Freedom to Differ

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NOTES TO THE PREFACE

1. Mark Blasius cites a 1989 study commissioned by the U.S. Department of Health and Human Services which reports that “gay youth are two to three times more likely to attempt suicide than heterosexual youth, and up to 30% of those teenagers who do commit suicide are gay or lesbians” (1994, 37n. 18). A second study, published in the journal Pediatrics in June 1991, reports that “30 percent of gay youth attempt suicide near the age of fifteen and . . . almost one-half of gay and lesbian teens interviewed said they had attempted suicide more than once” (Blasius 1994, 37–38n. 18).

NOTES TO CHAPTER I

1. The military appealed Cammermeyer’s reinstatement while she remained an active member of the Washington State National Guard. She transferred to inactive status in May 1996. Finally, with Cammermeyer nearing retirement, the military ceased its efforts to discharge her. However, it continued its legal fight to erase from the books the judicial decision that reinstated her and declared the ban unconstitutional. In October 1996, a federal appeals court declined to issue any ruling on the case, declaring it moot because Cammermeyer had been reinstated and the rules under which she was discharged had been superseded by the “Don’t Ask, Don’t Tell” policy (“No Ruling” 1996, 41).

2. When referring to the social movement for lesbian and gay civil rights, I use variants of the phrase “lesbian and gay rights movement” or “lesbian/gay rights movement” rather than the more common “gay rights movement.” I believe that the disappearance of lesbians under the ostensibly nongendered term gay is one of the problems afflicting the movement, as I discuss throughout this book. Although it may appear unwieldy, the longer phrase will seem less so as we become more familiar with its use, and I believe its accuracy and inclusiveness are well worth the sacrifice of brevity.

3. Deborah K. King coins the term multiple jeopardy to convey the impact of multiple forms of discrimination on women of color. She explains, “Most applica-
tions of the concepts of double and triple jeopardy have been overly simplistic in assuming that the relationships among the various discriminations are merely additive." In contrast, “multiple jeopardy” refers “not only to several, simultaneous oppressions but to the multiplicative relationships among them as well” (1988, 47).

4. Only two books by speech communication scholars have focused on discourse by or about gays and lesbians. James Chesebro’s edited collection titled *Gayspeak*, published in 1981, is currently out of print. More recently, R. Jeffrey Ringer edited a 1994 compilation titled *Queer Words, Queer Images*, which examines representations of gays and lesbians in a variety of contexts. To date, however, no book has taken a rhetorical approach in examining lesbian and gay civil rights discourse. Nor has any book analyzed public speech by or about lesbians, separate from that by or about gay men or homosexuality in general. Moreover, only one article in a mainstream journal of rhetorical studies has focused specifically on lesbian, nonfictional discourse (see Kurs and Cathcart 1983).


6. Institutional forms of oppression are certainly not the only consequence of increased visibility, however. Too frequently, the alternative is violence: “Where the discipline of remaining ‘in the closet’ to enforce the norms of heterosexism breaks down, homophobic individuals (with or without recourse to institutional support) restore disciplinary power through force or violence” (Blasius 1994, 33). The incidence of gay bashing and other hate crimes directed against gays and lesbians gives brutal testament to the accuracy of this claim. According to the U.S. Justice Department, there were 2,395 acts of anti-gay violence reported nationally in 1995. The figure rose to 2,529 incidents in 1996 (Vozzella 1997). These numbers do not include numerous incidents that were undoubtedly never reported.

7. I am indebted to Tricia Lootens for her contributions to my thinking on this point.

8. Some writers have recently argued, however, that Stonewall is better understood as a “galvanising symbol [sic]” than as an accurate historical marker of the birth of the gay rights movement (Plummer 1995, 90). Kenneth Plummer disputes the characterization of Stonewall as the “first” radical action by lesbians and gays, noting that by the time the riots occurred, more advanced traditions of gay and lesbian radicalism on the West Coast and in parts of Europe were already well established.
Supporting this interpretation, Urvashi Vaid writes, “Stonewall was neither the worst example of police brutality against gay people in New York, nor was it the first time that gay people had fought back” (1995, 55).

9. Heterosexism may be defined as “that ideological structure that assumes heterosexuality as the norm and homosexuality as deviant and, indeed, despicable” (Altman 1982, 111).

