

# Cincinnati: Before and After (A Love Story)

Patricia A. Cain and Jean C. Love

## Introduction

This essay is a joint project by Patricia A. Cain and Jean C. Love, two of the initial executive committee members of the Association of American Law Schools (AALS) Section on Gay and Lesbian Legal Issues, now the Section on Sexual Orientation and Gender Identity. It is written in a format similar to the “call and response” that occurs in some musical numbers. Cain will make the initial “call” and Love will provide her personal perspective in a “response.”

## Cincinnati

*Cain's call:* Some say it all began in 1983 in Cincinnati. Professors Joshua Dressler of Wayne State University and Dom Vetri of the University of Oregon School of Law had set up a meeting at the AALS Annual Meeting, to be held late in the afternoon, at a time when it would not conflict with any AALS programs.<sup>1</sup> The informal event was advertised as a meeting of the Ad Hoc Committee Opposed to Sexual Orientation-Based Discrimination. Professor Rhonda Rivera of Ohio State University learned about the upcoming informal event and moved around the AALS Annual Meeting, twisting arms (including mine) and getting folks to promise to attend this meeting to discuss the formation of a new section of the AALS focusing on gay and lesbian concerns. It was January. Snow was on the ground. Bengals fans were everywhere, preparing to face the Jets in an NFL wild-card playoff. In other words, excitement was in the air all over Cincinnati and not just at the AALS.

I missed the organizational meeting that I had promised Rhonda I would attend. I had agreed to go with friends to the Cincinnati Art Museum. As I recall, we had some trouble getting a timely taxi back to the hotel. I honestly can't remember whether it was the snow or the Bengals fans. Both were in abundance. I do remember the poster I bought at the museum, and I still

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1. See Gene P. Schultz, *The Inclusion of Sexual Orientation in Nondiscrimination Policies: A Survey of American Law Schools*, 2 LAW & SEXUALITY 131 (1992) (retelling this story).

treasure it until this day. It is based on a tweak of a Gertrude Stein quote. The tweak is: “When you are not rich you either buy clothes or you buy art.”<sup>2</sup> And, yes, the poster is a portrayal of an attractive naked lady sitting in her living room surrounded by very impressive art. I was sorry to miss the organizational meeting but glad to have the poster, which still hangs in my house (albeit in the bedroom closet).

*Love’s response:* Unlike Pat, I took Rhonda’s invitation very seriously (I tend to be like that), and I attended the organizational meeting. Rhonda had very cleverly contacted many of her professorial friends in the Society of American Law Teachers, gay or straight, and she had asked all of us to fill up the room so that closeted gay and lesbian law professors would feel comfortable entering the room. Well, enter we all did! The very small room was packed—to the point of overflowing.

I was deeply moved by both the fact of the meeting and its outcome. I had been married to a man, David Love, from 1965 to 1978, and I had only recently entered into a relationship with a lesbian, who was an untenured economics professor at my home institution, UC Davis. I was out to my family, and to some of my colleagues, and to many of my lesbian students (who honored me with a T-shirt like the one that each of them had worn to my introduction to law class, saying “I am an ‘Uppity Woman’”). I was also the treasurer of an organization of absolutely amazing gay and lesbian lawyers in San Francisco called BALIF (Bay Area Lawyers for Individual Freedom), but I was not out on the national stage.

So imagine my surprise when the upshot of this meeting was that we all agreed to petition the AALS Executive Committee for formal recognition as a section of the AALS. Further, imagine my surprise when Professor Art Leonard of New York Law School came up with the perfect name for our proposed section: The Section on Gay and Lesbian Legal Issues. And, finally, imagine my surprise when the folks in attendance adopted my suggestions (based upon my experience as a member of BALIF) that the chair of the proposed section alternate between a man and a woman, and that the members of the executive committee would be evenly balanced between males and females. (Please note that, of course, it did not matter whether the man or the woman was gay or straight.) At the end of the organizational meeting, we identified the people who would serve as the co-chairs and as the members of the executive

2. That is the saying on the poster, which you can find online if you Google it. It is reported that the quote comes from an exchange between Stein and Ernest Hemingway. The reported quote is:

You can either buy clothes or buy pictures,” she said. “It’s that simple. No one who is not very rich can do both. Pay no attention to your clothes and no attention at all to the mode, and buy your clothes for comfort and durability, and you will have the clothes money to buy pictures.

