



Western PA Freedom to Marry Coalition

Marriage Announcements

September, 1996

Volume 1 Issue 4

Landmark Marriage Trial Ends

Decision in Hawaiian case expected within two months

On September 10, the historic and landmark trial for same-sex marriage began in Hawaii. It lasted 10 days.

The case, Baehr v Mikke was prompted by a Hawaiian Supreme Court ruling three years ago that denying marriage licenses to same-sex couples might violate the state constitution's prohibition against discrimination based on sex. It demanded that the state show a "compelling state interest" to deny allowing same-sex couples to marry.

State Deputy Attorney General Rick Eichor is arguing that the compelling state interest is to "protect the welfare of children because youngsters have the best chance to develop successfully when raised by their natural parents." In same-sex marriages, Eichor pointed out, children would be raised by at least one non-biological parent.

The following excerpts are from the trial coverage by the Honolulu Advertiser and Honolulu Star-Bulletin. The excerpts are organized by days to allow you to understand how this historical trial progressed.

Day 1

Children of same-sex couples carry an extra burden but the quality of the relationship can outweigh the burden, Dr. Kyle Pruett, a national expert, said yesterday during cross-examination in the same-sex marriage trial before Circuit Judge Kevin Chang.

Pruett said parents of different faiths and races also create burdens for their children, but that doesn't mean they shouldn't marry or have children.

He said the burden of losing a parent

was significantly greater than the burden of having same-sex parents.

He said biological parents share genetic and familial bonds with children that aren't possible with other parents. "One thing that the state can do is to encourage the union of a mother and father to raise a child," he said. "It is the configuration that imposes the fewest burdens on a child."

But adoptive and same-sex couples and single mothers and fathers can also be good parents, he said under cross-examination by Evan Wolfson of the Lambda Legal Defense and Education Fund Inc. of New York.

While biological parents share unique contributions with children, they are small compared with the whole spectrum of child development, Pruett said.

Day 2

Ninety-eight percent of married couples intend to have children, David Eggebeen, a Penn State University sociologist, testified yesterday in support of the state's case to ban same-sex marriages.

"To me, the conclusion is clear that marriage is the gateway to becoming a parent," David Eggebeen told Circuit Judge Kevin Chang.

But Eggebeen acknowledged that there are other reasons people get married besides having children.

And Evan Wolfson, lawyer for three same-sex couples who want to get married here, pointed out that presidential candidate Bob Dole and his wife, Elizabeth, don't have children.

Senate Passes DOMA as Baehr v Mikke begins

On September 10, the United States Senate voted overwhelmingly for the Defense of Marriage Act (DoMA). Only 14 brave Senators supported the right of gay and lesbian couples to share in civil marriage. Both Pennsylvania senators voted for the DoMA and against the rights of gay and lesbian Pennsylvanians.

On September 21, President Clinton signed DoMA into law.

Analysis: DoMA is an emotional setback. It is a political setback. However, DoMA's practical effects for most of us are limited in the short-term. No state recognized marriage before DoMA, and no state yet does. Marriage activists knew that if Hawaii does legalize marriage for same-sex couples, then more litigation would follow. DoMA simply guarantees this.

Meanwhile, Baehr v Mikke, the Hawaiian same-sex marriage case, is proceeding. A decision is expected by the end-of-the-year. The Western Pennsylvania Freedom to Marry Coalition remains committed to continuing to educate the gay and lesbian community and the community at-large about marriage rights. The fight will continue.

THANK YOU to Bob Arlia and Harry Logan for appearing on Pittsburgh Cable News Network to discuss marriage. They did FABULOUS!

Next Coalition Meeting

Tuesday, October 8, 7PM

Gay and Lesbian
Community Center

Forward Ave, Squirrel Hill

441-0356 for info.

Continued on page 2

Baehr v Mikke (cont.)

Continued from page 1

“You wouldn’t suggest their marriage is any less important or nurturing than other marriages?” Wolfson asked.

“No,” Eggebeen replied.

