

# “We Can’t Hide and They Are Wrong”: The Society for Homosexual Freedom and the Struggle for Recognition at Sacramento State College, 1969–1971

---

DAVID A. REICHARD

Formal organizations for gay, lesbian, bisexual, and transgender (GLBT) students in the United States began to emerge on college campuses in the United States beginning in the mid to late 1960s, bridging the transition from the homophile movement of the 1950s and 1960s to the origins of gay liberation.<sup>1</sup> The first, a Student Homophile League (SHL) organized

1. Throughout this article, I use the terms gay, lesbian, bisexual, and homosexual to capture the historical identities claimed by students involved in campus organizations at the time. The historical record in this case is devoid of references to transgender identified students. For a good discussion of the various social identities at play for “nonheterosexual men,” see Patrick Dillely, *Queer Man on Campus: A History of Non-Heterosexual College Men, 1945–2000* (New York: Routledge Falmer, 2002), one of the few studies examining

---

David A. Reichard is associate professor of history and legal studies at California State University, Monterey Bay <dreichard@csumb.edu>. He would like to thank staff of Special Collections at Sacramento State University Library, the Gay, Lesbian, Bisexual and Transgender Historical Society, and ONE National Gay and Lesbian Archives for their invaluable assistance with research for this article. He is also grateful to Nelson Graff, Colleen O’Neill, Daniel Rivers, Craig Scott, Tomás Summers Sandoval, David Tanenhaus, and the anonymous reviewers from *LHR* for their helpful comments on the manuscript. He especially would like to thank John Poswall, George Raya and Martin Rogers for sharing memories of their involvement with the Society for Homosexual Freedom lawsuit. Portions of this article were presented at the 2007 Oral History Association Annual Meeting.

at Columbia University in 1967, prompted other student groups at Cornell, New York University, Penn State, and Stanford.<sup>2</sup> While some students cultivated connections with local homophile activists and organizations,<sup>3</sup> such connections were generally limited.<sup>4</sup> Despite support and occasional visits to college campuses to speak on behalf of homophile interests, homophile movement organizations did not typically provide space for youth to participate, fearing the potential repercussions of having members under the age of twenty-one.<sup>5</sup> Moreover, when students encountered homosexuality as an issue for discussion on campus, it was often treated as sin, sickness,

---

the historical experience of gay students. Little has been written about the history of GLBT student organizations. For a general overview, see Warren Johansson, "Students, Gay," in *Encyclopedia of Homosexuality*, ed. Wayne R. Dynes (New York: Garland, 1990), 1254–57; Patrick Dilley, "20th Century Postsecondary Practices and Policies to Control Gay Students," *Review of Higher Education* 25 (4) (2002): 409–31; Kenneth Jost, "Gays on Campus," *CQ Researcher* 14 (34) (October 1, 2004). Brett Genney Beemyn, GLBTQ, s. v. "Student Organizations," [http://www.glbtc.com/social-sciences/student\\_organizations.html](http://www.glbtc.com/social-sciences/student_organizations.html) (accessed July 17, 2007). For histories of specific campus groups, see note 2.

2. David Eisenbach, *Gay Power: An American Revolution* (New York: Carroll & Graf, 2006), 51–79 (Columbia); Brett Beemyn, "The Silence Is Broken: A History of the First Lesbian, Gay and Bisexual College Student Groups," *Journal of the History of Sexuality* 12 (2) (2003): 205–23 (Columbia and Cornell); John D'Emilio, "The Issue of Sexual Preference on Campus," in John D'Emilio, *Making Trouble: Essays on Gay History, Politics and the University* (New York: Routledge, 1992), 128–37; Robert A. Rhoads, "'We're Here. We're Queer. Get Used to It: Gay Liberation at Penn State,'" in Robert A. Rhoads, *Freedom's Web: Student Activism in an Age of Cultural Diversity*, (Baltimore: Johns Hopkins University Press, 1998), 159–88; Gerard Koskovich, "Private Lives, Public Struggles," *Stanford Magazine*, June 1993, 33–49.

3. On the history of the homophile movement, see John D'Emilio, *Sexual Politics, Sexual Communities: The Making of a Homosexual Minority in the United States, 1940–1970* (Chicago: University of Chicago Press, 1983); Marc Stein, *City of Sisterly and Brotherly Loves: Lesbian and Gay Philadelphia, 1945–1972* (Philadelphia: Temple University Press, 2004); Martin Meeker, "Behind the Mask of Respectability: Reconsidering the Mattachine Society and Male Homophile Practice, 1950s and 1960s," *Journal of the History of Sexuality* 10 (1) (2001): 78–116; Marcia Gallo, *Different Daughters: A History of the Daughters of Bilitis and the Rise of the Lesbian Rights Movement* (New York: Carroll & Graf, 2006).

4. For example, historian David Eisenbach suggests that organizers of Columbia University's SHL emerged from their connection with New York's Mattachine society (Eisenbach, *Gay Power*, 53–54).

5. Justin David Suran has argued that needs of gay youth "had never been part of the homophile consensus" represented by organizations like the Daughters of Bilitis, the Mattachine Society, and the Society for Individual Rights (SIR), organizations that limited their memberships to people twenty-one and older in part because of fears of harassment for "contributing to the delinquency of minors" (Justin David Suran, "Coming Out Against the War: Antimilitarism and the Politicization of Homosexuality in the Era of Vietnam," *American Quarterly* 53 (3) (2001): 452–88, 464); nevertheless, students sometimes did participate. For example, a 1957 DOB questionnaire revealed high percentages

or crime. As such, early homophile student organizations provided gay, lesbian, and bisexual students, as one observer at the time suggested, positive reinforcement and a sense of formal peer support on campus where little other than friendships had existed before.<sup>6</sup> By the late 1960s, gay, lesbian, and bisexual college students were inspired by civil rights, Black Power, the antiwar movement, and a nascent Women’s Liberation movement, with many embracing a more militant approach than “mainline homophile organizations,” as scholar Brett Beemyn urges.<sup>7</sup> Like many college students coming of age in the late 1960s, gay, lesbian, and bisexual student activists were part of a larger generational split, what Paul Berman describes as a pulling away of youth from their elders.<sup>8</sup>

Given these conditions, it is perhaps not surprising that after the Stonewall rebellion of 1969, gay and lesbian student organizations on college campuses in the United States “grew like weeds in a vacant lot,” as legal scholar William Eskridge Jr. has asserted.<sup>9</sup> Taking a cue from many other political organizations springing up across the country, gay and lesbian students formed their own on campus to explore gay “liberation” for themselves, whether through gay student organizations, many of which were dominated by male students, or in the case of lesbian and bisexual women students, in women’s studies programs, campus-based

---

of professional and college-educated women, some members listed their occupation as students (Gallo, *Different Daughters*, 50).

6. Steve Werner, “The Gay Student Group,” in *Gays on Campus*, ed. J. Lee Lehman (Washington, D.C.: United States National Student Association, 1975), 29; in an article about the “upsurge of organized homosexual activity on U.S. college campuses,” Frank Kameny was quoted as suggesting that the problems for homosexual students included “abysmally poor” counseling and a lack of courses on homosexuality. Student organizations were needed to “serve as a power base” to help educate others about homosexuality, and correct “deficiencies” of how students were treated (“Homosexuals ‘Oppressed’: Universities Called Biased and Ignorant,” *Kentucky Kernel*, March 31, 1970, copy in Bois Burk Collection, Box 2, Folder “Gay Clippings, 1970,” GLBT Historical Society [hereinafter GLBTHS]).

7. Beemyn, “Silence is Broken,” 206; scholars have begun reconsidering the supposed conservative nature of homophile activism (see Gallo, *Different Daughters*).

8. Paul Berman, *A Tale of Two Utopias: The Political Journey of the Generation of 1968* (New York: W. W. Norton, 1996), 25; Martin B. Duberman, *Stonewall* (New York: Dutton, 1993).

9. William N. Eskridge Jr., “Challenging the Apartheid of the Closet: Establishing Conditions for Lesbian and Gay Intimacy, Nomos, and Citizenship, 1961–1981,” *Hofstra Law Review* 25 (Spring 1997): 880; One example of a post-Stonewall student organization is at Rutgers, which began as a Student Homophile League (David Nichols and Morris J. Kafka-Hozschlag, “The Rutgers University Lesbian/Gay Alliance 1969–1989: The First Twenty Years,” *Journal of the Rutgers University Libraries* 51 (2) (December 1989): 55–95).

women's centers, or in specific lesbian student organizations.<sup>10</sup> By the early 1970s, William Sievert could claim at the time that although gay liberation, as a social movement, did not begin on college campuses, "it has gained much of its momentum there."<sup>11</sup>

Yet, gay, lesbian, and bisexual students attempting to organize on campus faced numerous challenges, including fear of coming out publicly and outright resistance from members of the campus community, alumni, or community members.<sup>12</sup> Here I take a closer look at one form these challenges took—the refusal of college and university administrators to grant formal recognition to gay and lesbian student organizations. In the face of such refusal, some gay, lesbian, and bisexual students, often with the support of student allies on campus, filed lawsuits to gain formal recognition. A closer look at such lawsuits would provide a critical window on the struggles gay, lesbian, and bisexual students faced, the tactics they employed, and the impact of the experience as they attempted to gain their first public footing on college campuses.

Legal history studies of "struggle-for-recognition" cases have focused primarily on the analysis used by judges and the impact of that analysis in a line of subsequent court opinions. Although very useful, such studies do not necessarily capture the wider impact of this litigation. "It is easy to forget the context of social change that engulfed U.S. college campuses in the early 1970s," scholar Patrick Dilley reminds us, "just as it's simpler to outline the facts of these court cases than to examine how the action of stating one's sexuality publicly—as a source of identity and discrimination by a university . . . affected the lives of the students involved."<sup>13</sup> And, while

10. On the appeal of radical politics and liberation rhetoric to a new generation of gay and lesbian activists, see Suran, "Coming Out Against the War"; Ian Keith Lekus, "Queer and Present Dangers: Homosexuality and American Anti-War Activism During the Vietnam War" (PhD diss., Duke University, 2003); and Terence Kissack, "Freaking Fag Revolutionaries: New York's Gay Liberation Front, 1969–1971," *Radical History Review* 62 (1995): 104–34; on lesbian student organizing, see Beemyn, "Silence Is Broken" and "Student Organizations."

11. William A. Sievert, "Drive to Gain Rights for Homosexuals Wins Adherents on Many Campuses," *Chronicle of Higher Education*, May 8, 1972.

12. See Eisenbach, *Gay Power*, 64–68. Koskovich notes how one Stanford student tried to recruit members for the Student Homophile League by placing an ad in the *Berkeley Barb*. No one answered it (Gerard Koskovich, "Private Lives, Public Struggles: The History of Homosexual Students at Stanford University, 1891–1975," 27, presented at Bisexual, Lesbian and Gay Awareness Days, Stanford University, April 30, 1996 [Copy in possession of author and cited with permission]); on the challenges of student fear of associating with a public gay student organization, see Beemyn, "Silence is Broken," 209; Eisenbach, *Gay Power*, 56; Koskovich, "Private Lives," 38.

13. *Queer Man on Campus*, 171. A good example is Note, "Gay Students Organization v. Bonner: Expressive Conduct and First Amendment Protection," *Maine Law Review* (26)

some scholars have examined the struggle-for-recognition cases involving gay, lesbian, and bisexual students in terms of shifts in gender and sexuality or the relationship to gay liberation, they have done so without a full appreciation of the legal dimensions of such struggles.<sup>14</sup> I hope to bridge these scholarly approaches by examining one such struggle-for-recognition case in more detail, tracing how it came about, assessing the wider impact it had on students and the campus community, and outlining its broader impact in the legal arena.

In 1970, a group of students and faculty at Sacramento State College formed what would become the Society for Homosexual Freedom (SHF). Although not the first such organization in California, its struggle for recognition would become very significant for other student organizations seeking recognition elsewhere. A lawsuit filed by the students when denied formal recognition directly addressed the legal question of whether a public university could refuse to grant recognition to such a student group in California.<sup>15</sup> Judge William Gallagher’s (a Republican) decision in favor of the SHF was also the first to use free speech and association grounds to extend legal protection to gay and lesbian student organizations, and while unreported, created precedent for gay and lesbian student organizations elsewhere. That precedent, and the constitutional arguments used, enabled other gay and lesbian student organizations to rebut efforts at preventing their organizing on campus with authority a court decision could provide.<sup>16</sup>

Beyond the legal analysis, however, a closer look at the SHF case also situates struggle-for-recognition cases in a wider struggle for student power, especially in terms of changing norms of gender and sexuality.

---

(1974): 397, which includes scant information about the context for the lawsuit. See below for a more detailed discussion of this scholarship.

14. Perhaps the most detailed social history of a struggle for recognition case is by Beth Bailey, who thoughtfully examines the origins of the Gay Liberation Front at the University of Kansas. In a larger book focusing on what she calls “changes in the nation’s sexual landscape” in the Midwest after World War II, she charts the history of the GLF in some detail, yet she does not fully address the important legal questions raised by the struggle for recognition case (Beth Bailey, *Sex in the Heartland* [Cambridge, Mass.: Harvard University Press, 1999], 175–90).

15. *Associated Students of Sacramento State College v. Butz*, Civil Case No. 200975, Superior Court, Sacramento, California, February 15, 1971, 3 C. L. Bull. 63 (1971); the case file for the lawsuit primarily contains legal pleadings and memoranda of law filed by the parties in the case and is available at the Superior Court for the State of California, Sacramento County, Sacramento County Courthouse (hereinafter Case File).

16. The first reported case, *Wood v. Davison*, 351 F. Supp. 543 (N. D. Ga. 1972), would cite the SHF case in support of very similar constitutional claims made by lawyers for the Sacramento students.

Specifically, the SHF case suggests that when students (gay, lesbian, bisexual and straight allies) and faculty challenged a university decision not to recognize their organization, they were also challenging the idea of *in loco parentis*, a doctrine students had been chipping away at directly since at least the early 1960s. For gay, lesbian, and bisexual students, however, such challenges revealed in particular how *in loco parentis* reinforced what might be called heteronormative paternalism, a way to maintain heterosexuality as the only acceptable form of sexual orientation. As such, the very existence of a publicly identified gay student organizations like the Society for Homosexual Freedom directly challenged the maintenance of a heteronormative campus climate. Struggle-for-recognition cases like this illustrate a wider pattern of controlling gay, lesbian, bisexual, transgender, and queer students, which scholar Patrick Dilley has suggested was so prevalent throughout the twentieth century.<sup>17</sup>

Finally, for students and faculty involved in creating the SHF, organizing around the lawsuit helped transform what had been a mostly underground off-campus “closed society” into a visible and self-conscious gay-liberation community—enhancing the campus climate for all gay, lesbian, and bisexual students, staff, and faculty.<sup>18</sup> By participating in creating the SHF, struggling for its existence on campus, and celebrating victory, gay, lesbian, and bisexual students and faculty began to see themselves as part of a wider gay-liberation movement, planting the seeds for a flowering of gay, lesbian, and bisexual student activism on campus in the years following the resolution of the case.<sup>19</sup>

### Setting the Stage: Struggles for Recognition in Context

The struggle for recognition of the SHF at Sacramento State is, in many ways, rooted in the wider struggle for student power that erupted on college

17. Dilley, “20th Century Postsecondary Practices”; a 1971 struggle at Columbia over a “gay lounge” where gay students could meet illustrates how this heteronormative situation played out, even on campuses where gay students had successfully created officially sanctioned organizations; see Robert Liebert, “The Gay Student: A Psychopolitical View,” *Change* 3 (6) (October 1971): 38–44.