*See Ernest Hemingway: Quotable Quote*, GOODREADS, <http://www.goodreads.com/quotes/1082707-you-can-either-buy-clothes-or-buy-pictures-she-said> [<https://perma.cc/6763-582H>] (last visited Nov. 16, 2016).

committee of our proposed section (but more on that in the next “call and response”).

*Cain’s call:* The organizational meeting of the proposed section was on Saturday. On Sunday, the Women in Legal Education Section hosted a luncheon. I did attend that, and Rhonda grabbed me the minute she saw me. After my short apology for missing her meeting, she moved right to the topic.

“Pat, we need your help,” she said. “We are forming a provisional section of the AALS on Gay and Lesbian Legal Issues. If we do everything right, the AALS will approve our application to become a permanent section. But we need a solid executive committee for this first year. And it turns out that one of the faculty members who agreed to be on the committee is not tenured. He talked with some of his colleagues overnight, and they suggested this would be a bad decision for him pre-tenure. So would you consider replacing him?”

Thoughts raced through my head. How awful for this guy to be so constrained in his decision-making. And he wasn’t even at a bad school on LGBT issues (or so I thought, but of course how could I know?). I had never been closeted. I joined the University of Texas faculty in 1974. When I interviewed at UT, my girlfriend at the time was there with me. She didn’t join me with the faculty for social events, neither during the interview nor during my first few months on the faculty. They thought she was just a friend. True, I had never said to my colleagues: “I am a lesbian.” But anyone with any sense should have been able to figure it out. I lived with the same woman for my first four years at UT, and she became a Texas law student. We hosted parties together, and eventually attended all social events as a couple. Nevertheless, it took some of my male colleagues more than a year to figure it out. (I’m told that their wives figured it out sooner.)

So I thought to myself, well, I don’t have a problem with being out. But then I thought further. Joining the leadership team of a national LGBT organization would be a more public statement about being out than I had ever made before. And being a sensible person (at least ten percent of the time), I thought I should inquire about who the other initial executive committee members would be. Were they flakes or serious people? Before I told my Dean that I was doing this, I thought I should know more about the group I was about to associate with. Of course, I have and always have had the greatest respect for Rhonda Rivera.<sup>3</sup> But who were the others? And at that moment, Jean Love entered the room. And Rhonda grabbed her arm and said: “Well, Jean Love is one of them.”

Without a moment’s hesitation, I said “In that case, I’ll do it.”

*Love’s response:* And that is how it ultimately came to pass that the co-chairs for the provisional Section were identified as Dean Craig Christensen of Syracuse

3. Rhonda was well-known for her bravery in writing about LGBT issues early in her career, as Jean reports in her response. But she also was a practicing lawyer as well as a law professor and her practice was primarily for the benefit of the LGBT community.

University College of Law and Professor Rhonda Rivera. The executive committee consisted of Professor Patricia Cain of the University of Texas School of Law, Professor Jean Love of UC Davis School of Law, Professor John Neu of Whittier College School of Law, and Professor Gene P. Schultz of St. Louis University School of Law.<sup>4</sup> From my perspective, it was crucial that one of our co-chairs was a Dean, and that the other was the first law professor to have written a comprehensive law review article about gay and lesbian legal rights.<sup>5</sup>

I flew home from the Cincinnati meeting and went straight to my Dean's office. I came out to him for the first time, explaining to him that I was now out nationally. Imagine my surprise when he was neither the least bit surprised nor interested. Instead, he wanted to know if, when I was in Cincinnati, I had met any tax professors who might be able to fill out his tax curriculum for the next academic year. I said "Yes, indeed I did!" I went straight back to my office and called Pat Cain, and I asked her if she would like to visit the UC Davis law school in 1983-84.