Dr. Eggebeen displayed extensive data that marriage has changed dramatically since the depression of the 1930’s in regards to person’s entering marriage, rate of divorce, rate of multiple marriages, birthrates, children born out of wedlock, etc. Heterosexual marriages are in increasing trouble and need special state encouragement to provide the social ideal of loving, biological parents raising their own children responsibly. Much time was spent by Deputy Attorney General Eichor elaborating Dr. Eggebeen’s opinion step-parenthood is statistically not as ideal as biological parenthood. Dr. Eggebeen mentioned the story of Cinderella as an archetype of the less-than-perfect reality of step-parenthood.

Eggebeen said during Wolfson’s cross-examination that he believed homosexuality was morally wrong and opposed marriage-like partnerships, added that he wanted to see the results for partnerships in European countries.

Under Wolfson’s cross-examination, Dr. Eggebeen admitted that it is actually beneficial for a society to have couples that marry without intending to produce children and “institutional recognition of same sex marriage may help increase the risk of stability among some gay couples.” Eggebeen also admitted that gay/lesbian couples can and do make excellent parents and that he knew of no research that substantiated the notion that same-sex couples are unfit parents.

Day 3

A second state witness to oppose homosexuality on moral grounds has testified in the same-sex marriage trial that most studies on children of gay and lesbian parents were biased.

Richard Williams, Brigham Young University psychology professor, yester-

day faulted the methodology in nine studies on the subject and said that the results were shaped to validate same-sex families.

But Evan Wolfson, co-counsel for the three couples who sued the state in 1991 for the right to marry, said Williams was the biased one with no expertise in the field of children of homosexuals or heterosexuals.

During Wolfson’s cross-examination, Williams said he was morally opposed to homosexuality, described sociology and psychology as unscientific and said he didn’t think that science could prove evolution.

Deputy Attorney General Rick Eichor called Wolfson reaction “classic religious bigotry” saying Wolfson didn’t like Williams because he was a Mormon.

“His (Williams’) testimony was objective, he gave credit to the studies and he was not the only person to criticize them,” Eichor said.

Eichor said the witness had proved what the state wanted to prove: that children were best raised by their biological parents.

“I’m confident at this point that we’re winning the case,” he added.

Day 4

Thomas Merrill, a Hawaiian psychologist in a private practitioner who specializes in human development today hammered home the state’s argument to ban same-sex marriages: that the best place for children for optimal development is the family into which they were born. Merrill also said he had reviewed 50 studies involving same-sex relationships and that not enough data exists to determine how children raised in such unions turn out.

Dan Foley, local co-counsel for the three couples who sued the state in 1991 for the right to marry, cross-examined Merrill about the role of data in whether same-sex couples should be allowed to have children. Foley likened the same-sex issue to interracial marriage, asking, “Once we didn’t have data on the effects of the development of children from interracial marriages. Would that have

been a basis to prohibit couples from having children?”

“No,” Merrill said.

Deputy Attorney General Rick Eichor objected to the question, saying Foley was trying to inflame the trial. But Circuit Court Judge Kevin Chang, presiding over the non jury trial, allowed Merrill to answer.

Merrill also said under cross-examination that two parents in a home were better than one and that the sexual orientation of a parent was not an indication of the parent’s fitness.

Day 5

The first witness for the plaintiffs was Pepper Schwartz, a University of Washington sociologist and an author of “American Couples,” a book on satisfaction and durability in heterosexual and homosexual relationships.. Based on data from the late 1970s and published in 1983, the book compares married, co-habiting, gay and lesbian couples in areas of work, sex and economics.

Schwartz said results show few differences among couples in what they seek in relationships, adding that all want intimacy, security and trust.

But she also said breakup rates show that married couples have the best chance of surviving, explaining the institution of marriage forces them to deal with their problems.

Under cross-examination, Schwartz said she was surprised to learn from the data that lesbians were the least stable and agreed that they were the ones most likely to have children.

But Schwartz said the data had to be analyzed in light of the times and culture of the late 1970s.

“Lesbians strongly believe in monogamy and so do gay men now,” she said, explaining that today’s couples have reformed around families.

Eichor said no new data had replaced the findings, suggesting that allowing gays to marry would not change their behavior.

“They would still engage in infidelity,” he said. “Ultimately, the losers would be women and children.”

