

# THE FREE PRESS UP FRONT

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## Local couple loses one battle, fights on

*B.C. Supreme Court denies right to marry but admits the law may be discriminatory*

By DOUG BROWN

Free Press staff writer

A landmark decision by the B.C. Supreme Court last week means the decision to marry is still out of the hands of a Prince George same-sex couple.

"We're disappointed, but not really all that surprised," says Wendy Young who, along with partner Theresa Healy, were part of a challenge to Canadian law that prevents same-sex couples from obtaining marriage licenses. That law, they argued, violates the Charter of Rights and Freedoms. Seven other B.C. same-sex couples were also parties to the suit launched in July, sponsored by EGALE Canada, a national group that promotes equality for gay, lesbian, bisexual and trans-gendered people. "We knew we were in this for the long haul and a decision that was made this quickly we couldn't expect to be all positive."

The Supreme Court upheld the law, but conceded it was still considered discrimination under the Charter. But, said Justice Ian Pitfield, under Section One of the Charter a discriminatory law can stand if government can show it is justified.

The decision is ultimately, he said, one that needed to be made on a legislative not legal level and the differences between same-sex and opposite-sex mar-



Theresa Healy and Wendy Young are planning to take their case to the highest court in the land. FREE PRESS FILE PHOTO

riages are ones that can't be ignored.

"While in the recent past same-sex couples have been accorded many of the rights and obligations previously reserved for married couples, the one factor in respect of which there cannot be similarity is the biological reality that opposite-sex

couples may, as between themselves, propagate the species and thereby perpetuate humankind. Same-sex couples cannot," said Justice Pitfield in his ruling.

But the admission that the law is discriminatory is still a victory for same-sex couples everywhere, says Ms. Young.

"There is no gray area. Discrimination is discrimination — that's all there is to it," she says. "We are, as a group, going to appeal this and take it to the next level."

The next level would be the Supreme Court of Canada. But that action will have to wait for the time being, says Ms. Young.

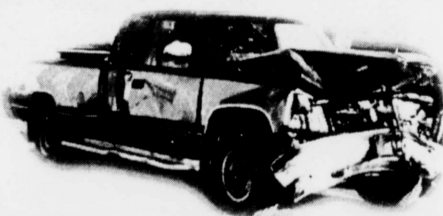
EGALE is sponsoring a similar group legal challenge in Ontario and the B.C. group doesn't want their actions to interfere with the Ontario one.

A Leger poll released in June said that two-thirds of Canadians agree that same-sex marriages should be recognized by the government.

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