18. David Eisenbach suggests that the Student Homophile League at Columbia underwent a similar transformation, paralleling the “transition in the gay rights movement from homophile to gay liberation” (*Gay Power*, 59). Unlike Sacramento, the SHL at Columbia won recognition without resort to a lawsuit; the university’s legal counsel believed recognition could not be prevented (*ibid.*, 68).

19. Brett Beemyn suggests that gay and lesbian student activism played a key role in the growing radicalization of the wider gay liberation movement during the early 1970s (Beemyn, “Silence Is Broken,” 205).



campuses across the United States, and the world, in the 1960s. While this wave of activism was not the first time a college student movement had emerged in the United States, the 1960s saw the first real shift in student activism in a generation.<sup>20</sup> Beginning with African American (and later white) students organizing for civil rights, a wave of activism began to coalesce throughout the 1960s and into the early 1970s, including student participation in the emergence of the New Left, the antiwar movement, women’s liberation, and identity-based politics. Organizations like the Student Non-Violent Coordinating Committee (SNCC), Students for a Democratic Society (SDS) as well as struggles to create ethnic studies on campuses led by African American, Latino/a, and other underrepresented students are typical examples of this wave of college student organizing.<sup>21</sup> The struggle for student power also focused on gaining greater freedom and self-determination for students. In addition to their desire to advocate for political issues on campus, students also sought to eliminate archaic rules of behavior and decorum associated with the idea that college officials served *in loco parentis*. Although the Free Speech Movement at the University of California at Berkeley is the most famous example (which blended challenges to student rules of behavior with interest in political “off-campus” issues), students on other campuses engaged in similar kinds of struggles. For example, historian Gregg L. Michel has described how students involved in the Southern Student Organizing Committee (SSOC), in addition to cultivating white student involvement in civil rights, promoted what they called “university reform,” challenging *in loco parentis* policies on southern campuses, or as one former student recalled, creating conditions by which students could reorient away from “teen age trivia” toward real social problems.<sup>22</sup> Struggles against *in loco parentis* were

20. Robert Cohen, *When the Old Left Was Young: Student Radicals and America’s First Mass Student Movement, 1929–1941* (New York: Oxford University Press, 1993).

21. For a general history of student activism from a global perspective, see Mark Edelman Boren, *Student Resistance: A History of the Unruly Subject* (New York: Routledge, 2001); Berman, *Tale of Two Utopias*; see also Wini Breines, “‘Of This Generation’: The New Left and the Student Movement,” in *Long Time Gone: Sixties America Then and Now*, ed. Alexander Bloom (New York: Oxford University Press, 2001), 24–45; for a recent history of SNCC, see Wesley C. Hogan, *Many Minds, One Heart: SNCC’s Dream for a New America* (Chapel Hill: University of North Carolina Press, 2007).

22. Gregg L. Michel, *Struggle for a Better South: The Southern Student Organizing Committee, 1964–1969* (New York: Palgrave Macmillan, 2004), 96–97. On the decline of the *in loco parentis* ideal on campus in the 1960s, see Brian Jackson, “NOTE: The Lingering Legacy of *In Loco Parentis*: An Historical Survey and Proposal for Reform,” *Vanderbilt Law Review* (44) (1991). For a general history of the concept, see John C. Hogan and Mortimer D. Schwartz, “*In Loco Parentis* in the United States, 1765–1985,” *Journal of Legal History* 8 (3) (1987): 260–74; On the Free Speech Movement at

especially important for women students. As Reneé N. Lansley has argued, these struggles were a “harbinger” to their involvement in the women’s movement, especially as these struggles highlighted administrator and parental concerns about “morality and sexuality on campus,” raising questions about the inherent paternalism of *in loco parentis* policies. For African American women students, civil rights and the Black Power inspired them to challenge *in loco parentis* policies.<sup>23</sup> Students also challenged *in loco parentis* policies invoking constitutional protections of due process.<sup>24</sup>

For gay and lesbian students, *in loco parentis* arguably also became a justification to enforce heterosexuality as a social norm, an agenda that had been reinforced in many different kinds of ways. This heteronormative paternalism included inquiries and investigations into homosexuality on campus (scholar Patrick Dillely calls these “sweeps” of campus for homosexuals), expulsion for conduct violations, dismissals for being arrested in a gay bar, or chastisement from college counselors or school psychiatrists.<sup>25</sup> As Beth Bailey has demonstrated, after World War II, students brought before university officials on conduct violations for homosexuality were referred to psychiatric treatment, a shift from the moralistic approach of a generation before.<sup>26</sup> During the cold war, as some scholars have suggested, university officials even clamped down on homosexuality because of its perceived threat to national security. The effect, as Gerard Koskovich suggests, was personal isolation for many gay and lesbian students who feared coming out.<sup>27</sup> Thus, denial of recognition for gay student organizations was in many ways a continuation of a long-standing policy to control the expression of homosexuality on campus, a history John D’Emilio characterizes as “a moral order aggressively antagonistic toward homosexual expression.”<sup>28</sup>

---

Berkeley, see Robert Cohen and Reginald Zelnick, *The Free Speech Movement: Reflections on Berkeley in the 1960s* (Berkeley and Los Angeles: University of California Press, 2002).

23. Reneé N. Lansley, “College Women or College Girls?: Gender, Sexuality and In Loco Parentis on Campus,” (PhD diss., Ohio State University, 2004).

24. Randall Bowden, “Evolution of Responsibility: From *In Loco Parentis* to *ad Meliora Vertamur*,” *Education* 127 (4) (2008): 480–89; Beth Bailey suggests that by the 1960s, many campus administrators began to see *in loco parentis* as a liability for universities, so by the time students began to challenge such rules using a more politically charged analysis “the system of sexual controls had already been weakened.” That was not the case for gay and lesbian students (Bailey, *Sex in the Heartland*, 7–8).

25. Dillely, *Queer Man on Campus*, 59, 68.

26. Bailey, *Sex in the Heartland*, 50–54.

27. Koskovich, “Private Lives, Public Struggles,” 36.

28. For a detailed discussion of such efforts, see Dillely, “20th Century Postsecondary Practices.”; John D’Emilio, “The Campus Environment for Gay and Lesbian Life,” *Academe* 76 (1) (Jan–Feb 1990): 16–19.



By the early 1970s, many observers described the denial of recognition as the critical problem encountered by gay, lesbian, and bisexual students attempting to organize on campus. How frequently these struggles occurred, however, was subject to some dispute. For example, although one commentator at the time suggested it was the “most commonly externally generated problem” faced by gay and lesbian student organizations,<sup>29</sup> others claimed actual denial of recognition was rare.<sup>30</sup> Yet, for activists involved in an emerging national gay student movement, struggles for recognition had wider implications for increasing the visibility of gay and lesbian students. In 1973, for example, Warren Blumenfeld, former San Jose State College student, early member of its Gay Liberation Front, and the founder of a National Gay Student Center argued that struggles for recognition were critical ways for students to gain support and increase membership in campus gay and lesbian student organizations.<sup>31</sup>

Whatever the frequency of such denials of recognition, it is clear that many gay and lesbian student organizations (or student governments acting on their behalf) filed lawsuits to secure campus recognition or hold public events on campus—in Kansas,<sup>32</sup> Missouri,<sup>33</sup> New Hampshire,<sup>34</sup> Georgia,<sup>35</sup> and Texas.<sup>36</sup> And, as several legal scholars have noted, gay and lesbian student

29. Werner, “Gay Student Group,” 31.

30. Homophile activist Frank Kameny claimed that only a handful of the hundreds of gay student organizations emerging after Stonewall were actually denied recognition (Franklin Kameny, “Action on the Gay Legal Front,” *Vector*, November 1972, 7–9, Periodical Collection, GLBTHS).

31. Warren Blumenfeld, “Are You Recognized?” *Interchange* 1 (2) (1973): 16 (courtesy of Warren Blumenfeld).

32. Noted radical lawyer William Kunstler represented the Gay Liberation Front of Kansas State University, eventually prevailing in an appeal to the Eleventh Circuit Court of Appeals (Leo Laurence, “College: It’s Not So Lonely Now,” *The Advocate*, February 2, 1972). See David D. Barney, *Gay and Lesbian History at the University of Kansas: Lawrence Gay Liberation Front, 1971–1975: Gay Services of Kansas, 1976–1980* (Lawrence: University of Kansas Student Assistance Center, 1992); Patrick Dilley succinctly describes the details of the Kansas case as well as subsequent transformations of the organization after formal recognition in 1972 (Dilley, *Queer Man on Campus*, 175–81).

33. *Gay Lib v. University of Missouri*, 558 F.2d 848 (8th Cir. 1977), *reh’g denied*, 558 F.2d 859 (8th Cir. 1977), *cert. denied sub nom, Ratchford v. Gay Lib*, 434 U.S. 1080 (1978).

34. *Gay Student Organization of University of New Hampshire v. Bonner*, 509 F.2d. 652 (1st Cir. 1974), *affg*, 367 F. Supp. 1088 (D. NH 1974) (a university’s ban on a dance by the recognized Gay Student Organization at the University of New Hampshire violated students’ freedom of assembly as a recognized organization).

35. *Wood v. Davison*, 351 F. Supp. 543 (N. D. Ga. 1972).

36. A dance in support of a legal defense fund for gay and lesbian students whose organization was denied recognition at the University of Texas was even canceled by the dean of students since the chancellor had ruled the group an unrecognized one (Laurence, “College: It’s Not So Lonely Now,” 1).

organizations typically prevailed.<sup>37</sup> Assessing the impact of this litigation, legal scholar William Eskridge Jr. has suggested there was “little that college administrations could do to keep students from forming their own clubs and organizations, except to deny college or university recognition and funding for the groups,” noting that “student groups found homophile and ACLU attorneys eager to litigate their cases under the First Amendment’s right of association.”<sup>38</sup> Moreover, gay and lesbian students who struggled against university denial of recognition were in good company. Since the 1960s, students around the nation—especially students organizing controversial groups—began taking universities to court, asserting First Amendment freedom of speech and association claims.<sup>39</sup> The SHF case at Sacramento State College can be situated within these wider student challenges and assertion of student power.

Yet, for gay and lesbian students, struggle for recognition cases were more than simply about asserting student power; rather, they were also about creating social spaces in which they could begin to create new and public gay and lesbian identities. Beyond gaining “permission” to exist, the struggle surrounding such lawsuits forged a new political consciousness among gay and lesbian students and faculty alike, connecting them to a wider gay-liberation movement. How students engaged in that struggle requires a much closer look.

37. For a legal history of such cases, see William N. Eskridge Jr., *Gaylaw: Challenging the Apartheid of the Closet* (Cambridge, Mass.: Harvard University Press, 1999); Eskridge, “Challenging the Apartheid of the Closet”; Nan D. Hunter, “Expressive Identity: Recuperating Dissent for Equality,” *Harvard Civil Rights-Civil Liberties Law Review* 35 (1) (Winter 2000): 29–32; Patricia A. Cain, “Litigating for Lesbian and Gay Rights: A Legal History,” *Virginia Law Review* 79 (October 1993): 1609–12; Rhonda R. Rivera, “Our Straight-Laced Judges: The Legal Position of Homosexual Persons in the United States,” *Hastings Law Journal* 30 (1979) reprinted in *Hastings Law Journal* 50 (1999): 1015.

38. Eskridge, “Challenging the Apartheid of the Closet,” 883. One 1983 article suggested that lawyers for gay student groups seeking recognition and lawyers for public universities seeking to deny recognition should realize the “fruitlessness of certain legal arguments against allowing the registration of gay student organizations” (William R. Stanley, “The Rights of Gay Student Organizations,” *Journal of College and University Law* 10 (3) (1983): 397–418); on the use of associational rights strategy for gay groups generally, including student organizations, see Lawrence A. Wilson and Rafael Shannon, “Homosexual Organizations and the Right of Association,” *Hastings Law Journal* 30 (1979): 1029; in 1964, the ACLU had taken up the issue of gay teachers who had been fired from their teaching positions because of school boards’ fears about homosexuality. After the Stonewall rebellion in 1969, the ACLU took on other cases, as Jackie Blount has argued, to “establish the larger precedent that homosexuals as a class were entitled to civil rights” (Jackie M. Blount, *Fit to Teach: Same Sex Desire, Gender and School Work in the Twentieth Century* [Albany: SUNY Press, 2004], 112–13).

39. So frequent were these cases becoming that a law review could publish a comment summarizing them: “Freedom of Political Association on the Campus: The Right to Official Recognition,” *New York University Law Review* 46 (1971): 1149.

### The Campus Context

Sacramento State College, located in the California state capital, opened its doors to students in 1947, at first on a temporary basis in partnership with Sacramento Junior College.<sup>40</sup> Originally designed to offer students upper-division coursework so they could work toward a bachelor’s degree locally, it earned permanent status in 1948. By the 1960s, the college had transformed into what historian George Craft Jr. describes as a “regional college specializing in undergraduate liberal education and a broad variety of professional programs.” Enrollments steadily increased throughout the 1960s—7,318 students enrolled in fall of 1962, but by 1972 the total had increased to 14,670 full-time students. During this period, most students, almost two-thirds, continued to hail from Sacramento County. By 1973, 45 percent of the student body was twenty-five years or older, with women accounting for 44 percent of the students. The campus was still mostly white, despite an EEOP program initiated in 1967–1968 that was somewhat successful in addressing racial and ethnic disparities. Students of color still made up only about one-seventh of the entire student population, with African Americans only 3 percent of the total by the mid-1970s.<sup>41</sup>

In 1965, an early scholar of the campus’s history, Dwain E. Moore, suggested that the student protests that started to rumble in California in the early 1960s had little impact on the Sacramento campus. For example, Moore suggests that although some Sacramento State College students expressed interest in the Free Speech Movement at UC Berkeley (1964), the “issues never reached a high level of campus concern” on the Sacramento campus “because Sacramento State Students had always enjoyed freedom of speech and activity along with appropriate responsibilities for their speech and actions.”<sup>42</sup> A more recent assessment of the campus history determined that although Sacramento State was not a “vanguard of student protest” like Berkeley or San Francisco State, by the mid 1960s, enrollment growth and budget cuts had begun to take their toll, prompting students and faculty to seek more input into what historian George Craft describes as a “centralized and paternalistic governance system.”<sup>43</sup> Thus,

40. The campus became California State University Sacramento in 1972; see George S. Craft Jr., *California State University, Sacramento: The First Forty Years, 1947–1987* (Sacramento, Calif: Hornet Foundation, 1987), 108.

41. Craft, *California State University, Sacramento*, 111–22.

42. Dwain E. Moore, “Sacramento State College: The First Eighteen Years,” (1965), 131, Sacramento State University Special Collections (hereinafter Sp. Coll. Sac. State).

43. Craft, *California State University, Sacramento*, 110–12; As Craft notes, faculty began to assert their influence through a new Academic Senate, constituted in 1967 and made up almost exclusively of faculty. Although the president retained much of the final authority on

by the late 1960s, there was a notable increase in student activism on campus, especially involving civil rights and the war in Vietnam. When the National Guard opened fire and killed students at Kent State in 1970, for example, students organized teach-ins and marches in response.<sup>44</sup> Nevertheless, as Craft argues, demonstrations and protests were “infrequent and pretty mild.”<sup>45</sup> Although a 1968 self-study of the campus bears out some of Craft’s observations, concluding that “with few exceptions, our students are also a timid and conformist group, willing to follow, willing to do what is expected of them, rather than to lead or to be creative,” the study also noted that students and faculty were beginning to question top-down control by university administrators.<sup>46</sup> Even a cursory examination of the student-run campus newspaper in the late 1960s and early 1970s reveals protests and political organizing, from the war in Vietnam to Chicano student’s support of the United Farm Workers. Into this milieu came the first attempts to organize gays and lesbians on campus.<sup>47</sup>

### Organizing Begins

Influenced by the formation of gay student organizations at San Jose State<sup>48</sup> and the nearby University of California, Davis,<sup>49</sup> Sacramento

---

campus, the creation of the Academic Senate was a step toward greater faculty role in governance of the college as a whole.