Continued on page 3

Baehr v Mikke (cont.)

Continued from page 2

Eichor also focused on a study that showed the children of gays and lesbians have a higher likelihood of considering or having a same-sex relationship.

But Schwartz defended the researcher, who used data from the study to show that most children from gay and lesbian parents don't become homosexuals.

Day 6

The second witness for the plaintiffs was Charlotte Patterson, who in August received a Distinguished Service Award from the American Psychological Association for her pioneering work on the children of same-sex parents. She said the key is the quality of parenting, and doesn't depend on the sexual orientation, gender, biology or number of parents. Patterson, a University of Virginia research psychologist, is the only one of eight witnesses testifying in the non-jury trial to specifically study the children of same-sex parents. Dr. Patterson's testimony was focused primarily around her two studies, "Bay Area Families", a 1990-91 study, and "Contemporary Family", a 1994-95 study.

Her conclusions in the Bay Area study were that children develop well in lesbian households and that there are few differences in their development compared to children raised by heterosexual mothers. Children's self-esteem was comparable between the two types of homes. Children in lesbian homes were more likely to express stress while at the same time these children were also more likely to feel a sense of well being.

In the Contemporary Family study Dr. Patterson found that children in lesbian households are developing normally as a group; none of the structural features (i.e. parental sexual orientation) can predict any significant aspect of the child's development; and family process variables (i.e. parental harmony) showed no significant difference between lesbian and heterosexual households. Dr. Patterson noted that, while a child's biological link to a parent is 1 factor in predicting development, it is not the only

nor is it the most important factor; the quality of parenting and care are more important than biology or gender of the parent.

During cross-examination, Patterson confirmed that she was a member of several gay and lesbian organizations, including one associated with the university's faculty.

"I didn't ask her if she was a lesbian," Eichor said outside the court. "But I'm entitled to demonstrate that she's coming in with an agenda."

Patterson said out of court that all researchers have biases, but that numerous controls exist, from methodology to peer review.

Day 7

David Brodzinsky, Rutgers University psychology professor and clinical psychologist, declined to answer the following hypothetical question posed by the state:

If one set of parents is biological and one set is not, and both provide equal care, love and support, which would enable a child to achieve optimal development?

"I'll reject all things being equal," said Brodzinsky, who testified on behalf of three same-sex couples who sued the state for the right to marry. "It's a theoretical question. We don't have that data."

Deputy Attorney General Rick Eichor asked again and Brodzinsky declined. Eichor then asked Circuit Judge Kevin Chang to direct Brodzinsky to answer the question, but Chang ruled that he had answered.

"I don't want to get sucked into that game of suggesting we can create equality and answer the question," Brodzinsky said out to court. "You have to take families as they come."

Brodzinsky said same-sex couples should be allowed to marry and adopt children. He said researchers estimate that up to 8 million children nationally are being raised by same-sex parents.

"I find that offensive to suggest that there is only one way of being a parent," said David Brodzinsky, also a clinical psychologist and expert on adoption.

"That excludes all non-biological parents."

Deputy Attorney General Rick Eichor objected to the characterization of the state's position, saying: "This is not a contest about who can create a better parent."

But Chang overruled Eichor, allowing Brodzinsky to emphasize that the best condition for children depends on a loving, nurturing parent, not on the number, gender or sexual orientation of the parents.

Brodzinsky also said that all children have to deal with "issues," and that couples should not be excluded from the adoption process because they may create additional "issues" for children.

"The fact of growing up in a family with gay or lesbian parents is going to be an issue and most deal with it quite well," he said, adding that the state should give such families more support.

Eichor objected, saying the children were being punished by their parents, who placed them in the situation of being a child of a same-sex couple.

Day 8

The last witness was Honolulu pediatrician Robert Bidwell, an expert for the same-sex couples. He testified yesterday that children of same-sex couples face teasing and embarrassment. But he said that's no different from the pressures facing other children, such as children of immigrants.

"If anything, they get stronger," he said. "They learn about life; they learn about diversity."

State attorneys asked Judge Chang for more than the half-hour allotted each side today to explain why Hawaii's same-sex marriage ban should be upheld.