10. This exclusion parallels privileged gays’ and lesbians’ disregard of other forms of oppression. Examples include the lack of acknowledgment by many white gays and lesbians of the problems of gays and lesbians of color and the ignorance of many middle-class gays and lesbians about the issues facing those who are working-class or poor.

11. Although Blasius offers the contrasting view that “sexism and heterosexism are discrete forms of domination,” he, too, concedes that “lesbians and gay men are affected by and often act to eliminate both of them” (1994, 29n. 13).

12. I use the term choice here in a broad sense, and not to address the issue of whether lesbianism is a choice or a biological imperative. While lesbians may or may not have a “choice” about whom we are sexually attracted to, we are faced with choices every day. Circumscribed by the threat of homophobia and discrimination, we must choose daily whether to acknowledge or act on our sense of sexual identity and attraction.

13. Monique Wittig clarifies this point when she writes, “Although women are very visible as sexual beings, as social beings they are totally invisible” (1992, 8).

14. This is a characteristic of class as well as gender oppression. It is true not only for women who run households, for example, but also for workers who clean office buildings or university classrooms at night. Such work frequently goes unnoticed by those who most benefit from it.

15. An exception may be found in Mary Daly’s book titled Webster’s First New Intergalactic Wickedary of the English Language (1987). However, the lengths to which Daly must go in order to escape the patriarchal and heterosexist trappings of language demonstrate precisely how ingrained in language such biases are. I thank Pam Lannutti for drawing my attention to this example.

16. This would not be true in a climate in which heterosexuality is not presumed. For example, coming out as gay or lesbian to other participants at a lesbian and gay pride march or a women’s music festival has little impact. In such contexts, it is heterosexuals who must decide whether to “come out” to counter a presumption of homosexuality.

17. Ruthann Robson offers an example of the risks involved in adopting legal concepts. In seeking domestic partner benefits, she explains, “we may argue in a court of law that a lover is equivalent to a spouse . . . our lover is expressed and limited to the legal terms set under the rule of law—heterosexual marriage.” However, she continues, “In making this argument, we might lose our own definition of our
lover. If we refuse to argue this way, based on the belief that our lover is nothing like a wife or husband, we might preserve our lesbianism but probably lose the benefits” (1992, 12).

18. Despite the claims of queer theory to be inclusive and to transcend restrictive categories, it has often been criticized for its high level of abstraction that erases lesbian experience and specificity, particularly the experiences of lesbians of color (Anzaldúa 1991, 251). It has also been faulted for its insistence on subsuming all lesbians under the generic, undefinable, ultimately male-centered designation “queer,” thereby erasing gender distinctions between lesbians and gay men.

19. I have placed the term pro-gay in quotation marks because it implies a degree of affirmation that not all supporters of gay and lesbian rights share. A “pro-gay” position advocates equal rights for all citizens regardless of sexual orientation. Some individuals who personally condemn homosexuality nevertheless support such a position, believing that sexual orientation should not be the basis for discrimination.

NOTES TO CHAPTER 2

1. The Senate Committee on Banking, Housing, and Urban Affairs was responsible for voting on Achtenberg’s nomination initially and submitting their recommendation to the entire Senate. The Committee’s vote took place on May 5, 1993. The nomination passed by a vote of fourteen to four.

2. This quote from Helms appeared in the Washington Times on May 6, 1993. The reporter wrote that Helms “said he will try to block the nomination . . . ‘Because she’s a damn lesbian. I’m not going to put a lesbian in a position like that.’” Helms added, “If you want to call me a bigot, fine” (Moss 1993, A3). During the debate, Helms was asked whether the quote was accurate. He responded, “It does not sound like me, but I may have said it” (Congressional Record, May 19–24, 1993, S6101).

3. An article in the San Francisco Chronicle further supports this claim with the contention that “a core group of about 10 conservative senators is fighting against Achtenberg, basing their opposition on everything from her sexual orientation to her liberal views on civil rights. Some hope to use the fight to embarrass President Clinton” (Lynch and Lochhead 1993, A6).

4. In an interesting side note, Senator Sam Nunn, the most prominent Senate critic of efforts to lift the ban, voted in favor of Achtenberg’s nomination.

5. Ruthann Robson explains that “race is the paradigm suspect class because of the historical development of the equality doctrine” (1992, 82).