*Cain's response to Love's "call":* This may be the biggest mistake I ever made in my life—or the most prescient. I can't begin to say how tempted I was to accept this offer. Things were not going right in my personal life and the chance to spend a year in Davis, California, with Jean and her colleagues was very attractive. But I thought I needed time to deal with my personal situation, and flying off to California did not seem like the responsible thing to do. I can only wonder now: If I had accepted, would Jean and I be together today? Or, are we together today because I did not accept? The Fates may know the answer to that question, but I do not.

### **Before Cincinnati**

*Cain's call:* So why was Jean Love my tipping point? In the 1970s and early 1980s there were very few female law professors, and most of us knew one another. We were members of the AALS Section on Women in Legal Education. Many of us attended the annual Women and the Law Conference. I had met Jean at many of these annual gatherings and was impressed with her seriousness and her intellectual inquisitiveness (and also her eyes).

I had, in fact, tried to befriend her. Could we have drinks together? Maybe sit together at a meal? Now, mind you, at all of these times I was in a committed relationship with someone back in Austin, Texas, and Jean was married to a man. My interest in Jean was the same as it was in all the other impressive women in the legal academy I had met over the years. But for some reason

4. Schultz, *supra* note 1, at 131 nn.1 & 3.

5. Rhonda Rivera, *Our Straight-Laced Judges: The Legal Position of Homosexual Persons in the United States*, 30 HASTINGS L.J. 799 (1979).

Jean remained distant. She said she was afraid of me. I was too wild. I wore crazy hats. All true.

Then in the spring of 1977, when the Women and the Law Conference was being hosted at Jean's alma mater, the University of Wisconsin, we had a connection. I was planning to teach at Wisconsin the following fall as a visitor. One of the tax faculty members, Steve Cohen, had asked to show me around Madison and to introduce me to some other faculty members. So we spent half a day together driving around. I have to say, one of the most impressive things about that half-day was that Steve had a cassette tape of Margie Adam in his car that he played as we drove around. Margie is a lesbian feminist musician from San Francisco who was doing a concert at the Women and the Law Conference on the final evening. That my male tax colleague would be playing her music all day before the concert seemed amazing. I couldn't imagine my male colleagues at Texas thinking to do that.

When Steve and I finally returned to the parking garage close to the Wisconsin Memorial Union at the end of our visit, I mentioned to him that some friends of mine had been working all day at the Wisconsin Union, writing letters to Florida legislators, trying to persuade them to vote in favor of ratification of the ERA. My friends had told me that they might need some help from someone who had a car, which would enable them to deliver these missives to wherever they were posting them from. As we exited Steve's car, he turned and said: "Well, here's Jean Love. She has a car." She had parked nearby and, of course, Steve knew her, as she was a Wisconsin grad.

I explained the problem to Jean and she laughed, and her eyes lit up. Let me just say that was a moment I will never forget. She doesn't remember it. But I will never forget it. And so, when Rhonda Rivera told me that Jean would be on the provisional section's executive committee, of course I said "yes."

But then, while I was still in Cincinnati, I realized that I didn't understand why Jean was willing to be on the executive committee of this provisional section dealing with gay and lesbian legal issues. I actually had to call Rhonda the following week to ask. My curiosity was killing me. Was it because she sometimes wrote on constitutional law issues and so she might have some interest in the constitutional law issues affecting gay men and lesbians? No, said Rhonda. Jean Love is now a lesbian. Unbelievable, I said to myself.

*Love's response:* It is true that I don't remember meeting Pat in the parking garage close to the Wisconsin Memorial Union in the spring of 1977, but I don't doubt that it happened—her memory is often better than mine. I think that my mind is simply filled with too many other memories from that weekend that were more overwhelming at the time. The Women and the Law Conference was taking place in the Wisconsin Memorial Union, where I had first chaired the Literary Committee, and then had served as the vice president when I was an undergraduate. It was surreal to return to the Union and see it flooded with women lawyers and law students.