But lawyers for three same-sex couples, who believe that the state failed to prove its case, said they could abide by the time limit.

Circuit Judge Kevin Chang turned down the request by Deputy Attorney General Rick Eichor for more time.

"I have followed the evidence closely in this case," the judge said. "Thirty minutes is what it is."

Baehr v Mikke : Landmark trial in Hawaii

Continued from page 3

Day 9

Deputy Attorney General Rick Eichor said in his closing argument that the state had the right to identify the best family unit for a child and promote it in its policy.

“A child has one chance to grow up,” he said. “If we care, we must care in their favor.”

Dan Foley, co-counsel for the three same-sex couples, said allowing same-sex marriages would benefit children by offering legal recognition, stability and benefits.

Conclusions

Jon Van Dyke, a University of Hawaii constitutional law professor who is not involved in the court proceedings, said he believed that the state failed to prove its case last week after presenting its four experts. He said the same-sex couples’ witnesses addressed the points raised by the state.

“These witnesses made the point that many forms of parenting are common in our society and there’s no evidence that one form of parenting will produce solid citizens for the next generation,” he said.

“We allow a whole range of families to raise children in Hawaii, from single par-

ents to hanai parents [unofficial adoption, common with close friends or relatives of the parents, usually for a temporary period of time] to aunts and uncles,” he said.

Peter Esser, appellate attorney, said the state didn’t and couldn’t meet such a high standard. “Basically, the case was decided when the Supreme Court ruled that the state had to show a compelling state interest,” he said.

Eric Seitz, civil rights attorney, said cases that meet the compelling standard usually involve the regulation of traffic, police, fire and health.

He said courts have limited individual rights to allow school searches to protect children or drug testing of public safety personnel.

Seitz also said courts have refused to limit rights based on race and gender. The U.S. Supreme Court ruled that the state of Virginia could not prevent interracial marriages.

Seitz said the state fell “far short” in its effort to show it should ban same-sex marriage for the welfare of children.

“It’s clear that children raised by same-sex parents are not harmed, so you’re talking about moral reasons rather than safety,” he said.

voted for it should be ashamed of themselves. BUT, we are winning the historic struggle for the freedom to marry. And DOMA will not stop that. It is just one more mountain on our march.

I also know it is hard to believe this, but the state-by-state battles are far more important to our winning and keeping the freedom to marry than is DOMA. So we must keep focused on beating back the backlash in as many states as possible (PA is still pending), while continuing the affirmative work of engaging non-gay people — group by group, person by person.

And we should also urge the President to do the right thing, and veto this hideous bill.

Thanks to all who have fought so far,

Remarks of Senator Charles Robb of Virginia

Mr. ROBB. Mr. President, as one who represents a traditionally conservative State, it’s not easy to take on this issue. In fact, many of my friends and supporters have urged me to sit this one out because of the potential political fallout, but I can’t do that. I feel very strongly that this legislation is fundamentally wrong—and feeling as I do I would not be true to my conscience or my oath of office if I failed to speak out against it. I believe we have an obligation to confront the very real implications of the so-called Defense of Marriage Act.

Despite its name, the Defense of Marriage Act does not defend marriage against some imminent, crippling threat. Maintaining the freedom of States to define a civil union or a legal right to benefits cannot—and will not—harm the strength and power of marriage. Neither can it diminish the love between a husband and a wife, nor the devotion they feel toward their children.

Whether the Government should give official sanction to same-sex relationships does raise some extremely difficult issues, Mr. President—issues of morality, of religion, of child-bearing, of marriage and of the intimacies of life. But this legislation is not really about these difficult questions of domestic relations. As a constitutional matter, it is about placing the Federal Government in the midst of an issue firmly and historically within the jurisdiction of our States. And as a political matter, it is about denying a class of people benefits that no single State has yet conferred.

These are important issues, Mr. President, and they deserve a full discussion, but they are not the issues that make this debate so difficult—or so important.

For beneath the high-minded discussions

Continued on page 5

Eyes on the Prize

By Evan Wolfson,
September 11, 1996

Aloha —

We are busy with the trial here in Hawaii now (Day One went well), so I can’t write long. But I did have to urge people not to lose sight of what today signified, even with Congress’s anti-gay action.