7. All unspecified page references preceded by an “S” refer to the text of the Congressional Record, May 19–24, 1993.

8. I am grateful to Anne Layton for her reflections on prejudice that are incorporated here.
As the California Journal of July 1, 1993, notes:
The Supreme Court is not the only institution in Washington that is obsessed with precedent. The painfully cautious politicians in Congress prefer to stick with the tried-and-true whenever possible. But once they have been coaxed or coerced into doing something new, that becomes a precedent they follow just as comfortably. Thus, the next gay or lesbian nominee for a senior position may merely be “another Achtenberg” to the habit-bound creatures of the Senate. (“Achtenberg Confirmation” 1993)

This assessment, in fact, was quickly borne out. As the San Jose Mercury News subsequently reported, openly gay patent lawyer Bruce Lehman was easily confirmed by the Senate only a month later, “without a peep from Helms” (Shepard 1994, A2).

That Achtenberg is viewed by her opponents as a representative of gays and lesbians is not in doubt; Helms refers to her as “the showpiece of the homosexual movement in the United States” (S6332).

Such comparisons, however, raise a complicated set of issues for those belonging to both racial and sexual minorities.

In repeating this comparison, however, I do not mean to imply that race or sex, any more than sexual orientation, should be accepted as a biological or “natural” category; the critique of biology suggested here applies equally to often undisputed categories such as race and sex (Fuss 1989; Winant 1990). Nevertheless, it is precisely the virtually unchallenged status of these categories as natural that legitimates claims to the “naturalness” of a particular sexual orientation.

This quote is later found to have been misattributed and, as Senator Don Riegle subsequently points out, in fact is taken from a letter to the editor in that same paper, and not from an editorial. In an angry response to this misattribution, the Chronicle printed an editorial on May 20 in which it explicitly endorsed Achtenberg’s nomination (S6177).

Only two other senators, both Achtenberg supporters, use the word lesbian at all. Senator Dianne Feinstein and Senator Edward Kennedy each use it once, but neither instance undermines the negative connotation attributed by Helms. Feinstein argues that because “Roberta Achtenberg is a lesbian, she is being subjected on the floor of the Senate to a barrage of unseemly, nasty, and untrue allegations” (S6201). Kennedy likewise comments, “We have heard considerable discussion about the fact that Roberta is a lesbian. I admire her willingness to be open about who she is. But it is her skills and not her sexual orientation that is at issue here” (S6220).

Frye’s metaphor of oppression as a birdcage is helpful in examining the limitations of a metaphor that takes a line as the representative barrier and crossing as the means of escape. She writes:

Consider a birdcage. If you look very closely at just one wire in the cage, you cannot see the other wires. If your conception of what is before you is determined by this myopic focus, you could look at that one wire, up and down the length of it, and be unable to see why a bird would not just fly around the
wire any time it wanted to go somewhere. . . . It is only when you step back, stop looking at the wires one by one, microscopically, and take a macroscopic view of the whole cage, that you can see why the bird does not go anywhere. . . It is perfectly obvious that the bird is surrounded by a network of systematically related barriers, no one of which would be the least hindrance to its flight, but which, by their relations to each other, are as confining as the solid walls of a dungeon. (1983, 4–5)

16. In a striking example of the pervasiveness of masculinity as an underlying norm, Murkowski illustrates this point with the need to wear a necktie—the quintessential apparel of the heterosexual male. Murkowski argues, “Many of the people who work here wear a necktie to work every day. Wearing a tie does not make a person any smarter, any better or more qualified. It is a matter of conformity.” If someone does not conform in this way, he continues, “if it is a member of my staff, I might say, hey, maybe we ought to get rid of this person. That’s the situation in the case of this nominee” (S6169). The equation here of heterosexual male fashion with conformity is perhaps as revealing as any direct discussion of difference and the interlocking barriers limiting the access of minority groups to political power. The nonmale, nonheterosexual is linked here with offensive nonconformity, with being “out of line.”

17. Domenici, who is highly critical of Achtenberg on several counts, nevertheless says he will vote for her nomination because “while my doubts are great . . . this nominee comes very close to the point but does not cross the line at which I would vote to deny the President a nominee of his choice” (S6355; emphasis mine).