44. Craft, *California State University, Sacramento*, 139, 143–44.

45. *Ibid.*, 149.

46. Self Study Report, Part I, Submitted to the Academic Senate by the Self-Study Steering Committee, June 1968, 37, 40. Record of the Office of the President, RG 88, Box 230, Folder 12, Sp. Coll. Sac. State.

47. Editorial, “Take Part in Your Own Way in the Moratorium,” *State Hornet*, October 15, 1969, 2; Letter to the Editor, “Huelga Day Planned,” *State Hornet*, November 18, 1969, 7; Photo, “SSC Students Sympathetic With the Grape Boycott Participated in a Campus Demonstration on Wednesday [November 19, 1969],” *State Hornet*, November 21, 1969, 8; Paul Kronenberg, Jerry Hall and Jim Austin, “ON STRIKE, Shut it Down!: Campus Protests of Killings [at Kent State] and Cambodia Reach SSC,” *State Hornet*, May 6, 1970, 1. Sp. Coll. Sac. State.

48. Ray Giles, “Campus Gay Liberation Front Begins Organizing at SJS,” *Daily Spartan*, November 25, 1969; Ray Giles, “Gay Liberation Issue Continues Unsettled,” *Daily Spartan*, November 28, 1969; because the organization of a gay liberation front was on the San Jose State College campus, Max Rafferty, superintendent of instruction, described the university as a “cesspool.” The gay-oriented *San Francisco Free Press* suggested in January 1970 that perhaps Rafferty would “have his cesspool right in Sacramento” and that he would not have to go far to wallow in it (“San Jose,” *San Francisco Free Press*, January 1970, 3. Periodicals Collection, GLBTHS).

49. According to an information sheet about the group, the Society for Homosexual Freedom was organized “to help form in the eyes of people, homosexual and heterosexual,

State students and faculty joined together to try their hand at a similar group. The idea originated with Sacramento State psychology professor Martin Rogers, who first broached it after having been asked to help out a University of California, Davis gay student organization on that campus. Invited by a UC Davis graduate student who knew him from the Sacramento gay bars, Rogers' opportunity to observe this group in the fall of 1969 was a transformative experience. As he recalled, "gay men and women, meeting for a purpose that was other than purely social, and other than purely sexual," exploring what it meant to them to be gay or lesbian, was a novel idea. Rogers became convinced that such an organization, meeting in the daylight, in the open, and on campus, would be a good idea for Sacramento State.<sup>50</sup>

The first meeting of interested Sacramento State students and faculty—twelve men in all—was a dinner party at Rogers's apartment where he floated his idea. All the professors in attendance were young—in their late twenties or early thirties—and the students were in their early twenties.<sup>51</sup> Rogers recalled that those who attended that first meeting did so reluctantly, and that "we seemed to be scared, timid and hesitant." When a neighbor knocked on the door, Rogers "went into a panic," fearful that she would discover what was going on.<sup>52</sup>

---

a more intelligent and enlightened attitude toward homosexuality than given them by society" (Information Sheet for Student Organizations, University of California, Davis, December 2, 1969 and "Homosexual Freedom Group Seeks Sanction at UC Davis," undated clipping in "Gay Lib—Various CA State Colleges" folder, "Student Organizations—Gay Lib—History Student Union" Box, Special Collections, San Francisco State University Library).

50. Martin Rogers, interview by author, San Francisco, January 10, 2010. Former student George Raya also recalled being inspired by the creation of a Gay Liberation Front at San Diego State College, which received approval by Associated Students in March of 1970 (George Raya, interview by author, Sacramento, June 4, 2006); Associated Students Council Minutes, March 18, 1970, Associated Students Collection, Box 8, Folder AS Council Minutes, 1969–1971, San Diego State University Special Collections; Cheryl Munchus, "Gay Liberation Front: Group to Aid Homosexuals," *Daily Aztec*, April 28, 1970, 4.

51. Martin Rogers, "Critical Incidents in the Evolution of a Gay Liberation Group," in *Gays on Campus*, ed. J. Lee Lehman (Washington, D.C.: United States National Student Association, 1975); Martin Rogers, interview by author, San Francisco, January 10, 2010. There is a question as to whether any undergraduate students attended that first meeting. Rogers does not recall that they did, emphasizing it was "too risky" to do so. George Raya, a Sacramento State undergraduate involved in the early organizing of the Society for Homosexual Freedom, recalls attending at least one organizing meeting at Roger's apartment. George Raya, interview by author, Sacramento, June 4, 2006.

52. That feeling of fear was perhaps typical of such early groups. George Raya recalled that the UC Davis students referred to their organization as the C-7, the room in which

This gathering was the genesis of what would become the Society for Homosexual Freedom, an organization formed by students and a few core faculty members. Its origins can in part be explained by the social context in which gay and lesbian students and faculty found themselves in late 1969 and early 1970. The SHF emerged out of an already established social network of gay students and faculty, rooted in relationships formed in what former Sacramento State student George Raya recalled as a somewhat “closed society,”<sup>53</sup> one that took shape in local bars and private house parties.<sup>54</sup> Moreover, like other early gay student organizations, faculty support, especially from faculty members Charles Moore and Martin Rogers, was crucial, reflecting their own shifting consciousness as gays and lesbians.<sup>55</sup> “They were definitely not there for show, or distant supporters—Charles and Marty were in the thick of things,” as former Sacramento State student Edgar Carpenter recalled. They “were essential for the success of the group.”<sup>56</sup> When faculty members Rogers, Moore, and Clark Taylor provided early support to a new gay student organization at Sacramento State, it helped transform the campus climate for gay, lesbian, and bisexual faculty as much as for students. The formation of the SHF was an initial step toward a new visibility for all.<sup>57</sup>

---

they met on campus, as a way to avoid any unwanted publicity (George Raya, interview by author, Sacramento, June 4, 2006).

53. Ibid.

54. Martin Rogers also recalled the importance of bars and house parties. Rogers, interview by author, San Francisco January 10, 2010. Eisenbach notes how gay students at Columbia formed a small informal clique they called “the family” before the formation of the Student Homophile League (*Gay Power*, 54).

55. Eisenbach, *Gay Power*, 55; Nichols and Kafka-Hozschlag, “Rutgers University Lesbian/Gay Alliance,” 56; Beemyn notes that at Cornell, early organizers of the Student Homophile League were unable to find gay or lesbian faculty members to become advisors, so Daniel Berrigan of the Cornell United Religious Works agreed to serve (Beemyn, “Silence Is Broken,” 209). Similarly, the “Women’s Caucus,” a feminist political organization at Sacramento State, emerged from a collaboration of students, staff, and faculty (“Women’s Studies, Then and Now,” [c. 1979], CSUS Women’s Studies Program Records, Sally Wagner Papers, Box 4, Folder 20, Sp. Coll. Sac. State).

56. Edgar Carpenter, e-mail message to author, August 20, 2008.

57. Prior to the late 1960s, public visibility for gays and lesbians on college campuses in the United States had been dangerous. William N. Eskridge Jr. chronicles how homosexual students were targeted as part of cold war era witch hunts. The “Johns Committee” in Florida, for example, engaged in a six-year campaign to “purge state schools of homosexuals” (*Gaylaw*, 73); On earlier purges at Harvard in the 1920s, see Douglass Shand-Tucci, *The Crimson Letter: Harvard, Homosexuality and the Shaping of American Culture* (New York: St. Martin’s, 2003); Ann Pellegrini, “A Gay Purge at Harvard, 1920,” *Gay and Lesbian Review* (March/April 2003): 10–12. See also Dille, *Queer Man on Campus*, for a discussion of college life for “nonheterosexual men” before the 1960s. Toni McNaron suggests that even while gay and lesbian faculty were involved in many of the social protest movements of the 1960s, “most of us remained quiet and passive in



Early participants in the effort to start a gay student organization at Sacramento State College had limited initial connection to the gay-liberation movement emerging around the United States after 1969. As Martin Rogers recalled in 1975, "Gay consciousness or identity with the liberation movement had no meaning for me at the time."<sup>58</sup> Yet, these connections with gay liberation would emerge as the struggle for the future of the organization continued. After a few meetings, discussions about naming the fledgling organization nearly "terminated the life of the group," as Martin Rogers noted. Like the University of California, Davis group, they finally settled on the Society for Homosexual Freedom; though as George Raya recalled, the choice of having homosexual in the name led to a loss of half the membership.<sup>59</sup> Importantly, while costing some members, those early discussions clarified the purposes of forming the group. Martin Rogers recalls that choosing Society for Homosexual Freedom was deliberate, having a "political connotation without being confrontational."<sup>60</sup>

At the time, Martin Rogers described sexuality and oppression as the twin linkages bringing these members together.<sup>61</sup> Yet, racial and gender diversity were not hallmarks of this early campus group. Like many early gay and lesbian student organizations, most SHF members were white men. Still, there were a few exceptions. George Raya, a Latino student also active in campus organizations like Movimiento Estudiantil Chicano de Aztlán (MEChA), was an early member of the SHF.<sup>62</sup> A few women attended early meetings of the SHF, upon discovering that the group was male dominated, but they did not return, perhaps finding their way to a budding women's liberation

---

the face of discrimination against us" for fear of loss of employment and career advancement. The 1970s represented a real change for many gay and lesbian faculty members who began to come out on campus with the tide of women's liberation and the gay liberation movements (Toni McNaron, "Poisoned Ivy: Lesbian and Gay Academics from the 1960s through the 1990s," in *Feminist Waves, Feminist Generations: Life Stories from the Academy*, ed. Hokulani K. Aikau, Karla A. Erickson, and Jennifer L. Pierce [Minneapolis: University of Minnesota Press, 2007], 73–74).

58. Rogers, "Critical Incidents," 25.

59. George Raya, interview by author, Sacramento, June 4, 2006. It is interesting to note that a closely named Committee for Homosexual Freedom (CHF) had been organized in San Francisco just a few months earlier in the spring of 1969. As Suran notes, the CHF "adopted a militant political style characteristic of other late 1960s liberation groups" (Suran, "Coming Out Against the War," 466).

60. Martin Rogers, interview by author, January 10, 2010. Similar dissension emerged in the Student Homophile League at Cornell, where some closeted members sought to retain a focus on civil liberties for homosexuals, while others "wanted it to become an explicitly gay organization that would focus less on garnering mainstream acceptance than on building a gay culture" (Beemyn, "Silence Is Broken," 213).

61. Rogers, "Critical Incidents," 26.

62. George Raya, interview by author, Sacramento, June 4, 2006.

organization, which supported the SHF, also emerging at Sacramento State. The SHF drew also drew early support from other campus activists. In addition to Women's Liberation, as Martin Rogers recalled, students from the Students for Democratic Society (SDS). Hispanic student activists, and members of Associated Students attended some of the early meetings, offering ideas and inspiration for organizing on campus.<sup>63</sup>

Encouraged by these other student groups, and with several successful meetings drawing fifty or more people, the SHF began to talk about formally applying for recognition as a student organization. Vocal support from students on campus—from Women's Liberation to Associated Students—made a big difference.<sup>64</sup> Students active in campus politics, most of whom were not gay or lesbian, were especially supportive and even involved as early members. For example, president of the student body, Stephen Whitmore, an “avowed heterosexual” and noted campus activist closely involved in the antiwar movement on campus, volunteered to be an officer.<sup>65</sup> Early in the semester in 1970, the SHF drafted a two-page founding constitution claiming a purpose to “further the self-understanding among its members, to promote in the community better understanding of the homosexuality, and to facilitate the strengthening of social ties between [*sic*] homosexuals and between homosexuals and heterosexuals.”<sup>66</sup> An important provision, which campus administrators would later mention as a problematic one, included a section welcoming

63. A grassroots women's liberation movement at Sacramento State College first emerged on campus in fall 1969 (Pat Wiese, “The Attack of the Liberated Woman,” *State Hornet*, January 16, 1970, 6); “Women's Studies—Then and Now,” (n.d. but c. 1979), Sally Wagner Papers, Box 4, Folder 20, Sp. Coll. Sac. State. It was not until “lesbian feminists, feminist lesbians and radical lesbians started attending meetings,” as Martin Rogers opined in 1975, that “gay men not only became more sophisticated politically, but they began to be forced to confront their own sexist attitudes toward women” (Rogers, “Critical Incidents,” 26, 28). Martin Rogers, interview by author, San Francisco, January 10, 2010.

64. An alliance with Students for Democratic Society (SDS) at Cornell was important for the SHL, especially in radicalizing the group. The resulting conflict within the SHF over this kind of alliance eventually led to its shift toward a gay liberationist stance (Beemyn, “Silence Is Broken,” 217–18).

65. Martin Rogers, interview by author, April 10, 2010. Petition for Writ of Mandate, April 7, 1970, Case File; Historian George Craft notes that Whitmore had been an air traffic controller in Vietnam prior to his enrollment at the university (Craft, *California State University, Sacramento*, 122); the student newspaper reveals a controversial tenure as student body president. Whitmore was not afraid to make political waves (“Senate Condemns Whitmore, Votes No Confidence in Burns,” *State Hornet*, April 29, 1970, 1; Letters to the Editor, “Whitmore, Lord of La Mancha,” *State Hornet*, April 29, 1970, 3).

66. Society for Homosexual Freedom Constitution, copy in Records of the Office of the President, RG 88, Box 34, Folder 9 “Society for Homosexual Freedom, 1970,” Sp. Coll. Sac. State.

"associate members" from the community.<sup>67</sup> Both active members (available to students, staff, and faculty members) and associate members had equal voting rights, though associate members were ineligible to hold office.<sup>68</sup> The SHF developed initial plans to open a coffee house, start a community newspaper, sponsor a symposium, and develop a speaker's bureau. As Martin Rogers wrote in his early history of the group, the mood was "generally euphoric."<sup>69</sup>

### **Formal Recognition Denied**

At the Associated Students of Sacramento State College (ASSSC) meeting on March 2, 1970, George Raya, an early participant in the formation of the SHF, a member of the student Senate and chair of the Organizational Affairs Committee, introduced a request for the SHF to be recognized as an official campus group. In the request, he noted that all the proper paperwork had been filed and the group had met all expectations of recognized student organizations. Despite such compliance, there was "extensive discussion" of the application. Dean of Students Donald Bailey, who attended the ASSSC meeting, protested that the organization "would reflect on the College" and he and the president "would get all the calls from the outraged public." Moreover, he suggested, the group was only "being organized to obtain a platform," though for what ulterior motive is not clear. Clark Taylor, a faculty member and also an initial organizer of the SHF, objected to this characterization, noting that they "just wanted a place to meet, and to better understand the problems of homosexuals."<sup>70</sup> Taylor defended the SHF, suggesting to Dean Bailey that he "should attend a group meeting before objecting."<sup>71</sup> Raya, who chaired the Organizational Affairs Committee, through which all applications for new student organizations had to pass, recalled he was able to "grease the wheels" of the process.<sup>72</sup> ASSSC approved the petition by seven to four vote, with one abstention.<sup>73</sup>

67. Society for Homosexual Freedom Constitution, Article III, Section 2.

68. *Ibid.*, Section 3.

69. Rogers, "Critical Incidents," 26.

70. The minutes were edited the next meeting to reflect that "one of the purposes of the Society for Homosexual Freedom was to educate the public" (Student Senate Meeting #17, March 9, 1970, ASSSC Minutes, 1969–1970, Series 7, Carton 35, Folder 8, Sp. Coll. Sac. State).