DOMA reflects a historic change: our enemies are now conceding that gay people will get married; now they want to discriminate against our lawful marriages. As the creation of a federal caste-system for marriage (second-class citizens, second-class marriages), DOMA is appalling, it is radical, it is unconstitutional, it is disgusting. Politicians who

Continued on page 5

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Edited by Scott Safier

Remarks (cont.)

Continued from page 4

of constitutional principles and States rights lurks the true issue which confounds and divides us: the issue of how we feel about intimate conduct we neither understand nor feel comfortable discussing.

Mr. President, scientists have not yet discovered what causes homosexuals to be attracted to members of their own sex. For the vast majority of us who don't hear that particular drummer it's difficult to fully comprehend such an attraction.

But homosexuality has existed throughout human history. And even though medical research hasn't succeeded in telling us why a small but significant number of our fellow human beings have a different sexual orientation, the clear weight of serious scholarship has concluded that people do not choose to be homosexual, any more than they choose their gender or their race. Or any more than we choose to be heterosexual. And given the prejudice too often directed toward gay people and the pressure they feel to hide the truth—their very identities—from family, friends and employers, it's hard to imagine why anyone would actually choose to bear such a heavy burden unnecessarily.

The fact of the matter is that we can't change who we are, or how God made us and that realization is increasingly accepted by succeeding generations. It has been my experience that more and more high school and college students today accept individual classmates as straight or gay without emotion or stigma. They accept what they cannot change as a fact of life. Which brings to mind one of my favorite prayers:

God, grant me the serenity to accept the things I cannot change The courage to change the things I can, And the wisdom to know the difference.

I suspect that for older generations fear has often kept this issue from being discussed openly before now—fear that anyone who expressed an understanding view of the plight of homosexuals was likely to be labeled one. Because of this fear, the battle against discrimination has largely been left to those who were directly affected by it. Mr. President, I believe it is

time for those of us who are not homosexual to join the fight. A basic respect for human dignity—which gives us the strength to reject racial, gender and religious intolerance—dictates that in America we also eliminate discrimination against homosexuals. I believe that ending this discrimination is the last frontier in the ultimate fight for civil and human rights.

Most Americans accept the basic tenet that discrimination for any reason is wrong. We grow uncomfortable, however, with some of its implications. The question we face now is whether that discomfort warrants continued discrimination.

Although we have made huge strides in the struggle against discrimination based on gender, race and religion, it is more difficult to see beyond our differences regarding sexual orientation. It's human nature to be uncomfortable with feelings we don't understand or share and to step away from those who are different. But it's also human resolve that allows us to overcome those impulses, to step forward and celebrate those many qualities we share. The fact that our hearts don't all speak in the same way is not cause or justification to discriminate.

There are not many in this Chamber who truly seek to discriminate. Some here support the Defense of Marriage Act because many of the good people they represent believe that homosexuality is morally wrong, and therefore same-sex unions should not be permitted by the Government. A number of our colleagues have told me privately that they are not comfortable supporting this legislation, but the political consequences are too great to oppose it.

Others admit that they intend to discriminate, but they believe that discrimination here is justified. They justify their prejudice against homosexuals by arguing that homosexuality is morally wrong—thereby assuming it is not a trait but a choice, and a choice to be condemned.

But history has shown that current moral and social views may ultimately prove to be a weak foundation on which to rest institutionalized discrimination.

Until 1967, 16 States, including my own State of Virginia, had laws banning couples from different races to marry. When the law was challenged, Virginia argued that

interracial marriages were simply immoral. The trial court upheld Virginia's law and asserted that "Almighty God created the races white, black, yellow, malay, and red, and he placed them on separate continents. The fact that he separated the races shows that He did not intend for the races to mix." *Loving v. Virginia*, 388 U.S. 1 (1967). The Supreme Court struck down these archaic laws, holding that "the freedom of choice to marry" had "long been recognized as one of the vital personal rights essential to the orderly pursuit of happiness by free men."

Today we know that the moral discomfort—even revulsion—that citizens then felt about legalizing interracial marriages did not give them the right to discriminate 30 years ago. Just as discomfort over sexual orientation does not give us the right to discriminate against a class of Americans today.