When I attended the University of Wisconsin Law School from 1965 to 1968, we were all told on the first day of class: “Look to your left. Look to your right. At the end of your first year, one of you will have flunked out.” And, sure enough, my entering class of 300 students at the beginning of the first year had shrunk to 200 students by the beginning of our second year. I was one of only six women in my entering class of 300 students. I was so proud when I found out that all six of us had survived the cut at the beginning of our second year. But six women out of a class of 200 did not exactly create a “critical mass,” and, therefore, we six women had no opportunity to take a class on a topic such as Women and the Law. Rather, it was not until I returned to the University of Wisconsin in 1971 to 1972 to teach in the law school as a “visiting professor from nowhere” that I had the opportunity to study the topic, and I “studied” it by teaching it to a class of female students who had prepared the course materials during the summer of 1971. I soon realized that the greatest culture shock in my life was not my trip to the Soviet Union in the summer of 1965, but rather returning to my alma mater three years after my graduation to teach torts to an entering class of law students who were thirty percent female! No wonder the Wisconsin Memorial Union could be the site of the Women and the Law Conference in 1977.

And in 1977, the “frosting on the cake” came for me when I sat in the theater of the Memorial Union on the last night of the conference, listening to Margie Adam. I had never heard such beautiful music. I had had no idea that there was such a thing as a “feminist musician.” I could not believe that the theater was filled to capacity with almost no one but women; I had never had such an experience in this theater as an undergraduate. And I could not shake off the irony that I had flown all the way from Northern California to Madison, Wisconsin, in order to hear this amazing artist from the Bay Area. As fate would have it, it was Margie Adam and all of the other amazing feminist musicians in the Bay Area whose music helped me to make the transition from being a married woman to being a lesbian during the period from 1977 to 1983.

### **After Cincinnati**

*Cain's call:* There were six of us on the initial executive committee. Professor Rhonda Rivera and Dean Craig Christensen initially served as co-chairs.<sup>6</sup> The idea was to have gender parity in the leadership. Later, however, we decided that Rhonda should serve as the initial chair, followed by Craig, and then by me—girl, boy, girl. The AALS Executive Committee approved the section and we planned a program for the 1984 AALS meeting. Here is how Art Leonard described it in his Law Notes publication.

January 1984: GAY LAW PROFESSORS TO MEET AT ANNUAL LAW SCHOOLS CONVENTION IN SAN FRANCISCO: The first official meeting of the American Association of Law Schools [sic] Section on Gay and Lesbian Legal Issues will be held at the annual AALS meeting in San

6. See Schultz, *supra*, note 1, at 131 n.3.



Francisco during the first week of January. The section will present a program on “The Right of Privacy after Baker v. Wade,” with Jim Barber, Baker’s attorney, as speaker. A panel of commentators will include Professor Kenneth Karst and David Richards and attorney Mary Dunlap. Prof. Rhonda Rivera of Ohio State University Law School has headed the section through its formative year, and Dean Craig Christensen of Syracuse University Law School will be leading the Section for 1984.<sup>7</sup>

I entered the room for this first-ever program and saw a few people I knew. Jesse Dukeminier was in the front of the room. I chose a place in the middle of the room. I looked around to see if Jean Love was there, and she wasn’t.

The thing I remember the most about the panel was the asserted gender divide over the question of whether or not lawyers should argue that sexual orientation was not a choice, but instead was determined at birth. To claim, as the male panelists wanted to do, that sexual orientation was immutable—determined at birth like race and gender—would, of course, have made it easier to argue for heightened scrutiny. Mary Dunlap, on the other hand, wanted to insist that the right thing to do was to argue that it was a choice, but sufficiently immutable to satisfy equal protection doctrine. Her experience was that lesbians were much more willing to claim sexual orientation as a choice than were gay men.