71. Organizational Affairs Committee Report, Student Senate Meeting #16, March 2, 1970, ASSSC Minutes, 1969–1970, Series 7, Carton 35, Folder 8, Sp. Coll. Sac. State.

72. George Raya, interview by author, Sacramento, June 4, 2006.

73. Student Senate Meeting #16, March 2, 1970, ASSSC Minutes, 1969–1970, Series 7, Carton 35, Folder 8, Sp. Coll. Sac. State. Steve Whitmore, president of Associated Students,

The final decision, however, belonged to the campus president, who at that time had legal authority to recognize or deny student organizations. Despite the ASSSC recommendation, in mid-March 1970, acting Sacramento State College president Otto Butz refused to grant formal recognition to the SHF.<sup>74</sup> Formal recognition would have provided support from the Student Activities office under the dean of students, the use of university facilities, connection with faculty advisors, “publication of existence” in formal university materials, the use of student banking facilities, and the use of the college name.<sup>75</sup> Recognition itself was codified in administrative regulations as “granting by a state college of any benefit, resource, or privilege whatsoever, or allowing use of college facilities, to any such student organization.”<sup>76</sup>

What explains Butz’s decision? Perhaps an uncertain campus climate contributed, including recent conflict over controversial speakers on campus. Or, perhaps Butz was concerned about an escalation of protest by students.<sup>77</sup>

---

was listed as the executive president of the Society for Homosexual Freedom (Petition for Writ of Mandate, April 7, 1970, Case File). Martin Rogers recalled that when the idea was presented to the Academic Senate for faculty support, the small number who spoke out against the organization were mostly closeted gay men who were fearful of being exposed on campus. Martin Rogers, interview by author, January 10, 2010.

74. Otto Butz to Steve Whitmore, March 3, 1970, Records of the Office of the President, RG 88, Box 34, Folder 9, “Society for Homosexual Freedom, 1970,” Sp. Coll. Sac. State. For an analysis of denial of recognition cases involving associational rights published around the time of the SFH case, see “Freedom of Political Association on the Campus,” which notes that since *Tinker v. Des Moines School District*, 393 U.S. 503 (1969), “students had been afforded the bulk of constitutional protections” (1156).

75. Memorandum regarding student clubs, Office of General Counsel, January 13, 1970, copy in Records of the Office of the President, RG 88, Box 34, Folder 9, “Society for Homosexual Freedom, 1970,” Sp. Coll. Sac. State.

76. California Administrative Code, Title 5, section 41501; Section 41500 of Article 3 prohibited state colleges from recognizing student organizations that restricted membership based on “race, religion or national origin.” Section 42400 of the Code also described “auxiliary organizations” on campus—which included student organizations, fraternities, and sororities that were included on a list of organizations maintained by the chancellor as well as one using the official name of the college. Section 42402 gave campus presidents the authority to prevent “any program or appropriation planned by the auxiliary organization” that was not “consistent with the policy of the Board of Trustees and the college. Any program determined to not meet those standards could be terminated by the president.

77. There had been some controversy when Butz decided not to allow Tom Hayden to appear on campus, which Librarian Clifford Wood complained was “censorship . . . a sorrowful moment in our school’s history” (Clifford Wood to Faculty, Student Body and Administrative Staff of Sacramento State College (n.d.), Collection AR 54, Cultural Programs Committee, Folder 4, Sp. Coll. Sac. State). The Cultural Programs files reveal, however, that the campus had many other potentially controversial speakers, including Angela Davis, Cesar Chavez, and members of the Black Panther Party for Self Defense.

Perhaps he was influenced by Dean of Students Donald Bailey, who would later suggest that although the SHF had “support of a politically minded strong minority,” the question of formal recognition elicited emotional responses from both sides.<sup>78</sup> Yet, students organizing similar gay and lesbian organizations at nearby University of California, Davis, and at San Diego State encountered little initial resistance from campus administrators. Given such contrary examples, what led Butz to deny recognition?<sup>79</sup>

Just a few weeks before his decision, the Office of General Counsel for the California State College system issued an opinion about the question of whether a California State College campus was required to grant recognition to a homosexual student club—determining that it was not legally required to do so.<sup>80</sup> That memo had been prompted by the founding of a gay liberation front at San Jose State College in the fall of 1969, a situation that had resulted in an angry response from some members of the system’s Board of Trustees. In a letter to California State College Chancellor Glenn Dumke, trustee Dudley Swim asked, “do you for one minute propose to permit student clubs to be organized and officially recognized on our campuses for the purpose of practicing homosexuality? . . . My assumption is naturally that you find this just as objectionable as many of the rest of us do.”<sup>81</sup> Chancellor Dumke concurred. This was a “serious matter” that warranted “immediate action,” he wrote back to Swim.<sup>82</sup>

In a six-page analysis of the legal issues, the general counsel’s office suggested that because student groups were part of the educational program

78. Donald Bailey to Jan Stevens and Karen Dorey, April 22, 1970 (Records of the Office of the President, RG 88, Box 34, Folder 9, “Society for Homosexual Freedom, 1970,” Sp. Coll. Sac. State).

79. In a later internal memo, Donald Bailey suggested that students at UC Davis had taken only two weeks to gain approval for their organization. Despite a few letters of protest, there had been “few problems, if any, and not much notice.” Similarly, reaction “had not been traumatic at San Diego State,” and both campus and community papers had downplayed its formation (Donald Bailey to Bernard Hyink, June 25, 1970. Records of the Office of the President, RG 88, Box 34, Folder 9, “Society for Homosexual Freedom, 1970,” Sp. Coll. Sac. State).

80. Memorandum regarding student clubs, Office of General Counsel, January 13, 1970, copy in Records of the Office of the President, RG 88, Box 34, Folder 9, “Society for Homosexual Freedom, 1970,” Sp. Coll. Sac. State.

81. The president of San Jose State College also denied formal recognition of the San Jose Gay Liberation Front (Bob Brackett, “Administration Axes Gay Liberation Front,” *Daily Spartan*, February 19, 1970, 1. Dudley Swim to Glenn Dumke, November 29, 1969, RG 99-01, Glenn Dumke Papers, Box 5, Folder 12, California State University Archives, California State University Dominguez Hills).

82. Glenn Dumke to Dudley Swim, December 2, 1969, RG 99-01, Glenn Dumke Papers, Box 5, Folder 12, California State University Archives, California State University Dominguez Hills.

of the state colleges, administrators had “considerable discretion” in recognizing student organizations. They recommended that college presidents could not discriminate based on race, religion, or national origin and that recognition of a student organization could not be “without any rational basis whatsoever.” College presidents were not beyond their discretion when homosexuality was the issue, especially given that homosexual acts (specifically sodomy) were still criminalized in California and that there were students under the age of twenty-one on campus.<sup>83</sup> “In the instant case,” as the memo concluded, “the college president is certainly entitled to decide that a homosexual club, while perhaps a pioneering idea on the college scene, is not an endeavor in which he should invest the college resources. He is entitled to conclude, for example, that the risk of making the college a magnet for homosexuals by encouraging this novel proposal is not worth taking.” This is a great example of what legal scholar William N. Eskridge calls “no promo homo” arguments, which he contends must be “understood as rhetoric justifying the traditionally degraded social and legal status of GLBT people. The interplay between a politics of recognition and a politics of preservation involves the relative social status of both TFV [traditional family values] and GLBT people more than the ideological conflict between family values (which most gay people aspire to) and sexual liberty (which a great many traditionalists secretly enjoy or about which they lustfully obsess).”<sup>84</sup>

This analysis by lawyers for the California State College system clearly had an impact on how President Otto Butz (and Bernard Hyink, who would succeed him later that year) responded to the SHF on the Sacramento campus. Sounding themes that would resonate until the resolution of the case, Butz urged in his denial letter that granting recognition would “conceivably be seen to endorse, or to promote, homosexual behavior, to attract homosexuals to the campus, and to expose minors to homosexual advocacy and practices,” concluding that “this organization is not an endeavor to which Sacramento State College should extend recognition or in which it can properly invest its resources and services.” Fear of endorsing homosexuality, “protecting” younger students, and committing resources loomed

83. California repealed its consensual sodomy law in 1975 (Eskridge, “Challenging the Apartheid of the Closet,” 849). Interestingly, Columbia president Grayson Kirk had consulted the university’s lawyers asking similar questions, specifically whether New York’s antisodomy laws would preclude recognition of the Student Homophile League. The university’s lawyers concluded they could not, given there was little proof the students were breaking the law (Eisenbach, *Gay Power*, 68).

84. William N. Eskridge Jr., “No Promo Homo: The Sedimentation of Anti-Gay Discourse and the Channeling Effect of Judicial Review,” *New York University Law Review* 75 (2000): 1338.



large. Another explanation is the potential professional fall-out. Before he made the final decision, Butz learned he had not been selected as the permanent President of the campus, a role he had been serving on an interim appointment. Martin Rogers remembers attending a meeting with Butz shortly before he announced his decision about the SHF, asking Rogers "not to push this" and promising that if selected as the new President he would wait a few months and approve the request. Rogers suggests that Butz may have denied recognition because, once denied the Sacramento State presidency, he was going to seek a similar position elsewhere, thinking that granting recognition would result in professional harm.<sup>85</sup>

Regardless of his personal and professional motives, Butz may have also anticipated unfavorable response from members of the local community to an openly homosexual student organization on campus. Letters to Butz after his decision reveal community support for denying recognition. Routed to what was labeled on some documents as the "Homosexual File," these letters are critical for understanding the context in which President Butz deliberated what to do.<sup>86</sup> "I am writing to congratulate you on your refusal to uphold such a society," a Mrs. Williams from Torrance, California, wrote. "It is encouraging to know there are still men who dare take a stand against the corruption that is trying to crush our morals. More power to you."<sup>87</sup> Eugenicist and defender of heterosexual marriage Paul Popenoe of the American Institute of Family Relations expressed his "great personal appreciation" for the decision barring the Society for Homosexual Freedom from campus. "As one who is devoted to the strengthening of family life," Popenoe continued, "I have long felt that the homosexual propaganda has overstepped all possible bounds and is flooding the country with misrepresentations and falsehoods." Popenoe went on to describe the homosexual as "not a whole human being, he is not even half of a human being, but at best is only one-third, lacking (a) interest in women and (b) interest in children, the two thirds necessary to perpetuate the race." Butz thanked Popenoe for his kind letter and his "very sound analysis of the situation in regard to the homosexual

85. Otto Butz, Acting President, to Stephen Whitmore, President, Associated Students, March 3, 1970. Records of the Office of the President, RG 88, Box 34, Folder 9 "Society for Homosexual Freedom, 1970," Sp. Coll. Sac. State. Martin Rogers, interview by author, January 10, 2010.

86. Handwritten notations on documents ending up in this file included "Homo," "homosexual society issue," "homosexual issue," and the ironic "homo file," not a nod to the homophile movement, I suspect (Records of the Office of the President, RG 88, Box 34, Folder 9 "Society for Homosexual Freedom, 1970," Sp. Coll. Sac. State).

87. Mrs. Williams to Otto Butz [n.d.], Records of the Office of the President, RG 88, Box 34, Folder 9 "Society for Homosexual Freedom, 1970," Sp. Coll. Sac. State.

issue.”<sup>88</sup> Congratulations came in from Ralph Powell, executive vice president of the Sacramento Chamber of Commerce, and other members of the community, including those who objected to homosexuality for religious reasons.<sup>89</sup> One anonymous writer praised Butz because “having been a ‘homosexual’ myself, I know the horrors of this amoral and immoral state. Those who submit and encourage this kind of behavior contribute to the general declining of morals and self-respect in our land. . . . Stick to your guns. It will be no help to those sick with this perversion if all sense of their ‘wrongdoing’ is removed.”<sup>90</sup>

Butz’s equally vocal critics did not sway him. The local chapter of the American Federation of Teachers passed a resolution “strongly condemning” Butz’s denial of recognition for the Society for Homosexual Freedom, suggesting that the decision was in fact arbitrary and not principled. As the AFT local pointed out in a letter to Butz, campuses in the University of California system had already recognized similar organizations, and that there already were many other groups on campus “which have neither your endorsement nor that of the general communities.”<sup>91</sup> “Mrs. N,” characterizing his decision as “cruel and inhumane,” asked Butz if he realized “how many men, many with above average intellect, are doomed to failure because of opinions such as yours? . . . Just ask any mother of one of the cursed souls who has heard that piteous cry, ‘Mother, what is the matter with me. I am not like other boys?’”<sup>92</sup> Jerry McDaniel, a professor in the Government Department, speculated, “I don’t know what kind of

88. Paul Popenoe to Otto Butz, March 7, 1970. Records of the Office of the President, RG 88, Box 34, Folder 9 “Society for Homosexual Freedom, 1970,” Sp. Coll. Sac. State; Molly Ladd-Taylor suggests that Popenoe held heterosexual marriage in particularly high regard in his Eugenicist vision, denouncing the women’s and gay liberation movements of the 1970s as contributing to smaller [heterosexual] families, leading to the “extermination of the race” and a threatened “civilised” society (“Eugenics, Sterilisation and Modern Marriage in the USA: The Strange Career of Paul Popenoe,” *Gender and History* 13 (2) (2001): 298–327, 321).

89. News clipping and note from Ralph Powell to Otto Butz, March 10, 1970. Records of the Office of the President, RG 88, Box 34, Folder 9 “Society for Homosexual Freedom, 1970,” Sp. Coll. Sac. State.

90. Anonymous to Otto Butz, April 9, 1970. Records of the Office of the President, RG 88, Box 34, Folder 9 “Society for Homosexual Freedom, 1970,” Sp. Coll. Sac. State; David Eisenbach suggests Columbia president Grayson Kirk faced similar community response regarding the Student Homophile League, especially from alumni (*Gay Power*, 66–67); on fear of legislative repercussion for the University of Kansas preventing recognition of a gay liberation front, see Bailey, *Sex in the Heartland*, 179–80.

91. J. Andre to Otto Butz, March 10, 1970, Records of the Office of the President, RG 88, Box 34, Folder 9 “Society for Homosexual Freedom, 1970,” Sp. Coll. Sac. State.

92. Mrs. N to Otto Butz, March 10, 1970, Records of the Office of the President, RG 88, Box 34, Folder 9 “Society for Homosexual Freedom, 1970,” Sp. Coll. Sac. State.

pressure you are under on this matter, but your excuses for denying the Homosexual Group’s organization were terribly lame and largely irrelevant. It was one of the less distinguished of your decisions.”<sup>93</sup> Dean Dorn, a professor of sociology described the decision as “an infringement of human rights.” As he concluded a letter to Butz, “I find repeatedly these days more and more of the community’s ignorance and prejudices prevailing on the campus,” finding campus support for such prejudices especially galling. “What is a campus,” he asked, “a public relations firm?”<sup>94</sup>

### Conflict Escalates: “A Great Miscarriage of Justice”

On March 13, 1970, the campus newspaper printed a letter from SHF member and ASSSC senator George Raya and several other ASSSC senators protesting that there had been “a great miscarriage of justice” in denying recognition to the SHF.<sup>95</sup> This was one of several letters the *State Hornet* received about the president’s decision. “I hope Mr. Butz also realizes,” wrote another student, “that these people look no different than he does—they have eyes, and ears and feelings—they also need food, and sleep, and sex. . . . I am sorry that you cannot relate to these people on a simple, human level and in a fair way give them their constitutional right of assembly.”<sup>96</sup> Several other students challenged the rationale that recognizing the SHF would sanction illegal sexual acts. “The interest was not to promote illegal sexual activity (whatever that means),” they wrote, “but to promote knowledge about homosexuality . . . The real perverts are those who feel so insecure in their identity that homophiles is [*sic*] a threat to the little security they have.”<sup>97</sup>

ASSSC responded quickly. At their March 16 meeting, a divided student Senate agreed to file a lawsuit against the university on behalf of the SHF.<sup>98</sup> Hinting at the broader importance of this case for students,

93. Jerry McDaniel to Otto Butz, March 5, 1970, Records of the Office of the President, RG 88, Box 34, Folder 9 “Society for Homosexual Freedom, 1970,” Sp. Coll. Sac. State.

