

Appealing to Family

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Sitting in the B.C. Appeals sixth-floor courtroom in Vancouver for the same-sex marriage case hearings February 10th to 12th felt like weightlifting at the provincial championships. We witnessed debates about common law bars, constitutional rights, charter of rights. We listened to reference after reference about lines, paragraphs and factums*(1) being submitted relative to Judge Pitfield's 2001 lower court decision saying how he was justified in discriminating against us. We sat quietly through the history of international lifting of rights, the role of the church in marriage, and our current national legal chaos surrounding same-sex unions which waves like an overstretched, elastic band from province to province. Through all of it, we reminded ourselves that over the last couple of decades, we've been able to lift the barbells higher and higher. Now that we're almost at the top, our arms are starting to shake. We really need to concentrate to extend our arms fully, to toss the sum total of that weight aside for good.

No wonder about 20 minutes into each of the 3 days, my head started to roar with the pressure. No wonder we'd return home exhausted every evening, tumble into bed by 8:30 or 9:00pm. No wonder half of us were suffering from or about to succumb to nasty cold viruses. It was very confusing trying to reconcile the intellect -- which knew what we were facing and which thought it could readily endure the challenge -- with the body's total drain. Well, thank god for family, is all I can say.

The hearing made me reflect on family, in all its forms. Families that are birthed, co-partnered, befriended, formed on the spur of the moment, united by accident, by social need, by war or, in this case, by political cause. Families *know*, intuitively after their

creation, how to draw on what they share, in order to support each other. I'd like to paint a little action video clip of our family, this one that's fighting this cause for equal rights, hoping some of the colours will splash out to you, our larger family. If you'd like to give your brothers and sisters a little extra oomph to push this last weight off our collective heads, you'll find a step you can take at the end of my column.

The painting in my mind is the hour that we seven couples were most active, uniting loudly as family on the first day of the appeal. Tossing grins back and forth, we greeted each other on the courthouse steps, even though the eighth couple couldn't make it from Prince George. As we hugged, I was suddenly aware of the cameras already roaming around us, the microphones unhitching. As fish in a school, we suddenly shifted, a level of tension rising through us as one, alert, to monitor the impression we were making. *How odd, I thought. Have we formed a circle, backs inwardly protecting each other, faces out to the sharks? Or is it just my imagination?* The thought all but disappeared for the press was mostly friendly, but I know we all felt very aware of some deep level of support pulsating in our common commitment, not only to each other, but to our lovers and our love of equal rights.

John Fisher, out from Ottawa as executive director of EGALE which is sponsoring five of the couples in this case*(2), asks Diana and me to be the first of the plaintiffs to speak to the media. Diana tells me she doesn't want to speak to the media, that she wants me to say it all. *Wait a minute, I say to myself. She's the more outgoing, outspoken one of the two of us.* My own jitters have me buying briefly into her request, flattered by her implied and oft-expressed confidence in my ability. Then I realize she's

only expressing a little fear, so I remind her of her own eloquence, tell her others deserve to hear her as well as me.

In the next second, I forget that I want her to speak first. We are facing a collection of mikes, video cameras, even pole-lights on this sunny morning. After what must be only a blip of silence but feels like hours of it, I find my lips uncharacteristically leaping to form something audible, and babbling for surely what must be far too long. I turn to see how the rest of our family is doing in this media frenzy.

There's Peter and Murray, who have been together 30 years, adopted a severely abused gay teenager, offered him love, nourished him to flourish. Right now, they look like amusedly tolerant parent birds, feeding their flock of thrust-out mikes. *Indeed this must be easy for them*, I think. Having already succeeded in pushing through the Surrey Board of Education book case, they are now orating as part of their three-couples group called "The BC Couples" (who began their lawsuit before EGALE's, and with whom we soon after joined forces.)

Then there's Dawn, who's somehow survived a heavily anti-gay religious upbringing, whose father is on the board of a group of interveners acting against us in this case. At this moment, she's saying "how important it is for us to be seen as a family by the legal system, by our families, by society." There's Dawn's partner, Elizabeth explaining how they ended up sharing a name they chose from her family tree, and also responding in French. I discover Shane's bilingual, too, and Dave, whose new website business I've just learned has suddenly soared, is doing valiantly despite suffering from a nasty cold. Melinda, also popping decongestants, and Tanya, take their turns. They are so spunky and strong.

I wish I could eavesdrop on what Jane, an eloquent poet and writer, and Joy, a doctor, are saying, but a journalist from the Chinese newspaper is asking me to answer her questions about how Diana and I managed to have children in our relationship, and what it was like when we got turned down for a marriage licence application. One of our family, I don't know who, except I recognize a friendly breath blowing the hair against my other ear, is whispering "Just want you to know: be careful of this journalist! Her paper has been writing Christian-homophobic comments."

