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In the same way that marriage is for better or for worse some decisions of our Supreme Court are better, but this one is for the worse. We are disheartened, dismayed and shocked that the California Supreme Court validated the constitutionality of Prop 8 permitting a majority of the electorate to deprive and deny what our same Supreme Court just 12 months ago determined was a fundamental constitutional right to marry for all otherwise eligible adults in California regardless of sexual orientation.

Our California Constitution Article 1 Declaration of Rights Sec. 7. (a) says "A person may not be deprived of life, liberty, or property without due process of law or denied equal protection of the laws."

It does not say that all persons except gays and lesbians are entitled to equal protection of the law and yet that concept now seems to be newly embedded in our California Constitution as a result of the Supreme Court's decision today.

The idea that California law would permit a 50% +1 vote to deprive a minority group of its constitutional protections and have our Supreme Court defer to the majority will of the electorate is we believe contrary to the constitutional

foundational principles upon which our California and United States Constitution are founded.

The will of the majority should have no bearing whatsoever on constitutional protections. That is what is beautiful and unique about our constitution and our nation. If the will of the majority was the rule we would not have had desegregation of schools in 1954 because clearly the majority was in favor of racial discrimination and segregation. Further if our courts deferred to majority rule interracial marriage would have continued to be illegal and the court would not have struck down the ban in 1967 in Loving v. Virginia (U.S. Supreme Court) and in 1948 (Perez v. Sharp) when the California Supreme Court struck down the ban on interracial marriage in California as unconstitutional under the California Constitution.

This decision today may lead some groups to pursue future constitutional amendments which would embed even more discriminatory practices into our state constitution. We are concerned that an initiative that excludes gays and lesbians from the right to marry may be viewed as authority for future propositions to ban them from certain occupations such as teaching or judgeships or from the

enjoyment of such basic rights as adopting children or becoming foster parents - all of which rights our California Supreme Court has previously afforded to individuals who are gay and lesbian as basic constitutional rights.

Even if 99% of the electorate decides to pass a proposition to take away fundamental rights from a minority group that should have no bearing on the court's obligation to protect a minority and safeguard their fundamental and inalianable right to marry or any other fundamental constitutional right.

The decision today is as shameful as was the United States Supreme Court decision in Plessy v. Ferguson upholding separate but equal which was ultimately reversed and criticized in Brown v. Board of Education.

Although we are pleased that the court upheld the thousands of marriages that took place after marriage licenses were issued between June 16, 2008 and the passage of Prop 8 in November 2008, because the court agreed with our position in our brief and oral argument that Prop 8 should not be applied retroactively, it is a shame that other gay and lesbian couples will be denied the fundamental right to marry that pre Prop 8 couples and all heterosexual couples are able to enjoy.

Our next move should be to educate the public as to the necessity of another constitutional amendment to restore marriage equality. The trend in the public view of marriage equality is to support it. We look forward to winning in the court of public opinion and in the ballot box as soon as an amendment supporting marriage equality can be placed on the ballot.

We shall overcome.

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&
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