94. Dean S. Dorn to Otto Butz, March 6, 1970, Records of the Office of the President, RG 88, Box 34, Folder 9 “Society for Homosexual Freedom, 1970,” Sp. Coll. Sac. State.

95. “Grave Injustice,” George Raya et al. to the Editor, *State Hornet*, March 13, 1970. 4, Sp. Coll. Sac. State.

96. “Is this Fairness or Justice,” Linda Adams to the Editor, *State Hornet*, March 20, 1970, 8, Sp. Coll. Sac. State.

97. Tina Saed et al., “Butz Chided for Wrong Decision,” Letter to the Editor, *State Hornet*, March 17, 1970, 2–3, Sp. Coll. Sac. State.

98. The vote was recorded as 4–3 with one abstention (Executive Report, Student Senate Meeting #18, March 16, 1970. ASSSC Minutes 1969–1970, Series 7, Carton 35, Folder 8, Sp. Coll. Sac. State).

ASSSC president Stephen Whitmore claimed it was bigger than the SHF, involving “the right to freedom of expression, freedom of assembly, and self determination.”<sup>99</sup> Moreover, as reported in the campus newspaper, students were well aware that this lawsuit was needed to “define the powers of a college president with regard to recognizing student organizations.”<sup>100</sup> For gays and lesbians on campus, however, this case was more than just about student power. Anthropology professor Clark Taylor, who came out publicly as a gay man in an article published in the campus newspaper, did so in part to “add to human understanding and the alleviation of oppression,” now made even more visible by the lawsuit.<sup>101</sup> As Martin Rogers noted around the time of the lawsuit, support of other campus liberation groups, the campus newspaper, and student government was critical, since the lawsuit highlighted “realities of the larger world.” “Being denied recognition,” he asserted, nevertheless “produced a strong feeling of comradeship [*sic*] among group members.”<sup>102</sup> Former Sacramento State student George Raya recalled later that he became convinced of the larger importance of the case. “We got to stand up,” he remembered, “If we don’t, who and if not now, when? So we said okay.”<sup>103</sup>

ASSSC hired local attorney John M. Poswall, an alumnus of Sacramento State College, former president of ASSSC, and a 1969 graduate of the Boalt Hall School of Law at the University of California, Berkeley.<sup>104</sup> Poswall was a fortunate choice to represent the students.

Not only had he recently volunteered to serve as attorney for ASSSC for the nominal rate of \$1.00 per year but he had also formed strong convictions about the importance of free speech during his days as a student.<sup>105</sup> As early as 1965, Poswall declared in a speech delivered on the Sacramento State campus that “tolerance of another man’s opinions

99. “Sacramento State Students Sue to Get Okay for Gay Group,” *The Advocate*, May 27–June 9 1970, 1.

100. Paul Kronenberg, “Senate Asks Definition of Butz’ Power to Deny Gay Club Recognition,” *State Hornet*, March 18, 1970, 1, Sp. Coll. Sac. State.

101. Clark Taylor, “A Homosexual Speaks Out,” *State Hornet*, March 20, 1970, Sp. Coll. Sac. State.

102. Rogers, “Critical Incidents,” 27. I suspect the misspelling of the term “camaraderie” was deliberate.

103. George Raya, interview by author, Sacramento, June 4, 2006.

104. “Sacramento State Students Sue to Get Okay for Gay Group,” *The Advocate*, May 27–June 9 1970, 1; “Butz, Trustees Named Respondents in Suit,” *State Hornet*, April 10, 1970, 1, Sp. Coll. Sac. State.

105. Student Senate Meeting #16, March 2, 1970, ASSSC Minutes 1969–1970, Series 7, Carton 35, Folder 8, Sp. Coll. Sac. State; John Poswall, interview by author, Sacramento, July 11, 2006; “ASSSC Attorney Calls it Quits,” *State Hornet*, February 16, 1972, 11, Sp. Coll. Sac. State.

sincerely expressed although they may be repugnant to one’s own is essential in order that the opinions upon which we place high value may be preserved.”<sup>106</sup> As he later recalled, even in his time as a student at Sacramento, struggles between students and administrators were really about who had control over student groups, asking, “is it the students who run their organizations or is it the campus?” In his estimation, the struggle for recognition of the SHF was a continuation of those same tensions he had witnessed as a student just a few years earlier.<sup>107</sup>

In April 1970, Poswall filed a Petition for Writ of Mandate and a memorandum of law outlining why Sacramento State College should recognize the SHF.<sup>108</sup> The case was randomly assigned to Judge William Gallagher, a Republican appointee and well-respected member of Sacramento’s legal establishment.<sup>109</sup> The *Sacramento Bee* even covered the filing of the lawsuit.<sup>110</sup> In his petition, Poswall outlined a few main arguments. First, he emphasized that the college had denied students their constitutionally protected rights of speech and assembly. ASSSC, the official student government of the campus, had filed the lawsuit not only for the benefit of the SHF, but for all Sacramento State students, as “the whole student body was denied its first amendment rights as an audience to hear the views of such an organization.”<sup>111</sup> This tactic was quite conscious. As Poswall recalled, they were to argue the case as a straightforward free speech and association case—that this was a “gay group, their morals, or what they were going to do, was irrelevant, because we’re talking the right of Associated Students to listen to all people.”<sup>112</sup> Such a civil liberties approach had been a tactic employed by the ACLU with some success

106. “Poswall Pleas for Free Speech,” *State Hornet*, December 14, 1965, 2, Sp. Coll. Sac. State.

107. John Poswall, interview by author, Sacramento, July 11, 2006.

108. All exhibits, depositions, and records of testimony were destroyed in 1979 (Order for Destruction of Exhibits and Depositions, December 24, 1979, Case File); Kathy Murray, “ASSSC Files Suit to Contest Refusal to Recognize Homosexual Freedom Society,” *State Hornet*, April 7, 1970, 1, Sp. Coll. Sac. State.

109. John Poswall, interview by author, Sacramento, July 11, 2006.

110. “Students File Suit Over SSC Rejection of Homosexual Freedom Group,” *Sacramento Bee*, April 8, 1970, A17.

111. Petition for Writ of Mandate, April 6, 1970; Plaintiff Points and Authorities, April 7, 1970, 2, Case File. “First Amendment litigation was relatively successful,” as legal scholar William Eskridge has noted. “By 1981, gay literature, including erotica, was available nationwide. Most locales were forced to tolerate lesbian and gay newspapers, radio programs, bars, churches, student clubs, and other institutions of homophile association and community” (Eskridge, “Challenging the Apartheid of the Closet,” 865).

112. John Poswall, interview by author, Sacramento, July 11, 2006. For a similar strategy by students to “protect their right to hear controversial speakers and to control their student press” at Mississippi State, also with the advice of the ACLU, see Gregory J. Griffin,

since at least the late 1950s in cases involving civil rights for homosexuals. Their efforts extended to challenges of police harassment, denial of due process, to restrictions on free speech and association.<sup>113</sup> Poswall's choice of approach built on such earlier civil liberties claims on behalf of gays and lesbians.

Additionally, the petition asserted that the college failed to apply the correct constitutional standard for speech and assembly required by the U.S. Supreme Court, citing the recently decided case of *Brandenburg v. Ohio*, 395 U.S. 444 (1969). Poswall argued that absent "clear and present danger" of an imminent lawless action, the university's action would result in prior restraint of constitutionally protected speech, citing several cases in which universities could not prohibit a speaker who "might" advocate illegal actions.<sup>114</sup> To deny the right of homosexual students to organize afforded all students the right to "hear, debate, challenge understand and ponder the problems of homosexuals."<sup>115</sup>

---

"Speakers' Rights, Censorship, and the Death of God: The Struggle for Free Speech and Mississippi State University," *Journal of Mississippi History* 67 (3) (2005): 187–215.

113. As historian Nan Alamilla Boyd notes, the ACLU was involved as early as the late 1950s in challenging antivagrancy laws used to harass homosexual communities in San Francisco (Nan Alamilla Boyd, *Wide Open Town: A History of Queer San Francisco to 1965* [Berkeley and Los Angeles: University of California Press, 2003], 217–18); John D'Emilio notes how the ACLU challenged the denial of due process to homosexuals as early as 1957 when it issued a statement on "Homosexuality and Civil Liberties," which was reprinted in homophile publications like the Daughters of Bilitis magazine *The Ladder* (D'Emilio, *Sexual Politics, Sexual Communities*, 112). See also William A. Donohue, *The Politics of the American Civil Liberties Union* (New Brunswick: Transaction, 1985), 282–83; historian David K. Johnson notes that ACLU support did not extend to denial of security clearances to homosexuals, which did not happen until 1964 (David K. Johnson, *The Lavender Scare: The Cold War Persecution of Gays and Lesbians in the Federal Government* [Chicago: University of Chicago Press, 2004], 190–91); for ACLU support of homophile organizations in the 1960s, see Stein, *City of Sisterly and Brotherly Loves*, 184, 209–10; scholar John DeCecco suggests that efforts by Vern Bullough, ONE, Inc., activists Dorr Legg and Don Slater, and the Daughters of Bilitis led to an important ACLU statement of support for homosexual civil rights in 1966 (John P. DeCecco, "Vern L. Bullough (1928–): Making the Pen Mightier than the Sword," in *Before Stonewall: Activists for Gay and Lesbian Rights in Historical Context*, ed. Vern L. Bullough [New York: Harrington Park, 2002], 363). Bullough chronicles this shift at the ACLU in Vern Bullough, "Lesbianism, Homosexuality and the American Civil Liberties Union," *Journal of Homosexuality* 13 (1) (Fall 1986): 23–33.

114. In support, Poswall cited the recently decided *Brooks v. Auburn University*, 412 F.2d 1171 (5th Cir. 1969), Points and Authorities, 5.

115. Plaintiff Points and Authorities, 9. While not cited by Poswall, this claim recalls one made by ONE, Inc., in its landmark obscenity case involving a challenge to the seizure and refusal to mail its publication as "obscene, lewd, lascivious and filthy" by Los Angeles postal officials. As historian John D'Emilio suggests, after the U.S. Supreme Court decided



For the question of freedom of assembly, the petition relied on key cases protecting the rights of homosexuals to assemble, despite the illegality of homosexual acts. One of those cases, *Stoumen v. Reilly*, 37 Cal. 2d 723 (1951), was an important California Supreme Court case protecting the right of homosexuals to assemble in bars. As historian Nan Alamilla Boyd reminds us, *Stoumen* affirmed that “homosexuals were, indeed human beings, and the public assembly of homosexuals was not in itself illegal.” To forbid homosexuals to assemble, absent some other evidence of illegal wrongdoing, was beyond the state’s authority; *Stoumen* was, in Boyd’s estimation, “an important victory . . . in that it legalized the public assembly of homosexuals in California.”<sup>116</sup> Poswall was drawing on this line of cases in emphasizing how, in the case of students, the college had “conjured up sexual fantasies based on stereotypes” not on real evidence of illegal activity, to deny students from engaging in clearly constitutionally protected activity—speech and assembly.<sup>117</sup>

In addition to speech and association claims, the petition argued that to deny the recognition of the SHF was a challenge to academic freedom: “Further, while today a liberal college administration denies the most hated of minorities, the same authority under which such discretion was exercised may tomorrow be used to deny recognition to other views that a majority might find unpopular or obnoxious. In an academic community such authority cannot go unchecked.”<sup>118</sup> For a university to allow some groups of students to use campus facilities but not others was improper, especially for ideas that were “unorthodox, unpopular or even abhorrent to the majority.”<sup>119</sup> If unpopular ideas were not welcome to be discussed on campus,” the petition urged, “they cannot be discussed anywhere . . . for the colleges have traditionally been the places where unpopular ideas were safe.”<sup>120</sup>

---

in favor of ONE, Inc., without an opinion, most activists “inferred that the ruling sanctioned the discussion of homosexuality,” which had a lasting impact on the ability of homophile organizations to circulate its publications (D’Emilio, *Sexual Politics, Sexual Communities*, 115). For the case, see *ONE, Incorporated v. Olesen*, 355 U.S. 371 (1958), *rev’g* 241 F.2d 772 (9th Cir. 1957). The court simply cited *Roth v. United States*, 354 U.S. 476 (1957), in support.

116. Plaintiff Points and Authorities, 5; Boyd, *Wide Open Town*, 122.

117. Poswall also cited *Vallerga v. Department of Alcohol Beverage and Control*, 53 Cal. 2d 313 (1959). Plaintiff Points and Authorities, 5; on early freedom of association cases involving gays and lesbians, see William N. Eskridge Jr., “Privacy Jurisprudence and the Apartheid of the Closet, 1946–1961,” *Florida State University Law Review* 24 (1997): 703

118. Plaintiff Points and Authorities, 2.

119. *Ibid.*, 6.

120. Citing *Keyishian v. Board of Regents*, 385 U.S. 589 (1967); Plaintiff Points and Authorities, 10.

Finally, ASSSC argued that public college presidents did not have “unfettered discretion,” since a president was in effect a public official. Unlimited presidential discretion, the petition asserted, was akin to the licensing of speech, a practice that was contrary to the First and Fourteenth Amendments.<sup>121</sup> While California law did grant college presidents the “discretion” to recognize student organizations, such discretion needed to be constitutionally sufficient.<sup>122</sup> The petition asserted that using a student organization member’s “status” as a homosexual was insufficient grounds for denying recognition of the SHF. Moreover, the policy not to recognize homosexual student organizations, as outlined by the California State University general counsel’s memo, was vague and overbroad. The petition posited a situation where members of a fraternity or the water polo team might happen to be homosexual. Would the university be able to deny recognition to those organizations too?<sup>123</sup>

The ACLU of Northern California filed an amicus brief in support, emphasizing also that the heart of the matter lay with free speech and association. Arguing that the university could not simply deny recognition of the SHF because of a “desire to avoid appearing to support homosexuality,” the ACLU emphasized that in a society with a “plurality of moralities,” the government “may not select between them.” Moreover, the ACLU went further than Poswall in emphasizing an equal protection argument. “It is clear,” they argued, “that in no event may the president classify its potential users on the basis that some ideas are more controversial than others. Indeed, it is controversy which the First Amendment favors.”<sup>124</sup>

The College responded that the president in fact did have discretion in refusing to grant official recognition to the SHF. Moreover, they claimed such denial did not prohibit students from meeting on campus, since there already was a “free speech area,” thus not implicating the students’ constitutional right of association. As they urged, “members of this society who are students will remain students. Nothing in the President’s decision will prevent them from congregating peacefully on campus or even from holding meetings on campus.” What it only meant, as they admitted, was that students in the SHF could not use the college name, use college

121. Citing *Brooks v. Auburn University*, 412 F.2d 1171 (5th Cir. 1969); Plaintiff Points and Authorities, 8.

122. See note 77 above.

123. Plaintiff Points and Authorities, 9.

124. Brief of Amicus Curiae, American Civil Liberties of Northern California, May 4, 1970, Case File; at the time, the ACLU of Northern California saw this as a “test case” (Laurence, “College: It’s Not So Lonely Now,” 1. This brief became an important tool for struggles over other gay student organizations in California, as will be discussed later in this article.

facilities, or use college banking facilities.<sup>125</sup> At the heart of the college’s argument was a claim that this was not a free speech case at all, but rather a decision that would prevent illegal activity on campus.<sup>126</sup> Had homosexual behavior not been illegal, as President Butz urged on several occasions, he would have granted the SHF recognition.<sup>127</sup>

Additionally, attorneys for the college argued that courts should be reluctant to interfere with the academic community, citing the recently decided California case of *Goldberg v. Regents of the University of California*, 248 Cal. App. 867 (1967), involving a challenge to disciplinary proceedings brought by university officials against students on the Berkeley campus for their participation in rallies. The *Goldberg* court had refused to let the complaint go forward, suggesting that the students’ due process rights had not been violated. Attorneys for Sacramento State suggested that the decision highlighted the “traditional reluctance” of courts to interfere with “administrative and academic affairs of colleges and universities.”<sup>128</sup>

In support of the university, several campus officials provided written declarations, most of which sounded a common set of themes.<sup>129</sup> Administrators feared that recognizing the SHF would make Sacramento State a welcoming space for homosexuals from off campus, exposing “younger students to homosexual advocacy and practices.”<sup>130</sup> “I based my decision,” Acting President Otto Butz declared, “on the likelihood

125. Respondent’s Return by Way of Answer to Petition for Writ of Mandate, Case File, 7.

126. Respondents Supplemental Points and Authorities in Opposition to Petition for Writ of Mandate (n.d.), Records of the Office of the President, RG 88, Box 34, Folder 9 “Society for Homosexual Freedom, 1970,” Sp. Coll. Sac. State. Attorneys for the college cited *Sellers v. Regents of the University of California*, 432 F.2d 493 (9th Cir 1970), *cert. denied*, 401 U. S. 981 (1971).