18. The bombing of an Atlanta bar called the Otherside Lounge on February 21, 1997, illustrates one danger of obscuring these connections. The media reported that the lounge is a “gay bar,” when, in fact, it is primarily a lesbian bar. The distinction is particularly important because this incident was preceded by another bombing, at an Atlanta abortion clinic. Only by realizing that this was primarily a women’s bar could the police and the public recognize the possibility that the attacks might be related and that the targets might have been women (Colbert 1997).

19. The San Francisco Chronicle later reported that “the Boy Scouts issue was brought up so often that some tourists sitting in the Senate visitors gallery became confused as to whether they were hearing debate on the Scouts or a HUD nomination” (Lynch 1993, A6).

20. Not coincidentally, during this discussion a number of senators opposing Achtenberg’s nomination stood up to announce that they had been Boy Scouts or that their sons were Boy Scouts (S6206; S6215; S6221; S6355). Not coincidental, either, is the similarity between the symbolic position of the Boy Scouts and that of the U.S. military. Even the Boy Scout slogan “Be Prepared” suggests a kind of military readiness that informs the spending patterns of our national budget. In this way, the antagonism set up between gays and the Boy Scouts evokes the controversy, already heated at this time, surrounding gays and lesbians in the military. This antag-
onism may represent a displacement of the military issue that calls on the emotions already aroused by this difficult debate.

Clues to this parallel are the repetition of the argument that the Scouts prohibit “announced or avowed homosexuals” from becoming either scoutmasters or scouts (S6212; emphasis mine) and a reference to Achtenberg as “candidly and unapologetically lesbian” (S6153). Although it is never stated, the implication is that those who do not disclose their sexuality are not necessarily excluded from the Boy Scouts. Such a stance parallels the “Don’t Ask, Don’t Tell” policy that was being suggested (and was later adopted) in response to protests over the exclusion of gays and lesbians from the military.

21. Nevertheless, this challenge to biological motherhood is extreme even for anti-gay discourse. More typical is the example of a Washington Times article in which a photograph of Achtenberg’s family identifies “Roberta Achtenberg, her lover, Mary Morgan, and Judge Morgan’s son” (Price 1993, A1).

NOTES TO CHAPTER THREE

1. As used in the Department of Defense policy, the term homosexual is defined as “a person who engages in, desires to engage in, or intends to engage in homosexual acts.” The phrase “homosexual acts” refers to “bodily contact, actively undertaken or passively permitted, between members of the same sex for the purpose of satisfying sexual desires” (Policy Hearings 1993, 30).

2. Although initiated thirty years prior to the military board hearing, Cammermeyer’s years of service total twenty-seven because she was separated from the military for three years after the birth of her first child in 1968. Military regulations at the time prohibited women with children under age sixteen from serving in the armed forces. However, this regulation changed in 1972, and Cammermeyer returned to her military career (Cammermeyer 1994).

3. After disclosing her sexual orientation, Cammermeyer continued to serve in her position as chief nurse of the Washington State National Guard for more than three years, pending her military board hearing.

4. For a complete, autobiographical account of Cammermeyer’s life and the events leading up to her discharge, see Cammermeyer 1994.

5. However, Cammermeyer’s case was neither the first nor the only challenge to the ban. Thus the significance of this military “victory” was undoubtedly mitigated by the fact that despite the stated policy, several openly gay service members were still in uniform as a result of civil court decisions. Perry Watkins, for example, was a gay man who repeatedly told his superior officers of his homosexuality yet was allowed to serve for seventeen years. He was eventually discharged by the military but subsequently reinstated by a civil court, which ruled that it was unfair to dismiss a soldier whom the military had known all along was gay.

6. The willingness of many gay activists to rally around the issue of gay and lesbian rights in the military, despite their misgivings, was not universally shared. In one
example, a group calling itself QUASH (Queers United Against Straight-acting Homosexuals) posted a display of queer guerrilla art that referred disparagingly to the “‘military takeover’ of our movement” (Deitcher 1995, 137). For a discussion of the ambivalence many gays and lesbians felt about this issue, see Deitcher 1995, especially 176–77.

7. Some writers have argued that the preoccupation with access to the military “reveals a gay political agenda that is not merely moderate but conservative” (Smith 1993, 14). A contrasting view suggests that disagreement about the military issue may be a function of class differences (Cruikshank 1994). The military has long been a primary source of employment for working-class men and women, and thus the military ban disproportionately impacts on and concerns working-class gays and lesbians.