*Love’s response:* I drove in to San Francisco from UC Davis, and I arrived just a few minutes late. I sat in the back of the packed room, with over 100 people in the crowd. I looked around and I said to myself: “Oh, my goodness! Are all of these people really gay and lesbian lawyers and law professors, or do we just have a whole lot of folks here who are interested in gay and lesbian legal issues?!” The person whose presence most puzzled me was Professor Jesse Dukeminier (now deceased, but a professor at UCLA for over 40 years). I had been on the California Law Revision Commission from 1977 to 1980, I had been the vice chair of the Commission from 1980 to 1981, and I had been the chair of the Commission from 1981 to 1982, and Jesse had spent a great deal of time advising the Commission on his areas of expertise throughout that entire period. Could he really be a gay man? (This is the moment when I discovered that I had absolutely *no* “gaydar”!)

As for Mary Dunlap’s theory that lesbians are much more willing to claim that sexual orientation is a choice, I was definitely on her side at that moment. (But, of course, since then I have shifted to the position that, as long as Pat Cain is alive, I do not have a choice!)

*Cain’s call:* At the close of the panel, I started walking up the aisle to say something to Mary Dunlap, but I turned around and my eyes fixed on Jean Love. She was there, just late.

7. Arthur S. Leonard, *Chronicling a Movement: 20 Years of Lesbian/Gay Law Notes*, 17 N.Y. L. SCH. J. HUM. RTS. 415, 428 (2000).

*Love's response:* I, too, was walking up the aisle to say something to Mary Dunlap, but my gaze fixed on Pat Cain, who was standing between me and Mary. I could not believe my eyes! Here was a "new Pat Cain"—no hat, beautiful brown eyes, soft smile—where had she been all of my life? I instinctively knew that I had to say something, so I blurted out the words: "You look fabulous!"

*Cain's call:* I had been waiting for many long years for Jean to acknowledge my presence—what should I say? I said: "Well, I look so good because I just broke up with my lover of four years."

*Love's response:* And I said: "Well, I just broke up with my lover of four years, too." And, then, I suddenly remembered that I had a car in the parking garage (how convenient!), and so I invited Pat to ride with me out to the Cliff House (overlooking the Pacific Ocean), where we spent hours sipping coffee, watching the whales, and getting acquainted with each other.

*Cain's call:* When we returned to our hotel, I realized that I wanted to stay in San Francisco a while longer so that I could spend more time with Jean. However, I had one major conflict. I was scheduled to have dinner with Margie Adam the next night. She and I had connected a week earlier when I had arrived in Berkeley a week in advance of the AALS meeting. I had followed her music since that wonderful concert in Madison in 1977. The ability to connect came through a woman named Boo Price, Margie's partner in 1977, and (small world that it is) a student of Jean's at UC Davis. Boo and I had spent much time together at Women and the Law Conferences over the years. I looked forward to this dinner with Margie for many reasons. Nonetheless, I assured Jean that I would return to the hotel and meet up with her after dinner at the AALS Extravaganza. The dinner with Margie was great! I should add that Margie and I reconnected at Mary Dunlap's memorial service in 2003. I delivered a memorial speech about the wonderfulness of Mary, and Margie played the piano at the reception honoring the wonderfulness of Mary.

*Love's response:* By this time, I knew that I was head-over-heels in love with Pat Cain. Every time I walked out of my hotel room, I found myself turning in some unplanned direction, and eventually bumping into her on the stairs, in an elevator, or in a meeting room. And, yet, here she was telling me that she had a date with my musical idol, Margie Adam. What was I to do?!

*Cain's call:* I assured Jean that I would be back within a couple of hours—that she just had to trust me, because who in the world would cancel a dinner date with Margie?

*Love's response:* And so I did trust Pat (but with great trepidation). Fortunately, she did return just in time for the AALS Extravaganza, and ever since that night in 1984 she has continued to return to me as promised. Only those who



know me very, very well will ever understand how much it has meant to me that Pat Cain has never, ever left me.

*Cain's call:* And the rest is history, both as to the section and as to my personal relationship with Jean. We've now been together for over thirty years. We waited to get married until we could get married in the state where we resided, and California made that possible in the fall of 2008.