127. In a letter responding to gay liberation activist Jim Rankin about the denial of recognition, he said his decision had been based on the illegality of homosexual behavior: “If homosexual behavior were not illegal, I would have recognized the society” (Otto Butz to Jim Rankin, April 17, 1970. Records of the Office of the President, RG 88, Box 34, Folder 9 “Society for Homosexual Freedom, 1970,” Sp. Coll. Sac. State); *Sacramento Bee* quoted Butz as willing to recognize the organization if homosexuality were legal, noting he would not fire any “avowed homosexuals” on the faculty either (“Homosexuals Reassert Plea to SSC,” *Sacramento Bee*, October 9, 1970, B2).

128. Respondents Supplemental Points and Authorities in Opposition to the Petition for Writ of Mandate and Declarations in Support Thereof, May 26, 1970, Case File.

129. Note that all original depositions and exhibits were apparently destroyed in the case in 1979. Order for Destruction of Exhibits and Depositions, *Associated Students v. Butz*, Case No. 200975, Superior Court for the State of California, Sacramento County, December 24, 1979.

130. Declaration of Donald W. Bailey, May 14, 1970, 2, Case File.

that the publicity given recognition would act as a magnet, drawing homosexuals from the community to the campus,” a sentiment shared by Butz’s successor to the Sacramento State College presidency, Bernard Hyink, who was added as a defendant in the summer of 1970.<sup>131</sup> Hyink was particularly concerned that recognizing the SHF would create “substantial risk” of underage students engaging in illegal homosexual activity.<sup>132</sup> Butz and Hyink shared a particular concern that SHF constitution allowed for “associate members” from the community. As Butz claimed in his declaration, if “even one Sacramento, State College student would be approached to engage in an illegal homosexual act,” it was enough to justify the “inconvenience” to the SHF of not being recognized. Administrators also argued that recognition did not further the educational effectiveness of the college. Butz, in particular, stated that homosexuality was “dealt with” in courses at the college, where professionals, not the members of a student club, could educate students.<sup>133</sup> There was also a veiled concern of faculty influence over students. “While Dr. Butz would permit homosexual speakers on campus, books on homosexuality in the library and bookstores, homosexual students and teachers on campus,” the attorneys for the college maintained, “he believes a club creates too substantial a risk that students, because of participation in this club, would engage in homosexual behavior. . . . His experience shows that clubs tend to promote some point of view or objective and that teachers in the club are authority figures to students and thus would have great influence over students,

131. Stipulation, October 8, 1970, Case File. Describing himself as a “moderate-liberal Republican,” Hyink had been appointed in February of 1970, though he did not take office until the summer of 1970 (James Wrightson, “New SSC President Calls Self ‘Moderate-Liberal’ Republican,” *Sacramento Bee*, February 26, 1970, Copy in Bernard Hyink, University Biographical Files, Sp. Coll. Sac. State). Hyink lasted in the position until 1972, when he resigned for personal reasons, returning to the faculty at California State College, Fullerton, where he had been before arriving at Sacramento (Don Speich, “Bernard Hyink Resigns as SSC President, Will Teach in Fullerton,” *Sacramento Bee*, March 24, 1972, Copy in Bernard Hyink, University Biographical Files, Sp. Coll. Sac. State).

132. Respondents Supplemental Points and Authorities in Opposition to Petition for Writ of Mandate (n.d.), Records of the Office of the President, RG 88, Box 34, Folder 9 “Society for Homosexual Freedom, 1970,” Sp. Coll. Sac. State.

133. Declaration of Otto Butz, May 14, 1970, 1, Case File; critics found suggestions of relying on established curriculum as venues to discuss homosexuality problematic. Warren Blumenfeld of the National Gay Student Center gave an example of a typical psychology course in “sexual deviation,” lumping homosexuality with bestiality and prostitution (“The National Gay Student Center,” The National Task Force on Student Personnel Services and Homosexuality, 1972, copy in author’s possession and courtesy of Warren Blumenfeld).

particularly in the club environment. Thus he believes the risk of the undesirable result is substantial enough that it requires nonrecognition."<sup>134</sup>

### **A Trial and a Decision**

Behind the scenes, the parties prepared for a fall trial. ASSSC attorney John Poswall, employed at the time by a rather conservative Sacramento law firm, encountered some resistance from colleagues, many of whom were concerned about the image of the firm representing homosexual students. As Poswall later recalled, the firm's partners only consented to his working on the case if it was clear that he was representing Associated Students (ASSSC), that any lawsuit would focus on the constitutional rights of *all* Sacramento State students, and that he was not to represent the gay student organization. As it turned out, many community members were shocked that the firm was involved in the case, prompting phone calls to the firm asking if they were going to replace female secretaries with men. Poswall surmised that the fine distinction the firm had made—about representing Associated Students and not the SHF—had been "lost" on members of the community. Regardless, they had become the "queer lawyers." Struggles over the implications of representing gay students manifested itself within the legal team as well. Poswall described a meeting with the Sacramento students in the offices of the ACLU. One ACLU lawyer entered the room and "in the presence of all of my clients and witnesses says 'So, how's the cocksucker case going?'" Poswall looked over to the students in embarrassment, only to find the president of the SHF smiling. Poswall noted this as an example of how difficult it was for the lawyers to find ways to even talk about this case, despite its constitutional focus.<sup>135</sup>

Meanwhile, university officials investigated what was happening on other California college campuses. In researching the formation of the Gay Liberation Front at San Diego State, Dean of Students Donald Bailey informed President Hyink that the organization differed from the SHF in that there were no provisions for associate members from the community, an issue of great concern to Sacramento administrators.<sup>136</sup> In

134. Attorneys for the college had prepared a set of supplemental points and authorities. Although the official case file does not contain this document, it suggests additional lines of argument the college was making (Respondents Supplemental Points and Authorities in Opposition to Petition for Writ of Mandate (n.d.), Records of the Office of the President, RG 88, Box 34, Folder 9 "Society for Homosexual Freedom, 1970," Sp. Coll. Sac. State).

135. John Poswall, interview by author, Sacramento, July 11, 2006.

136. Donald Bailey to Bernard Hyink, June 25, 1970, Records of the Office of the President, RG 88, Box 34, Folder 9 "Society for Homosexual Freedom, 1970," Sp. Coll. Sac. State.

another private memo, college officials did admit the advantages of official recognition. In a memo from Dean of Students Donald Bailey to attorney Craig McIntosh, representing the college, Bailey noted there were “some fairly marked advantages,” including the ability to raise funds, have a campus mailbox, use college banking services, and have officially sponsored events. With so many student organizations seeking space and equipment, it was sometimes difficult to meet those needs. Without recognition, an organization would be unable to even compete.<sup>137</sup> Recognition would clearly affect the ability of the SHF to function on campus, regardless of what the lawyers argued about established “free speech areas” on campus.

The nonjury trial, held on October 8, 1970, was “standing room only,” though no official record of the testimony that day remains.<sup>138</sup> The campus newspaper urged “a show of support for either side,” given the “enormity of the situation.”<sup>139</sup> George Raya, who testified on behalf of ASSSC, agreed. “The important thing was going forward with the case,” he recalled, “saying, we can’t hide and they are wrong.” As part of a wider effort to build a “gay society,” a campus organization could be a “foundation.” “We needed to have something first,” Raya recalled.<sup>140</sup> After opening statements by attorneys for both sides, several witnesses testified, who apart from Raya also included SHF president Edgar Carpenter and former Sacramento State College president Otto Butz. Witnesses for the university sounded the same themes evident in the pleadings and declarations. Newly installed Sacramento State College president Bernard Hyink testified that recognition of the SHF would imply college sanction of illegal homosexual practices. Dean of Students Donald Bailey expressed concern that Sacramento State would become a “haven for homosexuals.”<sup>141</sup> On

137. Donald Bailey to Craig McIntosh, August 26, 1970, Records of the Office of the President, RG 88, Box 34, Folder 9 “Society for Homosexual Freedom, 1970,” Sp. Coll. Sac. State. Craig McIntosh does not recall representing the university in this case. As he suggested, the attorney general’s office handled a lot of cases, and sometimes supervisors would sign documents on behalf of junior associates (Craig McIntosh, conversation with author, July 10, 2007).

138. “State College Homosexuals Take Their Case to Court,” *Sacramento Union*, October 9, 1970; Order for Destruction of Exhibits and Depositions, *Associated Students v. Butz*, Case No. 200975, Superior Court for the State of California, Sacramento County, December 24, 1979, Sacramento County Courthouse.

139. Kathy Murray and Maryellen Burns, “Homosexual Freedom Society Will Have Its Day in Court,” *State Hornet*, October 7, 1970, 1, Sp. Coll. Sac. State. The trial also garnered local press coverage: “Homosexuals Reassert Plea to SSC,” *Sacramento Bee*, October 9, 1970, B2.

140. George Raya, interview by author, Sacramento, June 4, 2006. Martin Rogers remembered that at the time, he believed this to be as much a moral issue as a legal one, resulting in a “leap in self-identity.” Martin Rogers, interview by author, January 10, 2010.

141. Court reporter’s notes, October 9, 1970, Case File.



cross-examination, Bailey was “quite nervous” when ASSSC attorney Poswall countered the college’s claim that younger students were at risk, citing statistics that the average age of students on campus was twenty-two for men and twenty-three for women and that 44 percent of the student body was already married.<sup>142</sup> The parties submitted the matter for the court’s consideration the next day based on the testimony and points and authorities submitted.

Judge William Gallagher took a few months to consider the case. As Poswall learned years later, Gallagher’s law clerk, Raul Ramirez, actually wrote the opinion and had convinced Gallagher that “basically, this is the law.” For a conservative judge like Gallagher to decide the case in the SHF’s favor this way perhaps indicates just how important the constitutional claim turned out to be.<sup>143</sup> Whatever the case, Gallagher issued a decision on February 9, 1971, on the petition for writ of mandate, ordering the college to “reconsider” the application for recognition in light of the findings laid out in the opinion. He gave the college until April 15 of that year to demonstrate compliance.<sup>144</sup>

In his decision, Gallagher outlined the question presented as whether “a college president may deny a student organization official recognition merely because the president believes that recognition would endorse or promote illegal sexual activity on the part of the student members.” Building on the arguments raised by the parties, Gallagher determined it was his job to decide whether that denial was “an arbitrary abuse of discretion” that would violate the students’ constitutional rights.<sup>145</sup> In his findings, Gallagher agreed with the ASSSC position that the university could only “suppress free expression” if there was a clear and present danger. An important piece of evidence was testimony from Sacramento

142. Scott M. Burns, “Decision on Society for Homosexual Freedom Awaits Judge’s Ruling,” *State Hornet*, October 13, 1970, 1, 9, Sp. Coll. Sac. State; John Poswall recalled feeling sorry for Bailey in examining him at the trial, having known him when Poswall was a student at Sacramento State (John Poswall, interview by author, Sacramento, July 11, 2006); Poswall’s claim about the number of married students should be qualified. According to historian George Craft Jr. in his history of Sacramento State University, about 30 percent of undergraduates and 75 percent of graduate students were married in 1973, a few years after the SHF case went to trial (*California State University, Sacramento*, 117).

143. John Poswall, interview by author, Sacramento, July 11, 2006; Raul Ramirez, conversation with author, August 30, 2007.

144. *The Advocate* reported that the decision would set a precedent for the entire state college system (“Judge Orders College to Recognize Gay Club,” *The Advocate*, March 17–30, 1971, 1).

145. Notice of Intended Decision, *Associated Students v. Butz*, February 9, 1971, Case File.

State College presidents Otto Butz and Bernard Hyink that the purposes of the student organization, as outlined in their constitution, were not, in and of themselves, illegal. As Gallagher stated, President Hyink had rejected the application “in part on his personal belief and speculation that the proposed society created too great a risk for students [...] a risk which might lead students to engage in illegal homosexual behavior.”<sup>146</sup>

In outlining his findings, Gallagher determined that the denial of recognition was more due to “mere suspicion, disgust, unpopularity, and fear of what might occur.” Describing evidence from the college as “woefully weak” for the concern about students engaging in illegal homosexual activity as a result of recognition, the court used the same authorities offered by Poswall for ASSSC, including the *Stoumen* and *Brooks* cases. In conclusion, Gallagher found that absent some clear and present danger “that such recognition would bring about substantial evils,” the college’s actions in denying recognition were arbitrary and unconstitutional. Importantly, Gallagher cautioned that any violations of the law could be prosecuted and become “grounds for reconsideration of recognition.” Moreover, recognition of such a student organization did in no way imply “an endorsement by the college.”<sup>147</sup>

Associated Students attorney Poswall praised the judge’s action as a “lower court precedent setting decision.”<sup>148</sup> In the Sacramento State student newspaper, President Hyink expressed appreciation to the court for “clarifying a position which up to this moment had not been ruled on.” Unless the chancellor’s office was to appeal, Hyink stated, the college would comply with the court’s ruling.<sup>149</sup> Norman Epstein, head of the

146. *Ibid.*

147. *Ibid.*; compare the 1972 decision by a trial judge in the later struggle for recognition case of the Lawrence Gay Liberation Front at the University of Kansas, which ruled in favor of the university to maintain discipline and prevent “bizarre sexual activities” on campus (Bailey, *Sex in the Heartland*, 182). It was not until 1977 that the U.S. Supreme Court let stand a circuit court decision in favor of a gay student organization on free speech and association grounds (*Gay Lib v. University of Missouri*, 558 F.2d 848, 858 (8th Cir. 1977), *cert. denied, sub nom Ratchford v. Gay Lib*, 434 U.S. 1080 [1978]).

148. Paul Kronenberg, “Judge Renders Verdict: Trustees Lose Court Fight Over Homosexual Issue,” *State Hornet*, February 16, 1971, 1. *State Hornet* also reproduced Gallagher’s opinion (“Gallagher’s Decision Sets Precedent,” *State Hornet*, February 17, 1971, 4–5, Sp. Coll. Sac. State).

