, frankly, is for the church," Engle said, noting that Sen. Leno likened Proposition 8 supporters to those who supported the Nazi regime.

"I see persecution so close at the door," Engle said. "I think the election has emboldened the people at the top-ranking places to ... target the church as the main perpetrators of bigotry, when really what we are is simply the last vestige of conscience in America. I tremble for my country right now.

"At the same time, when Jezebel and Ahab, the worst kings of Israel, were in authority, breaking down every moral code of the nation, it's the same time the greatest prophets rose—Elijah and company. And I am expecting a voice of the prophets and a spirit of revival to sweep into this nation at this time. I think it's going to be great light and great darkness and great conflict together." (Read Engle's urgent call to prayer.)

Meanwhile, gay activists in Massachusetts filed a suit this week challenging the federal Defense of Marriage Act (DOMA), which prohibits the federal government from recognizing gay marriage and gives states the option of doing the same.

In their lawsuit, the 15 plaintiffs argue that DOMA is unconstitutional because Section 3 denies gay couples protections and benefits that heterosexual couples receive, including health insurance for federal employees, the ability to file jointly as a married couple on federal income taxes and Social Security spousal protections.

DOMA passed in 1996 by votes of 342-67 in the House and 85-14 in the Senate and was signed into law by President Clinton.

President Obama, however, favors overturning the law.

Staver said the cases in Massachusetts and California are different but interrelated. "If the court in Massachusetts finds that a portion of the federal Defense of Marriage Act is unconstitutional in not recognizing federal benefits for same-sex couples, that sets up the next suit, which goes at the heart of DOMA," Staver said. "If they find that [Section 3] is unconstitutional, it puts a crack in the entire Defense of Marriage Act."