*Love's response:* We got married on a boat on the San Francisco Bay on October 4, 2008. Judge Donna Hitchens, a well-known lesbian judge in San Francisco and a former student of mine from 1977 when I was a visiting law professor at Boalt Hall, conducted the ceremony. Pat and I were celebrated by over 100 of our closest friends and family members from my home state of Wisconsin, Pat's home state of Georgia, and the law schools in which we have taught over the years—UC Davis, University of Texas, Boalt Hall (now Berkeley Law), University of Southern California, UCLA, University of Iowa, and Santa Clara Law. And, as odd as it may seem, every year at the AALS Annual Meeting we now have the opportunity to celebrate the anniversary of our getting together in San Francisco in 1984, all because of that fateful meeting in Cincinnati in 1983, when the Section on Gay and Lesbian Issues (now the Section on Sexual Orientation and Gender Identity) was born.

*Serving as Chairs of the Section on Gay and Lesbian Legal Issues*

*Cain:* I chaired the section in 1985, which made me responsible for the January 1986 program. For years I had been covering the special issues that same-sex couples face in estate planning in my trusts and estates course. I was using the casebook *Wills, Trusts, and Estates*, which was then co-authored by Jesse Dukeminier and my Texas colleague Stanley Johanson.<sup>8</sup> They included some material on same-sex couples, and Johanson had written an article discussing the value of using trusts when representing gay clients.<sup>9</sup> I was thrilled when both of them agreed to participate on the panel that I was planning on the topic for the AALS Annual Meeting—Estate Planning for Gay and Lesbian Clients. Rhonda Rivera also agreed to be on the panel, which was a great boon, since she had for years been working in the “trenches” to help gay male clients, who were dying of AIDS, get their affairs in order.<sup>10</sup> The panel was rounded out by a fourth panelist, Sarah Salter, a lesbian tax professor from New England School of Law.

I moderated the panel. We focused on property rights that unmarried cohabitants might have, and how those rights might be dealt with in the estate

8. JESSE DUKEMINIER & STANLEY M. JOHANSON, *WILLS, TRUSTS, AND ESTATES* (3d ed. 1984).

9. Stanley M. Johanson & Kathleen Ford Bay, *Estate Planning for the Client with AIDS*, 52 *TEX. B.J.* 217 (1989).

10. See Rhonda R. Rivera, *Lawyers, Clients, and AIDS: Some Notes from the Trenches*, 49 *OHIO ST. L.J.* 883 (1989).

planning process, or even after death in cases in which there was no estate plan. We also discussed the tensions that often arise after the death of a gay or lesbian partner when the parents do not want to acknowledge the relationship. And we talked about all of the estate planning documents that one should consider in representing same-sex clients.

In addition to this program, which occurred during the regular meeting sessions, I planned another panel, a joint mini-workshop, scheduled for the day before the full meeting began.<sup>11</sup> This task came about after another round of arm-twisting by Rhonda Rivera. She was serving as president of the Society of American Law Teachers (SALT) at the time. She envisioned a major panel presentation and discussion at the AALS Annual Meeting that would focus on the “isms” in the classroom, e.g., sexism, racism, and heterosexism. For some reason she thought I was the perfect person to put this panel together. Having failed Rhonda once by missing the 1983 organizational meeting in Cincinnati, I was not about to fail her this time. I remember attending a SALT board meeting in Queens, as a guest, in the fall of 1984, and that is when the plan was hatched.

It took me a year, but with the help of many friends, SALT and the AALS Sections on Women, Minorities, and Gay and Lesbian Issues presented a half-day program at the January 1986 AALS Annual Meeting that received lots of praise and comment. We had female students from Yale who talked about how they felt silenced in the classroom.<sup>12</sup> Paul Butler, now an esteemed law professor, but then a Harvard student, talked about taking a course, perhaps constitutional law, that involved race conflicts. Apparently the professor in that course, attempting to ease racial tensions, refused to identify groups as black or white, but instead referred to them as orange or purple—a tactic that Paul and most of us in the audience found offensive because it denied the reality of the black students in the class. Sheila O’Rourke, a student then at Boalt Hall, talked emotionally about taking a trusts and estates class from a renowned law professor who never mentioned the issues facing the LGBT community. This was 1985, and gay men were dying right and left from AIDS. Cases were filling the courts that involved disputes between surviving lovers and biological families. But her classroom was silent on these issues.

