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California High Court Upholds Gay Marriage Ban

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By Lisa Leff, Associated Press

San Francisco (AP) - The California Supreme Court upheld a voter-approved ban on same-sex marriage Tuesday, but it also decided that the estimated 18,000 gay couples who tied the knot before the law took effect will stay wed.

The 6-1 decision written by Chief Justice Ron George rejected an argument by gay rights activists that the ban revised the California constitution's equal protection clause to such a dramatic degree that it first needed the Legislature's approval.

The court said the people have a right, through the ballot box, to change their constitution.

"In a sense, petitioners' and the attorney general's complaint is that it is just too easy to amend the California constitution through the initiative process. But it is not a proper function of this court to curtail that process; we are constitutionally bound to uphold it," the ruling said.

The announcement of the decision set off an outcry among a sea of demonstrators who had gathered in front of the San Francisco courthouse awaiting the ruling. Holding signs and many waving rainbow flags, they chanted "shame on you." Many people also held hands in a chain around an intersection in an act of protest.

Gay rights activists immediately promised to resume their fight, saying they would go back to voters as early as next year in a bid to repeal Proposition 8.

The split decision provided some relief for the 18,000 gay couples who married in the brief time same-sex marriage was legal last year but that wasn't enough to dull the anger over the ruling that banned gay marriage.

"It's not about whether we get to stay married. Our fight is far from over," said Jeannie Rizzo, 62, who was one of the lead plaintiffs along with her wife, Polly Cooper. "I have about 20 years left on this earth, and I'm going to continue to fight for equality every day."

The state Supreme Court had ruled last May that it was unconstitutional to deny gay couples the right to wed. Many same-sex couples had rushed to get married before the November vote on Proposition 8, fearing it could be passed. When it was, gay rights activists went back to the court arguing that the ban was improperly put to voters.

That was the issue justices decided Tuesday.

"After comparing this initiative measure to the many other constitutional changes that have been reviewed and

evaluated in numerous prior decisions of this court, we conclude Proposition 8 constitutes a constitutional amendment rather than a constitutional revision," the ruling said.

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