

Hawaii: It's a go!

Continued from page 23

state interest for continuing that discrimination.

During the autumn trial, state Deputy Attorney General Rick Eichor presented four witnesses, all of whom tried to make the case that children were best raised by biological parents, one man and one woman.

To counter the state's strategy, plaintiffs' attorneys presented nationally known child development experts who testified that lesbian and gay parents raise their children just as capably as heterosexual parents.

Critics of the ban have said the state's argument implied that marriages are licensed for the purpose of procreation. In 1984, the Hawaii Legislature removed the ability to have children from the criteria for a marriage license, saying the requirement discriminated against the elderly and the handicapped.

In addition, critics said the state doesn't discourage children being raised by nonbiological parents in a variety of other child-rearing arrangements, including adoption, step-parenting and single parenting.

When pressed during the September trial, the state's witnesses allowed that it would benefit children of same-sex couples if their parents could marry. They also acknowledged that same-sex couples can be as competent at parenting as opposite-sex couples.

In his ruling, Chang concluded that the interests offered by the state failed to justify the discrimination.

"The attorney general in Hawaii had three years to pull together the evidence to make his case, and the judge wasn't convinced. It proves what our community



Above: Maureen Colvin and Amy Stunaugle married on May 4; Center: Whitson and Alexander do the ceremonial arm twine; Below: Lindy Walsh and Sue Diamond exchanged vows and cake on Sept. 7



has said all along: There are no intelligent reasons why same-gender couples should be denied the right to marry," says Kerry Lobel, the new executive director of the National Gay and Lesbian Task Force.

Not surprisingly, there are outspoken critics of Chang's decision. Robert Knight from the ultraconservative Family Research Council in Washington, D.C., denounced it as a denial of "not only the wisdom of generations but the law of nature and nature's God."

The Rev. Lou Sheldon, the chairman of the Traditional Values Coalition in Anaheim, Calif., deemed Chang's ruling an act of "judicial tyranny."

During the past year, bills aimed at blocking recognition of same-sex marriages were introduced in 37 state legislatures—21 were defeated and 16 approved.

In addition, the 104th Congress approved the Defense of Marriage Act, which allows states to reject same-sex marriages recognized in other states and defines marriage as the union of a man and woman for the purposes of benefits and entitlements from federal programs.

President Clinton signed DOMA into law in September.

During the next several months, proponents of equal marriage rights for same-sex couples anticipate major disputes in federal courts over whether states are bound by the U.S. Constitution's "full faith and credit" clause. They also foresee a court-by-court battle that could take years, particularly in the states that have already approved their own versions of the ban.

Despite that, the ruling is being noted for its historical significance.

"At one time, people of different races and people who had been previously married were denied the right to marry in most of America. In time, we recognized as a society that those laws, which were defended as simply preserving 'traditional marriage,' were unfair. Laws that don't allow lesbians and gay men to marry are just as unfair," Coles says.

"This decision marks the beginning of the end of sex discrimination in marriage just as we brought an end to race discrimination in marriage a generation ago," adds Evan Wolfson of the Lambda Legal Defense and Education Fund's Marriage Project, who, with Hawaii civil rights attorney Dan Foley, argued the case. "Let these couples wed!"

According to *The New York Times*, the three plaintiff couples "are still preparing—slowly and a bit skeptically—for their weddings."

The day of the ruling one couple, Ninia Baehr and Genora Dancel, who now live in Baltimore, held a press conference in Manhattan.

"Our love made it possible for me and Genora to get through this long legal fight," Baehr said. "I'm looking forward to our love getting us to our wedding on a mountain slope in Maui."

Yet the couple, says the *Times*, "do not plan to rush their union and hold a ceremony in the small gap between [the Dec. 3] ruling and the stay."

"We don't even know what we're going to wear yet," Baehr told the *Times*.