I still have the audiotapes from this session, although I haven’t listened to them for years. In the years following 1986, I played those tapes for the students in my feminist legal theory classes. The conversations that the tapes provoked were incredibly engaged and enlightening.

Finally, the other thing I accomplished during my year as chair was to prepare the first survey to be sent to all law schools asking them whether or not they had nondiscrimination policies that covered LGBT people—whether

11. We used to call this “day minus one” at the AALS Annual Meetings.

12. Catherine Weiss & Louise Melling, *The Legal Education of Twenty Women*, 40 STAN. L. REV. 1299, 1312–59 (1988) (including comments of the twenty female Yale law students that formed the basis of their talk at the AALS event).

students, faculty or staff. The survey was sent out by the AALS Executive Committee in the hope of obtaining a more complete response. The specific questions asked:

- (1) whether there was a gay and lesbian student organization;
- (2) whether any courses focusing on gay and lesbian legal issues were offered;
- (3) whether the school had any antidiscrimination policies, including sexual orientation; and
- (4) whether the placement office had a policy regarding discrimination on the basis of sexual orientation.

Professor Gene Schultz has reported on the results of this survey in an interesting law review article.<sup>13</sup> According to Schultz, out of the then 151 AALS law schools, only sixty-four responded to my 1985 questionnaire. Of those that responded, twenty-three said that they had LGBT student organizations, and forty-one said that they did not. (Of course, one can wonder how accurate these statistics were. It was early in the 1980s when a group of Texas students came to visit with me about forming a group that would focus on LGBT issues, but the students felt that they had to stay closeted, and so the name they chose for their organization embraced the phrase “human rights,” rather than any phrase that referred specifically to gay or lesbian legal issues. Therefore, I am not sure that the Texas Dean would have known we had a gay student organization.) Only seven schools reported that they offered courses dealing with LGBT issues. Interestingly, the number of schools with nondiscrimination policies of any sort was exactly the same as the number of schools with student organizations: twenty-three. But only seventeen schools reported that their nondiscrimination policies also covered employers who used the school’s placement facilities.

There has been much progress since 1985. There are now at least four major casebooks on sexual orientation and the law.<sup>14</sup> And the AALS now requires all member schools to adopt nondiscrimination policies that protect LGBT students, faculty, and staff. I am proud to have been part of the early movement toward LGBT equality in legal education.

*Love:* I chaired the section during the calendar year 1987, and I was responsible for planning the section’s program for the 1988 AALS Annual Meeting. This was to occur after two major losses on behalf of gay men and lesbians at the Supreme Court: *Bowers v. Hardwick*<sup>15</sup> and *San Francisco Arts & Athletics, Inc. v. United*

13. Schultz, *supra* note 1.

14. WILLIAM B. RUBENSTEIN, CARLOS A. BALL, JANE S. SCHACTER, & DOUGLAS NEJAIME, *CASES AND MATERIALS ON SEXUAL ORIENTATION AND THE LAW* (5th ed. 2014); WILLIAM N. ESKRIDGE, JR. & NAN D. HUNTER, *SEXUALITY, GENDER, AND THE LAW* (3d ed. 2011); ARTHUR S. LEONARD & PATRICIA A. CAIN, *SEXUALITY LAW* (2d ed. 2009); SHANNON GILREATH & LYDIA E. LAVELLE, *SEXUAL IDENTITY LAW IN CONTEXT: CASES AND MATERIALS* (2d ed. 2011).

15. 478 U.S. 186 (1986).