149. Paul Kronenberg, “Judge Renders Verdict: Trustees Lose Court Fight Over Homosexual Issue,” *State Hornet*, February 16, 1971, 1, Sp. Coll. Sac. State. The Sacramento Union described this case as one example of the role Hyink played in “defusing several potential campus powder kegs,” which included controversies over student athletics and the Educational Opportunity Program on campus (Michael Fallon, “Hyink Leaving SSC After Stormy Term,” *Sacramento Union*, March 24, 1972, 1, copy in Bernard Hyink, University Biographical Files, Sp. Coll. Sac. State).

chancellor’s office legal department, determined the Sacramento case was not “appropriate” for an appeal.<sup>150</sup> The student newspaper praised the administration for not appealing the case, suggesting that perhaps the “college is slowly becoming aware of its responsibilities in this age of new relevance.” The decision, proclaimed the editors, “should be seen as a triumph for justice in the area of human relations and not a political victory for the students.”<sup>151</sup> Student Edgar Carpenter, a member of SHF, declared the court decision “good publicity for the group and it’s a step toward equalization, toward getting us the rights of any other group.”<sup>152</sup> With the conclusion of the lawsuit, ASSSC approved the constitution for the SHF, which the college formally recognized on February 19, 1971.<sup>153</sup>

### “Opening Up”: The Impact of Recognition

The decision to recognize an official gay and lesbian student organization had immediate and very public impact at Sacramento State College. Renaming themselves the Gay Liberation Front of Sacramento State College, the organization was now able to sponsor official campus events, use campus facilities, and openly recruit new members.<sup>154</sup> Even before the settlement of the lawsuit, things began to really “open up,” in the words of faculty member Martin Rogers, for gays and lesbians on campus. As Rogers recalled, the lawsuit even prompted the SHF to begin holding

150. Candy Harr, “No Threat of Appeal for SHF,” *State Hornet*, February 19, 1971, 1, Sp. Coll. Sac. State.

151. Editorial, “Administration Shows Increased Awareness,” *State Hornet*, April 16, 1971, 15, Sp. Coll. Sac. State.

152. “Judge Orders College to Recognize Gay Club,” *The Advocate*, March 13–30, 1971, 1; Bob Roth from the Gay Activist Alliance in New York reached a similar conclusion, noting a “direct correlation” between the amount of publicity a gay and lesbian student organization received and “the number of members that the group attracts” (“Publicity, or Reaching the Student Body,” *Interchange* 1 (1) (March–April 1972): 8, Periodicals Collection, GLBTHS).

153. Student Senate Meeting #23, February 25, 1971, ASSSC Minutes and Agendas 1970/71, Series 7, Carton 34, Folder 7, Sp. Coll. Sac. State; Return to Peremptory Writ of Mandate by Way of Compliance, *Associated Students v. Butz*, April 5, 1971, Case File.

154. In May 1971, Martin Rogers claimed that the “SSC Gay Liberation Front” now had about fifty members, “both male and female homosexuals” (Lynn McMichael, “Dr. Martin Rogers: Evolving Gay Community,” *State Hornet*, May 19, 1971, 1, Sp. Coll. Sac. State); Cornell’s Student Homophile League also renamed itself a Gay Liberation Front in the fall of 1970 (Beemyn, “Silence Is Broken,” 218).

open meetings.<sup>155</sup> Publicity and visibility resulting from the struggle for recognition had given gay and lesbian faculty and students the very platform that Dean of Students Donald Bailey had initially feared.<sup>156</sup>

The most visible and immediate manifestation of this new platform was a “Gay Scene” symposium, held in April of 1971 on the heels of official recognition but in the works for several months. The first event of its kind on campus, the event included nationally recognized speakers including Allen Ginsburg, Metropolitan Community Church founder and gay liberation activist Reverend Troy Perry, Del Martin and Phyllis Lyon, key founders of the Daughters of Bilitis, and author John Rechy.<sup>157</sup> The events were well attended, sparking a series of articles in the student newspaper and the *Sacramento Bee*.<sup>158</sup> The public platform eventually broadened. Beginning in the fall of 1971, the student newspaper had its first openly gay editor, not surprisingly resulting in steady coverage of gay and lesbian issues and gay and lesbian student organized events.<sup>159</sup> Within

155. “Judge Orders College to Recognize Gay Club,” *The Advocate*, March 13–30, 1971, 1. That opening up had particular impact on Rogers. “After the lawsuit,” he recalled with a bit of hyperbole in a 1995 article, “I was literally the only public person in Sacramento who was gay

... When the television people or the newspapers wanted a quote they called me.”

That visibility, Rogers speculated, resulted in some intimidation prior to his tenure case, though he was successful in that bid (Marghe Covino, “Marty Rogers: Sacto’s First Angry Man,” *Sun Reporter* (San Francisco), January 5, 1995, copy in Martin Rogers, University Biographical Files, Sp. Coll. Sac. State).

156. See note 70 above; similarly, historian David Eisenbach notes how once recognized, the Student Homophile League at Columbia “began to assert themselves as homosexuals in campus life,” including “Dance-Ins,” peer counseling, consciousness raising groups, and public lectures and advertisements in student publications (*Gay Power*, 73–74).

157. “Top Names Lined Up For Gay-organized Sacramento Seminar,” *The Advocate*, March 13–30, 1971, 9; “The Gay Scene,” Schedule of Events, April 19–23, 1971, Cultural Programs Committee Records, 1970–71, Box 54, Folder 4, California Sp. Coll. Sac. State.

158. Mary Hicks, “Gay Women Rap on Femininity,” *State Hornet*, April 21, 1971, 1; Lynne McMichael, “Not a Freak Show,” *State Hornet*, April 21, 1971, 3; Nancy Jones and Vicki Saks, “Rev. Troy Perry: Church and the Homosexual,” *State Hornet*, April 23, 1971, 1; Bob Warren, “Ginsberg To Do Whatever,” *State Hornet*, April 23, 1971, 1, Sp. Coll. Sac. State; William C. Glackin, “Art and Homosexuality,” *Sacramento Bee*, April 20, 1971, B6; Nancy Skelton, “Ginsberg Performs for SSC ‘Straights’” *Sacramento Bee*, April 24, 1971, A3. The symposium illustrates scholar Patrick Dille’s claim that campus recognition of gay and lesbian student organizations allowed for more in-depth discussions about the meaning of the GLBT experience on campus, important since on many campuses, gay and lesbian students were often seen as “all about sex, and little else” (Dille, “20th Century Postsecondary Practices and Policies,” 425).

159. As the student paper reported, “gay, debonair man-about campus Scott Burns” had taken over as editor with unanimous support from the Student Senate (“What You See is

the year, the campus radio station hosted a “Gay Liberation News Program” in a prime evening slot.<sup>160</sup> Students and faculty also proposed a Gay Studies Program, suggesting its mode of organization was to be “largely left up to the Gay students and faculty” in order to provide “this minority with a sense of cultural community which it has so long been denied [*sic*].”<sup>161</sup> Following the lead of Women’s Studies, the organizers first presented a proposal to the student Senate, rather than the Academic Senate, hoping to build a broader base of support first. ASSSC gave its stamp of approval (and \$1,000 to jump start the program) in the spring of 1972.<sup>162</sup> Initial courses included offerings from anthropology, psychology, and literature. Facing faculty resistance, and never gaining official recognition, it offered students informal opportunities to experience a gay studies curriculum on their own. Importantly, these courses became a conduit through which more gay and lesbian undergraduate students became involved in the campus gay liberation organization.<sup>163</sup> The campus also saw the creation of a “gay women’s rap group,” and an increasing amount of gay and lesbian programming.<sup>164</sup> It was through changes like this that gays and lesbians on campus began to challenge heteronormative assumptions.

---

What You Get,” *State Hornet*, October 22, 1971, 1). Some examples include “Sex, Homosexuality Are Within God’s Plan, Says Theologian,” *State Hornet* February, 1972, 1, and Freida Smith, “Gay Stereotyping: Breaking Down the Barriers,” *State Hornet*, March 1, 1972, 5, Sp. Coll. Sac. State.

160. Program schedule, KERS (n.d. but c. 1972), KERS Records, Record Group AR 40, KERS Box, Folder 1972/73; Campus Radio KERS’ Spring Schedule, *State Hornet*, March 16, 1973, 4, Sp. Coll. Sac. State.

161. “A Proposal For the Establishment of a Gay Studies Program at SSC,” Addendum to Minutes, Student Senate Meeting # 20, April 27, 1972, ASSSC Minutes, 1971–1972, Series 7, Carton 34, Folder 8, Sp. Coll. Sac. State.

162. Cindi Hunter, “Gay Studies Gets Run Around,” *State Hornet*, November 21, 1972, 3. Minutes, Student Senate Meeting #20, April 27, 1972, ASSSC Minutes, 1971–1972, Series 7, Carton 34, Folder 8, Sp. Coll. Sac. State; Charles Moore, “Gay Studies Program,” *Gay Sunshine*, no. 16 (Jan/Feb 1973), 15, GLBTHS Periodicals Collection.

163. “Gay Studies Course Offerings,” *State Hornet*, December 12, 1972, 3; Moore, “Gay Studies Program.” Martin Rogers, who taught one of those early gay students classes in the psychology department suggests that it was these courses that made student involvement possible because “it was safer to take a class than it was to come to a meeting.” From that class experience, students gained the confidence to move into the campus group. Martin Rogers, interview by author, April 10, 2010.

164. Notice for a Gay Women’s Rap Group, *State Hornet*, March 1, 1972, 5; “The Homosexual and the Law,” *State Hornet*, March 15, 1972, 11; “Homo Brontasaurus, Well Balanced Presentation on Lesbians,” *State Hornet*, December 8, 1972, 3; “Poets Bring out Emotions of the Audience,” *State Hornet*, May 4, 1973, 7.

Importantly, campus recognition of the SHF had very personal impact.<sup>165</sup> “Obviously the whole Gay movement—nationally and state-wide—has changed us,” faculty member Charles Moore recalled. “But more especially, we have changed ourselves at Sac State; we have developed a sense of pride in our accomplishments as Gay people—Gay men and women working together—over the past four years. All our politically important actions have paved the way for cooperation from the campus.<sup>166</sup> Similarly, faculty member Marty Rogers suggested that although denial of recognition “reactivated in most group members other similar and painful incidents in their lives,” having the support of student government and favorable coverage in the student newspaper marked a real difference, evidence of “mutual support.”<sup>167</sup> Students expressed similar exhilaration at their victories. In a 1974 letter to a friend, George Raya recalled how recognition ushered in what he described as a “golden age.” “In this small backwater college,” he noted, “we created a utopia for gay people. The nucleus of it all was a half-dozen faculty members who, tenured and untenured, were very upfront about their sexuality. Together with us students we organized the Society for Homosexual Freedom. We were doing un-heard of things—creating a full department of Gay Studies, putting on week long symposium dealing with homosexuality, keynote by Allen Ginsberg . . . people were coming out left and right, straights and gays were mixing and great dialogues were developed.”<sup>168</sup> Students reached beyond campus as well. The Gay Liberation Front started a speaker’s bureau and visited other San Francisco Bay Area gay student groups to “see what they were doing.”<sup>169</sup> Students became involved in an emerging community-based gay-liberation front, planning dances, sponsoring a coffee house, and helping to create a newspaper. Student Edgar Carpenter recalled that “everybody in Gay Liberation is also in SHF.”<sup>170</sup> These transformations in how students and faculty saw their own sexuality illustrate what scholar Patrick Dilley describes as a shift from that sexuality as a purely a private matter toward awareness of its social dimensions.<sup>171</sup>

165. My research in progress focuses on the changing relationship of lesbian students and faculty to a greater public presence of gay men on campus and the role of women’s liberation in shaping those relationships.

166. Moore, “Gay Studies Program.”

167. Quoted in Blumenfeld, “Are You Recognized,” 16.

168. George Raya to Stephen, Draft letter, August 26, 1977, Box 1, Folder 3, George Raya Papers, GLBTHS.

169. Rogers, “Critical Incidents in the Evolution of a Gay Liberation Group,” 27.

170. “Judge Orders College to Recognize Gay Club,” *The Advocate*, March 13–30, 1971, 1.

171. Dilley suggests that “gay students sought roles and activities on campus equitable of those of heterosexual students” (*Queer Man on Campus*, 119).





Figure 1. George Raya, c. 1971. Photo courtesy of George Raya.

Perhaps the most important way that the SHF decision had an impact beyond Sacramento State was in the legal arena. The resolution of the Sacramento lawsuit was an important watershed for gay and lesbian students, especially in the state’s public colleges. This case was the first successful application of First Amendment free speech and association principles in support of gay, lesbian, bisexual, and transgender students seeking to create organizations. The decision resonated on other campuses in California and elsewhere. When students attempting to organize a Gay Life Students Union at California State College, Fullerton were denied recognition, two ACLU of Southern California attorneys, Robert Green and Laurence Buckley, helped resolve the case near the end of 1971, in part



Figure 2. John Poswall, 1970. Photo courtesy of John Poswall.



## JUDGE RENDERS VERDICT

### Trustees lose court fight over homosexual issue

by Paul Kronenberg  
Editor

In what attorney John Poswall termed a "lower court precedent-setting decision", the Associated Students of Sacramento State College won recognition for the Society of Homosexual Freedom to become a valid campus organization.

The law suit initiated by the ASSSC, on behalf of the S.H.F., against the California State College Board of Trustees and Sacramento State College nearly one year ago during the terse months when several state college campuses wrestled with the decision of whether to grant recognition to homosexual freedom clubs reached its end when presiding Judge William Gallagher handed down his decision in a six-page opinion.

Though the club triumphed in court with its basic defense of denial of constitutional rights under the First and Fourteenth Amendments, the issue that was actually in question was the extent of a college president's authority in running a college campus. The decision established that the president does not have arbitrary power over campus matters and must abide by Constitutional standards.

The Society for Homosexual Freedom, a group of student, both homosexual and heterosexual, male and female, whose purpose was "to further self-understanding among the members, to promote in the community better understanding of homosexuality, and to facilitate a strengthening of social ties between homosexuals and heterosexuals..." was a politically sensitive issue for the Chancellor's office. "For that reason alone," explained Poswall, "the Chancellor's staff and

Sacramento State college proceeded in the court case, since the outcome, whatever way it leaned, would take them off the hook and let the judge take the political rap for the decision."

President Bernard Hyink, who represented Sacramento State in the suit after succeeding Dr. Otto Butz in the President's office, is charged with the responsibility of complying with the court order. He expressed his appreciation to the court for a decision, which in his words "clarified an issue which up to this moment had not been ruled on." "The only thing which would keep the college from complying with the court order and getting the club underway," Hyink explained, "is a possible appeal action initiated by the Chancellor's legal counsel." This decision will not be reached until later this week when Norman Epstein, head of the legal department in the Chancellor's office, has had time to confer with the attorney who handled the case. Poswall was questioned as to the possibility of whether an appeal could reverse Gallagher's decision to which he replied that "in my estimation the findings of the court would be impossible to appeal successfully."

All that remains now is the bureaucratic red tap of officer lists, membership lists and other ASSSC statutes to abide by and the Society for Homosexual Freedom will become an active campus organization. The feeling of those parties involved in the litigation is one of relief over having the issue finally settled and on this note the issue becomes yet another part of Sacramento State's controversial history.

The text of Judge Gallagher's opinion follows for those interested in exploring the rationale of the court's decision.



