



THE BAR ASSOCIATION OF
SAN FRANCISCO

WHY THE LEGAL PROFESSION AND BAR ASSOCIATIONS ACROSS THE STATE SHOULD OPPOSE PROP 8:

PRESERVE THE INDEPENDENCE OF THE JUDICIARY:

Lawyers understand the significance of an independent judiciary. We also recognize that we have a unique responsibility to ensure that our courts remain independent. The California courts have long served our system of government when called on to interpret our Constitution, often in controversial and difficult cases. Sixty years ago the California Supreme Court in *People v. Sharp* struck down laws banning interracial marriage. The decision ran contrary to public opinion at the time. It took many years but eventually the United States Supreme Court followed suit. Principles of equality trump the political "will" on issues of fundamental fairness.

The proponents of the anti-gay marriage initiative (Proposition 8) are making a direct attack on the independence of the judiciary. They argue the initiative is needed to fix a decision caused by an activist Supreme Court. Let's educate the public on myth versus reality. The Supreme Court decision, authored by four Justices of the Supreme Court, three of whom are Republican appointed by Republican administrations, thoughtfully and forcefully articulated that marriage is a fundamental civil right. It is not a new or special right. This was not a "democrat" or "republican" decision. In fact, Governor Arnold Schwarzenegger has announced his support for the Court's decision and opposition to Proposition 8.

PROTECT THE RIGHT TO MARRY - A FUNDAMENTAL CIVIL RIGHT UNDER THE CALIFORNIA CONSTITUTION:

It is a role of the legal profession to uphold our Constitution. We hold a position of public trust. As stated above, the right to marry is a fundamental civil right that needs to be protected as do all of our other civil rights.

This proposition is a direct attack on an historically marginalized community. As lawyers, we should all be concerned when a constitutional right is threatened and we must continue to act responsibly to ensure our legal systems treat everyone fairly.

This is an opportunity to challenge ourselves to demonstrate our values. It is a slippery slope once we as a profession sit by quietly and allow our cherished system of constitutional government to be politicized and our values and fundamental freedoms as set forth in our Constitution be eroded. The Constitution must trump politics. Our noble profession must show its true colors.