*States Olympic Committee* (sometimes called the “*Gay Olympics*” case).<sup>16</sup> Gay people were not faring well in the courts across the nation. And one place where this egregious treatment caused excruciating pain was in the area of family law. So we decided to focus on family law at the 1988 AALS Annual Meeting. We wanted to be sure to attract a wider audience than just LGBT professors. People who taught family law needed to learn more about this topic than was covered in the major casebooks at that time. And people who taught gender and the law needed to know about these issues as well. And so we planned a joint program with the Section on Family and Juvenile Law, chaired by Carol Sanger, and the Section on Women in Legal Education, chaired by Pat Cain.

In addition, I took the responsibility for doing a follow-up survey to the one that Pat Cain had administered in 1985.<sup>17</sup> My survey included the same four questions as in the original survey, and, once again, it was administered by the AALS Executive Committee. This time around, the response rate was somewhat better. Of the 153 AALS law schools, 109 responded. Of those that responded, thirty-seven said that they had LGBT student organizations, up from twenty-three in 1985, and seventy-two said that they did not. Ten law schools reported that they offered courses focusing on gay and lesbian legal issues, up from seven in 1985. Of those that responded, thirty-six law schools claimed they had nondiscrimination policies, up from twenty-three in 1985; so once again there was a very high correlation between the number of schools that said they had LGBT student organizations and the number of schools with nondiscrimination policies of any sort. But only thirty schools, up from seventeen in 1985, reported that their nondiscrimination policies also covered employers who used the school’s placement facilities.

I would like to thank the section for its support of me both during my term as the chair in 1987 and thereafter. As it turns out, in 1988-89 I became very involved in an informal way in supporting the section’s desire for the AALS to adopt a nondiscrimination policy regarding gay and lesbian law professors at all ranks, as well as gay and lesbian law students and gay and lesbian law school staff members. In January of 1989, when Professor Herma Hill Kay became the president of the AALS, her president’s address called for the adoption of nondiscrimination policies on the basis of sexual orientation (as well as on the basis of other classifications, such as age). Throughout 1988-89, I frequently found myself in hushed conversations on escalators and in elevators with Professor Mary Louise Fellows, who was then serving on the executive committee. It seemed that Mary Lou had been tapped by Herma to consult with me informally about the formulation of a nondiscrimination policy on the basis of sexual orientation. Like Art Leonard and Pat Cain, I was in the room in January of 1990 when the issue was formally brought before the AALS House of Representatives. I was in total tears when, by an overwhelmingly

16. 483 U.S. 522 (1987).

17. Shultz, *supra* note 1.

positive vote,<sup>18</sup> the House of Representatives passed the policy prohibiting discrimination on the basis of sexual orientation. I thought that a miracle had happened!

And then, in the fall of 1991, just as I had moved from UC Davis to the University of Iowa, where Pat and I, after seven long years, had finally found jobs together as the first lesbian couple ever to be hired simultaneously by a law school in the United States, I received a telephone call from my dear friend and former colleague from UC Davis Professor Emma Jordan. She was about to become the president of the AALS in January of 1992, and she was calling to ask me if I would be willing to serve on the AALS Accreditation Committee from 1992 to 1994. She knew that I had not done any site visits, but I could do one in the fall of 1991 to satisfy that requirement. As it turned out, the reason that she was calling was to be sure that there would be at least one person on the Accreditation Committee who was totally committed to the enforcement of the policy prohibiting discrimination on the basis of sexual orientation, and she thought that she could trust me to be that person. I worked very hard to earn that trust. In fact, I worked so hard at the task that my term was extended by one year to help the Accreditation Committee deal with some really difficult cases. I cannot talk about the confidential communications of the Accreditation Committee during the time that I served on the committee from 1992 to 1995. What I can say is that the compromise regarding the religiously affiliated schools was very useful to the Accreditation Committee in the 1990s—but I agree with the position taken by Barbara Cox in this Symposium that the time to revisit that compromise is long overdue.<sup>19</sup>

18. 1990 ASS'N OF AM. L. SCHS. PROC. 196–203.

19. *Time for a Change: 20 Years after the “Working Group” Principles*, 66 J. LEGAL EDUC. 531 (2017).