Meanwhile, Lloyd and Bob, who have logged almost 36 years together, are full of answers to all the fundamentalist religious concerns, quoting chapter and verse. Impressively, they were rescued from alcoholism by sudden immersion into evangelical Christianity nineteen years into their togetherness. While they are sensitive not to bathe us in their religious zeal, they are a definite bonus for our side in answer to those who would say we're going to burn in hell. Bob is a natural born union leader and eloquent activist.

I turn around as another CBC reporter taps me on the shoulder, wanting to talk while the Chinese Christian journalist is still asking questions. Politely, she says, "Oh, continue. I'll wait," and brings her microphone around to capture my responses to the other's questions anyway. Meanwhile, there's something knocking on the door at the back of my mind, telling me to remember my encouraging words to Diana at the opening of this media collective.

Soon enough, it's time for Diana to speak. While admiring the sunlight splashing through strands of white in Diana's brown hair, while focusing my eyes on the flashing blue of her eyes, on the glistening white of her even teeth and robust smile, I also manage

to hear the words she's uttering to the CBC microphone being held two inches from her lips. She has been talking about how she feels optimistic about our prospects in this appeal, and ends with a wrap-up which makes me adore her all the more: "only love prevails." *If only the whole world would use this mantra instead of dropping bombs.*

So that's the moment from our video clip, our paint splashed upon your shoes. And no, we won't know the results for anywhere from three to twelve months, as the three justices have millions of words to sift through before making their decisions. The hearing we grew limp through was only 10% of the justices' work; the rest is reading. They each have a wheeled cart containing two shelves of fat, black spiral-bound volumes of bound, tab-marked pages of legal texts, references, quotes, factums to read. I think we gays and lesbians have shown how persistent and strong we are.

Thank you, dear readers -- our truly gay family -- for listening not only to our heartaches, but our headaches, our colds, our worries about dropping the barbells. Allowing ourselves to be vulnerable revealing all this, takes strength, too. As Jonathan Rauch wrote in *Atlantic Monthly**(3) some time ago, "" Those who worry about the example gays would set by marrying should be much more worried about the example gays are already setting by *not* marrying....Who is telling us to just shack up instead? Self-styled friends of matrimony. Some day conservatives will look back and wonder why they undermined marriage in an effort to keep homosexuals out."

*We'd like to stop Canada from dithering around, from wasting taxpayers' money, and get on with it, like the European Parliament so recently voted to recognize any EU same-sex marriage. *(4) Although our cases in B.C., Ontario and Quebec stand a good chance of becoming law through the Supreme Court of Canada appeals, Canadian*

Parliament is now holding hearings, perhaps because they want to push something through parliament that would allow them not to pay attention to the court rulings. We are worried that these hearings are too much of a kangaroo court(5), but we feel that if enough of us – and our heterosexual allies – show our support, they just might have to listen.*(6)(7) Seems like they're getting approval to have hearings across the country, including Vancouver. Transportation may be covered, if you ask.*

- 1) To view the factum filed in BC for Feb.10-12 appeal:
http://www.samesexmarriage.ca/legal/bc_case/egalefactum_appeal.htm
- 2) To see 5 EGALE couples' affidavits on line:
http://www.samesexmarriage.ca/legal/bc_case/egale_%20bc_affidavits.htm
- 3) To view the article on why social conservatives should support same-sex marriages: <http://www.theatlantic.com/issues/2002/05/rauch.htm>
- 4) To read the complete article on the European Parliament recognizing any EU same-sex marriage, go to: www.planetout.com/news/article.html?2003/02/12/2
or: http://www.expatica.com/index.asp?pad=2,18,&item_id=28790
- 5) To read a sample article from the February 19/03 issue of Ottawa Citizen on a recent session of the Commons justice committee hearings, go to:
<http://www.canada.com/ottawa/ottawacitizen/archives/story.asp?id=A499CC9C-4293-4EE6-856A-8528DBAACE08>
- 6) For information on speaking at the committee hearings, go to:
<http://canada.justice.gc.ca/en/dept/pub/mar/index.html>
- 7) To send your views to the Minister of Justice, and/or arrange to speak at the hearings, write Patrice Martin, Clerk, House of Commons Standing Committee on Human Rights, Minister of Justice, Room 100, 284 Wellington St., Ottawa, Ontario K1A 0H8, or email: marriage@justice.gc.ca.