Figure 3. Headline in the Sacramento State College Campus newspaper *The State Hornet*, Sp. Coll. Sac. State. Reprinted with permission.

arguing from the precedent of the Sacramento case.<sup>172</sup> In assisting gay student organizations gain recognition of similar organizations throughout the 1970s, Orange County ACLU chapter member Jay Murley always brought

172. Scott Moore, "Cal State Turns Down Homosexual Group," *Los Angeles Times*, June 23, 1971, B1; "ACLU Names Attorneys to Defend Fullerton Group," *The Advocate* 65, August 4-17, 1971; "Students Recognized," *The Advocate*, December 22, 1971, 12; at the time, there was speculation that President L. Donald Shields had been influenced by assembly member John Briggs, who at the time already had a reputation as an outspoken critic of radical student politics in the California State College system. As *The Advocate* speculated, Shields's decision might have more to do with appeasing Briggs and other conservatives than legal grounds for denying such recognition ("Cal State Prexy Nixes Fullerton Gay Group," *The Advocate*, July 12-August 3, 1971, 27).

a physical copy of the Sacramento State ACLU brief when meeting with student government or campus officials. As he recalled, he would “bang it up and down on the table” for emphasis.<sup>173</sup> For gay and lesbian students at private institutions, the Sacramento case provided a limited, though somewhat helpful, precedent. If nothing else, the decision inspired attempts to organize and secure recognition. The University of Southern California (USC), a private school, had denied recognition of a gay student organization on that campus. The ACLU was interested in a potential lawsuit there to create a “precedent comparable to that set for state institutions by the Sacramento decision.”<sup>174</sup>

Moreover, the Sacramento State case became a benchmark of sorts for gay and lesbian students organizing in the wake of the decision. The Gay Students Council of Southern California, a coalition of several gay and lesbian student organizations founded the spring of 1972, claimed that successful recognition struggles were critical, suggesting that when a “GSU is denied recognition, fights for it, and gets it, or if a GSU lobbys [*sic*] for specific legislation, and it passes, then individual gay people see and feel results.”<sup>175</sup> The Gay Students Council invoked the SHF case specifically in reporting about a struggle for recognition of the Gay Student Union (GSU) at California Polytechnic State University, San Luis Obispo (Cal Poly), suggesting the university was “hoping to set back the favorable ruling at Sacramento State in these conservative central California courts.”<sup>176</sup> At Cal Poly, the GSU had originally limited membership to homosexuals. Dean of Students Everett Chandler struck down the approval by the Associated Students in June of 1972, claiming that

173. Murley has personally assisted students on behalf of the ACLU in thirty-three such cases since 1970 (Jay Murley, interview by author, San Diego, September 12, 2008); Murley went on to chair the first “Rights of Homosexuals” committee for the ACLU of Southern California, the first such committee at the affiliate level in the United States (Press Release, ACLU-SC, March 1973, ACLU Lesbian and Gay Rights Chapter, Box 4, Folder 12, Manuscript Collection 2007-013, ONE National Gay and Lesbian Archives).

174. “Student Group to Fight for Recognition at USC,” *The Advocate*, May 12–25, 1971, 2. Even George Raya, a Sacramento State student, recognized the precedent created by the SHF case. In the draft of a letter to a friend, he noted the victory established “a precedent for the rights of gay students to have campus organizations,” even prompting him to conclude that perhaps the law “wouldn’t be a bad profession to take up.” Raya, in fact, attended law school, first Boalt Hall at the University of California, Berkeley, then later graduating from Western State University School of Law (George Raya to Stephen, Draft of a letter, August 26, 1977, Box 1, Folder 3, George Raya Papers, GLBTHS).

175. “The Growing Idea,” *GSC Newsmagazine* 1 (4) (April 1973): 6, Gay Students Council of Southern California Subject File, ONE National Gay and Lesbian Archives.

176. Larry Bernard to Sisters and Brothers of the Gay Students Council of Southern California, September 30, 1972, Gay Students Council of Southern California Subject File, ONE National Gay and Lesbian Archives.

“there are no other groups, of which we are aware, recognized on any college campus which have a membership policy and purpose such as the one proposed here.”<sup>177</sup> Bob Christensen, the GSU president, complained that there were no gay bars in the area, and “lots of gay people don’t have a place to go,” justifying these membership limitations.<sup>178</sup> After a legal battle in the courts, which upheld the administration’s decision to reject the GSU bylaws and an unfavorable appeal, which upheld the decision of the lower court, the GSU rewrote the bylaws, removing the membership limitation requirements in question. The case would not ultimately be settled until 1975. Importantly, the success of the Cal Poly GSU must, in part, be credited to the success of the SHF case, which became the benchmark.<sup>179</sup> As one account of the Cal Poly GSU case noted, Cal Poly president Robert E. Kennedy “did not disclose the contents of the opinion but he did say he no longer had any legally sustainable basis for non-recognition.” The Cal Poly case, the newly formed California Association of Gay Student Organization newsletter claimed, “probably removes obstacles from the path of any gay student organization at any publically [*sic*] funded educational organization in California.”<sup>180</sup>

The SHF case also influenced the decision of judges in other states. The U.S. District Court for the Northern District of Georgia, for example, cited the case to support its First Amendment analysis in favor of gay and lesbian students, noting that “it is not the prerogative of college officials to impose their own preconceived notions and ideals on the campus by choosing among proposed organizations, providing access to some and denying a forum to those with which they do not agree” (*Wood v. Davison*, 351 F. Supp. 543, 550 [N. D. Ga. 1972], involving denial of a “Committee on Gay Education” to hold a dance on the University of Georgia campus). Although the court primarily relied on the landmark U.S. Supreme Court’s decision in *Healy v. James*, 408 U.S. 169 (1972), (involving recognition of the Students for Democratic Society (SDS) on a college campus on First Amendment grounds) the Sacramento decision was just as important in the court’s first amendment analysis in application to gay student organization. While *Wood* is the first reported such case, the Sacramento decision

177. Quoted in Steve Ruegnitz, “GSU Bylaws Rejected,” *Mustang Daily*, June 2, 1972, copy in Gay Students Union—California—Cal Poly San Luis Subject Folder, ONE National Gay and Lesbian Archives.

178. “Recognition Fight Looms at Cal Poly Institute,” *The Advocate*, April 26, 1972, 18.

179. Fred Vulin, “GSU Victor in Bylaw Battle,” *Mustang Daily*, April 3, 1975, copy in Gay Students Union—California—Cal Poly San Luis Subject Folder, ONE National Gay and Lesbian Archives.

180. “Newsflash,” *Patchwork* 1 (1) (January 15, 1976): 2, Periodicals Collection, ONE National Gay and Lesbian Archives.

deserves recognition a key precedent for using free speech and association grounds to challenge denial of recognition of gay and lesbian student organizations.<sup>181</sup>

### Conclusion

The struggle for recognition of the SHF at Sacramento State College illustrates an important transition happening on many college campuses in the late 1960s and early 1970s for GLBT students—a shift from what had been a mostly private social world to a public gay and lesbian liberation community. That process was the product of a complex set of social conditions, specific to each campus community. For, as Justin David Suran has argued, local studies focusing on the origins of specific gay liberation communities reveal the “connective tissues” among the often overlapping elements of 1960s and 1970s protest “as well as the distinctive patterns of regional variation and specificity which more sweeping narratives obscure.”<sup>182</sup> Those distinctive regional variations should include emerging gay liberation campus communities.

Some students on a few campuses had organized student homophile leagues beginning in the mid 1960s, but it was not until after 1969, with the growing visibility of the gay and women’s liberation movements, that GLBT students began to organize themselves on a larger scale. When these early groups did so, they encountered numerous kinds of reactions from campus officials, other students, and local communities. Denial of recognition was one response. The struggle at Sacramento State College over the SHF gives us a much needed closer look into the specific dynamics of that process, especially in California where research about the history of GLBT students has been limited.

The 1969 Stonewall rebellion could easily be seen as the “spark” that ignited students to organize on campus; however, the struggle for recognition of the SHF illustrates just how important local social conditions were in shaping the kind of gay liberation that took shape on this particular

181. Patricia A. Cain, “Litigating for Lesbian and Gay Rights: A Legal History,” *Virginia Law Review* 79 (October 1993): 1551, describes the Wood case as the “first reported case recognizing the First Amendment associational rights of a gay and lesbian student group.” Rhonda R. Rivera was the first to cite the decision in the Sacramento SHF case as one that “presaged the decision of the United States Supreme Court in the landmark student organization case of *Healy v. James*” (“Our Straight-Laced Judges: The Legal Position of Homosexual Persons in the United States,” *Hastings Law Journal* 30 (1979): 799, reprinted in 50 *Hastings Law Journal* 50 (April 1999): 1144).

182. Suran, “Coming Out Against the War,” 455.

campus. A few core faculty members played key roles in helping to create one of the first gay and lesbian college student organizations in California, taking risks and providing leadership and support where most gay and lesbian students feared to tread. A legal struggle over free speech and association on campus played out against a backdrop of preexisting disputes between students and administrators on this campus for self-determination and greater control, struggles that predated Stonewall. Assertions of student power in general shaped the trajectory of this specific gay-liberation case, explaining in part the convergence of support for the SHF from many non-gay allies (including the president of ASSSC) and the viability of a strategy framed around constitutional rights of free speech and association deserved by *all* students. Describing the SHF as a “child of its time,” an article commemorating the ten-year anniversary of the SHF founding suggested that alliances with “non-homosexual groups who had been equally oppressed by the establishment” including women, the antiwar movement, and students in support of free speech had made all the difference.<sup>183</sup> Moreover, framing this struggle as one for free speech and association rights for *all* students was a critical tactical decision by a lawyer schooled in student struggles of the 1960s and fueled by a personal commitment to free speech. As the only way attorney John Poswall could get his firm to support work on the case, having Associated Students as the plaintiffs (and thus all Sacramento State students as clients) permitted a conservative Sacramento law firm to urge a conservative Sacramento judge to allow a gay student organization to gain formal recognition. That decision gave the SHF access to a venue that otherwise might have been hostile to their position.

Additionally, a shifting climate was expanding student speech generally, especially after the Free Speech Movement at Berkeley—that constitutional shift worked in favor of the SHF. As Patricia Cain has noted, cases decided in favor of gay student organizations that sought official recognition “succeeded in part because they relied on earlier cases supporting recognition of other unpopular student groups, including Students for Democratic Society.”<sup>184</sup> Yet, the *Healy v. James* decision by the U.S. Supreme

183. Howie Pizak, “Cal State Gay People’s Union Celebrates 10th Year at CSUS,” *Mom ... Guess What?*, 25, November 1980, 12, Periodicals Collection, GLBTHS. In a 1975 assessment of contemporary gay student organizations, Steve Werner argued that building alliances with other organizations that shared common interests was a critical strategy gay and lesbian students could use to build support for their struggles (Werner, “Gay Student Group,” 30).

184. Patricia A. Cain, “Litigating for Lesbian and Gay Rights,” 1610; Jane Schacter has reminded us that although the U.S. Supreme Court has not ruled directly on such a case, when the Missouri case reached the Court for review, though denied certiorari, a dissenting



Court would not come until 1972. The SHF case must be recognized as an earlier, and perhaps an even more important, case for the history of GLBT student organizing, especially in their capacity as students. A 1974 legal analysis of these emerging cases suggested courts had already determined “that the right to associate is an empty freedom unless groups are permitted to solicit members and donations, organize and conduct meetings, and collectively demonstrate their sentiments.”<sup>185</sup> The Sacramento case is good example of how an organization formed by and for a group of students who otherwise might have lacked a sympathetic audience nevertheless were able to assert constitutional claims on the basis of being students, gaining footing for gay liberation on campus, an example of what William Stanley calls a “merger” of the student movement and the gay rights movement.<sup>186</sup>

The Sacramento case also suggests a need to look beneath the surface of the legal and constitutional claims that ultimately secured the SHF right to exist on campus as an official student organization. The initial victory was, in many ways, a qualified one. Judge Gallagher cautioned that any violations of the law (such as illegal homosexual activity) could become grounds for reconsideration, a threat that would only really be fully removed until the decriminalization of consensual homosexual acts in California in 1975. University administrators’ claim that denying recognition would not prevent homosexual students from assembling on campus due to the existence of free speech areas reveals deep fears about appearing to give “university endorsement” to homosexuality, or that the campus would become a “haven for homosexuals.” Even veiled implications that gay faculty would unduly “influence” students suggests this kind of fear, perhaps exacerbated by the letters from fearful community members as well. As ASSSC attorney Poswall recalled, the distinctions made at the time—that this case was about the free speech and association rights of all students and the ability of the SHF to meet on campus—somewhat masked an underlying fear by university administrators of what those

---

opinion by Justice William Rehnquist analogized homosexuality to the measles (Jane Schacter, “Sexual Orientation, Change and the Courts,” *Drake Law Review* 54 (Summer 2006): 861n55).

185. Annette Gibbs and Arthur C. McFarland, “Recognition of Gay Liberation on the State Supported Campus,” *Journal of College Student Personnel* 15 (1) (January 1974): 5; see also Annette Gibbs, “The First Amendment and College Student Organizations,” *Peabody Journal of Education* 55 (2) (January 1978): 131–35, [http://links.jstor.org/sici?sici=0161-956X%28197801%2955%3A2%3C131%3ATFAACS%3E2.0.CO%3B2-%23/](http://links.jstor.org/sici?sici=0161-956X%28197801%2955%3A2%3C131%3ATFAACS%3E2.0.CO%3B2-%23/19780161956X2819780129553A23C1313ATFAACS3E2.0.CO3B2-23/19780161956X2819780129553A23C1313ATFAACS3E2.0.CO3B2-23/19780161956X2819780129553A23C1313ATFAACS3E2.0.CO3B2-23/19780161956X2819780129553A23C1313ATFAACS3E2.0.CO3B2-23/) (July 16, 2007).

186. William R. Stanley, “The Rights of Gay Student Organizations,” *Journal of College and University Law* 10 (3) (1983): 398.

students might actually do with each other on campus. "Sure they [gay students] are going to get together," he observed, "and doing things you don't like, I mean, this is not a chaste group of people necessarily any more than a group of heterosexuals."<sup>187</sup> Even allies of the SHF sometimes saw or imagined homosexuality instead of free speech protections; ACLU support for the "cocksucker case" suggests this contradiction. Arguably, the SHF lawsuit was not as much about creating actual space for gay and lesbian students to be gay or lesbian, but more about promoting students' civil liberties on campus.

Throughout, as these accounts suggest, there was a real fear of visible homo-sexed bodies that pervaded the case. For even as *in loco parentis* was being challenged by students generally, the challenge took on specific meaning for gay, lesbian, and bisexual students. The organization of a publicly visible gay student organization refuted the kind of controlled visibility that gay, lesbian, and bisexual students and faculty typically experienced on campus, limited as it was to university-approved courses or kept behind closed doors. The SHF directly challenged this state of affairs and did so in a public way in the California courts. As legal scholar Jane Schacter has recently observed, it was the activism of such students that drove lawsuits for recognition like this. Such victories challenged, as she asserts, the "coerced gay invisibility [that] has historically been a central part of gay inequality."<sup>188</sup> The SHF lawsuit is one example of how some students and faculty began to challenge that invisibility.

Importantly, they did so by gaining a constitutionally recognized footing on campus, providing gay and lesbian students and their faculty allies a social space from which to explore the meaning of gay liberation, whether through sponsoring events, holding a symposium, creating a radio program, carving out curricular space, publishing items in the student newspaper, or working alongside members of the local community. These experiments in gay liberation required the freedom to gather together and speak in public, and they bolstered the confidence and sense of camaraderie among gay students that came with such organizing. The struggle for recognition of the SHF at Sacramento State made such transformation possible.

187. John Poswall, interview by author, Sacramento, July 11, 2006.

188. Jane Schacter, "Sexual Orientation, Change and the Courts," 874.