Ultimately, Mr. President, immorality flows from immoral choices. But if homosexuality is an inalienable characteristic, which cannot be altered by counseling or willpower, then moral objections to gay marriages do not appear to differ significantly from moral objections to interracial marriages. [...]

Mr. President, I'll conclude today with the words of a courageous American whom I seldom quote but to whom I'm eternally indebted. President Lyndon Johnson often said, "It's not hard to do what's right, it's hard to know what's right." We know it is right to abolish discrimination. And if we reflect on what this bill is—an attempt to discriminate—rather than on what it is packaged to be—a defense of marriage—we will come down on the right side of history.

With that, Madam President, I thank the Chair, and I yield the floor.

Eyes on the Prize

Continued from page 4

and who have already begun succeeding in engaging the American public to an amazing degree to move non-gay people to support our equality.

We have much to do in the weeks, months, and years ahead. But we are winning. And will win.

Evan Wolfson is Director of The Marriage Project Lambda Legal Defense & Education Fund

Your donation to the Western PA Freedom to Marry Coalition

helps us educate our community about the marriage for same-sex couples! **Please** help by sending donations to WPaFtMC, PO Box 81253, Pittsburgh PA 15217-4253. Donations are not tax deductible

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Your Representatives and how to contact them

bold face indicates support for marriage rights; *italics* opposes; and, underline unknown or didn't vote.

Tell the president what you think of his signing the Defense of Marriage Act

President William Clinton
The White House
1600 Pennsylvania Ave
Washington DC 20500
(202) 456-1414

How they voted on S1740, the Defense of Marriage Act

Senator Arlen Specter
530 Hart Senate Building
Washington DC 20510-4254
(202) 224-4254
(412) 644-3400

Senator Rick Santorum
120 Russell Building
Washington DC 20510-3804
(202) 224-6324
(412) 562-0533

How they voted on H.R. 3396, the Defense of Marriage Act
Washington DC 20515
Pittsburgh: **Rep. William Coyne**
2455 Rayburn House Office Bldg

Penn Hills: *Rep. Michael Doyle*
1218 Longworth House Office Bldg

North Huntingdon: *Rep. Ron Klink*
125 Cannon House Office Bldg

Fayette: *Rep. Frank Mascara*
1531 Longworth House Office Bldg

HOW THEY VOTED!

Write your representative and let them know what you think of their vote!!

c/o House Box 202020
Harrisburg PA 17120-2020
Pittsburgh Area Legislators:

Ronald Cowell, Wilkesburg
Pat Carone, Cranberry
Anthony DeLuca, Penn Hills
Frank Dermody, Cheswick
Greg Fajt, Mt Lebanon

Elaine Farmer, Richland
Ron Gamble, Oakdale
Frank Gigliotti, South Side
Jeffrey Habay, Glenshaw

Ivan Itkin, Squirrel Hill
Ralph Kaiser, Whitehall
Alan Kukovich, North Huntingdon
Susan Laughlin, NW Allegheny
David Levdansky, Elizabeth
David Mayernick, Ross Twp
Thomas Michlovich, Bradock
Herman Mihalich, Monesson

Richard Olasz, West Mifflin
Joseph Petrarca, Vandergrift
Frank Pistella, Bloomfield
Joe Preston, East Liberty
Harry Readshaw, Baldwin
William Robinson, Oakland
Jess Stairs, Acme
Thomas Tangretti, Greensburg
Fred Trello, Stowe
Terry Van Horne, Arnold
Don Walko, North Side

Urge your state senator to oppose the House version of SB434.
c/o Senate Post Office, Main Capitol, Harrisburg PA 17120
Pittsburgh Area Legislators:
Gibson Armstrong, Lancaster
Albert Belan, West Mifflin
Jay Costa Jr, East End/Homestead
Michael Fisher, South Hills
Mellisa Hart, North Hills
Richard Kasunic, Dunbar
Gerald LaValle, Rochester
Eugene Porterfield, Greensburg
Robert Robbins, Greenville
Tim Shaffer, Butler
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Jack Wagner, Pittsburgh