

Gays and the Military: Joseph Steffan Versus the United States. Edited by Marc Wolinsky and Kenneth Sherrill. Princeton, N.J.: Princeton University Press, 1993. Notes. Index. Pp. xxii, 222. Paper. \$10.95.

In April 1987, six weeks before graduation, Midshipman Regimental

Book Reviews

Commander Joseph C. Steffan was dismissed from the U.S. Naval Academy, having admitted to being a homosexual. He had not been charged with engaging in any homosexual conduct, nor was he given an opportunity to defend himself. He was given neither the customary three months for out-processing nor the possibility of graduating and resigning before being commissioned. Mr. Steffan sued.

The major gay rights activist group and a powerful law firm combined for *Steffan v. Cheney*. Wolinsky, co-counsel to Steffan in his suit, and Sherrill, a professor of political science at Hunter College, teamed up to produce a volume that documents the powerful case against the long-standing Department of Defense policy banning homosexuals from service.

Noting that Steffan had not been accused (or even questioned) about sexual activity, the plaintiff's lawyers argued that the case revolved on the issue of status. Was an acknowledgment of one's homosexuality sufficient cause of immediate dismissal? Steffan was dismissed for being a member of a group. To discriminate against a class of people, the government has the burden to demonstrate that it has legitimate government purpose rather than mere prejudice.

The plaintiff's argument was premised on class (whether suspect or semisuspect) defined with five questions. First, "has the group suffered a history of purposeful discrimination?" Second, "is the group defined by a trait that frequently bears no relation to ability to perform?" Third, "is the trait . . . immutable?" Fourth, "has the group been saddled with unique disabilities because of prejudice of absurd stereotypes?" And finally, "does the group . . . lack the political power to obtain redress through the political process?" The affidavits in this volume argue "yes" to each question and contend that Steffan was wrongly denied equal protection under the law.

Drawing on his own ground-breaking research, my now-deceased colleague, Yale historian John Boswell, argued the first question, noting that most religions at most times have not discriminated against homosexuality, while some have barred homosexual acts at some points. UCLA psychiatrist Richard Green argued convincingly that while homosexual behavior can be changed, the inclination remains immutable. Sherrill presented strong statistical and anecdotal evidence of the political impotence of American homosexuals. Social psychiatrist Gregory Herek then explained that gays pose no more (and possibly even less) security risk than straights—a point conceded by Defense Secretary Cheney himself. Psychiatrist Robert Rankin, a retired Navy captain, established the point that gays and lesbians are widely acknowledged to perform their military duties at least as well as heterosexuals. Another affidavit presents evidence from numerous Allies noting the complete integration of gays into their respective military services. The editors then concluded that because each condition was met, blanket discharges for homosexuals represent codification of nothing more than prejudice.

The volume includes also the Justice Department's counterargument

essentially rejecting the scholarly evidence and Judge Oliver Gasch's ruling against the plaintiff, which appears to the nonlawyer more based on intuition than law. After publication of this volume, a panel of the U.S. Court of Appeals reversed Gasch (3-0) and was, in turn, reversed by the court *en banc*.

Gays and the Military is not Joseph Steffan's story; that is recounted in his own memoir *Honor Bound* (1992). Nor does it pretend to be history of gays in the military like the late Randy Shilts's sweeping *Conduct Unbecoming* (1993). *JMH* readers will likely regard it as a teaching resource on civil-military relations, military justice, and manpower and education issues. Whatever its field, *Gays and the Military* makes an impressive argument and an engaging read.

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