8. By emphasizing the symbolic importance of this debate, I do not wish to minimize its material consequences for enormous numbers of gays and lesbians. Although there is no way to calculate precisely how many gays and lesbians currently serve in the military, the testimony of Dr. Lawrence Korb, former assistant secretary for defense under Ronald Reagan, offers some suggestion of the magnitude of the issue. Korb cites a military report estimating that as much as 10 percent of the armed forces may be gay or lesbian. He notes that “even at five percent that’s 100,000 people on active duty. . . . Since only roughly 1,400 are being discharged each year, there’s another roughly 99,000 in there” (Department of the Army 1991, 53).

9. That this belief still persists among some military leaders is evident in the testimony of Master Chief David Borne, who compares the claim that the ban discriminates against gays to the claim that a child molester is “discriminated against” by not being allowed to work in a day-care center (Policy Hearings 1993, 607).

10. Even opponents of lifting the ban were finally forced to concede the folly of such a position. One such example is Charles Moskos, Jr., who, despite identifying many problems that would result from lifting the ban, asserts that “the argument that homosexuals are susceptible to blackmail is illogical. (If there were no ban, a gay service member could not be manipulated by the threat of exposure.) No evidence exists that homosexuals, under present rules, have been greater security risks than anyone else” (1994, 63).

11. However, this determinative link between statement and action is not attributed equally to other groups. As argued in Judge Thomas S. Zilly’s decision, for example, simply stating that one is an alcoholic or drug abuser is not sufficient cause for punitive action or dismissal. Instead, any action on the part of the military “requires actual evidence of substance abuse or that the individual’s status impairs his or her ability to function in the military” (Cammermeyer v. Aspin 1994, 30n. 13).

12. In terms of practical consequences, since the policy was implemented in 1994, the number of discharges for homosexuality has actually increased by 42 percent. In 1996, the number of separations reached its highest level since 1987, with 850 people discharged (“Could It Be a Witch-Hunt?” 1997, 13). Such numbers can-
not account for those gays and lesbians who are harassed, given poor evaluations, or forced out of the military by other means because of their sexual orientation (Lehring 1996).

Yet even these numbers do not tell nearly the whole story of the cost, in dollars as well as in human lives, of maintaining the military ban. A report from the General Accounting Office in 1992 disclosed that from 1980 to 1991, it cost the military $494 million to train people who were subsequently discharged under the anti-gay policy. Although the cost of the military’s investigations into homosexual allegations for that same period are not known, the report estimated that in 1990 alone, the cost was greater than $2.5 million (Cammermeyer 1994, 293). Randy Shilts estimates that “in the past decade, the cost of investigations and the dollars spent replacing gay personnel easily amount to hundreds of millions” (1993, 4). Still more costly is the toll the policy takes on human lives, as lives and careers are ruined; some men and women commit suicide when the fear of discovery becomes too much to live with (Shilts 1993).

13. There is only one other provision in the UCMJ under which such behaviors may be prosecuted. Article 134 is a General Article that reads:

Though not specifically mentioned in this chapter, all disorders and neglects to the prejudice of good order and discipline in the armed forces, all conduct of a nature to bring discredit upon the armed forces, and crimes and offenses not capital, of which persons subject to this chapter may be guilty, shall be taken cognizance of by a general, special, or summary court-martial, according to the nature and degree of the offense, and shall be punished at the discretion of that court.

14. Of the twenty-one states with sodomy laws, only six (Arkansas, Kansas, Maryland, Missouri, Oklahoma, and Texas) outlaw homosexual but not heterosexual sodomy. The remaining fifteen (Alabama, Arizona, Florida, Georgia, Idaho, Louisiana, Massachusetts, Michigan, Mississippi, Minnesota, North Carolina, Rhode Island, South Carolina, Utah, and Virginia) prohibit noncoital sex between any sexual partners (Price 1997).

15. A more complete definition is supplied by the RAND Report, an independent study commissioned by the Clinton administration in 1993 (Otjen 1994, 204). It reads as follows: “It is unnatural carnal copulation for a person to take into that person’s mouth or anus the sexual organ of another person or of an animal, or to place that person’s sexual organ in the mouth or anus of another person or of an animal or to have carnal copulation in any opening of the body except the sexual parts with another person or to have carnal copulation with an animal.”

16. In a fascinating comparison, Cammermeyer’s lawyers quote in their brief the 1942 report of the General Board on the issue of integrating African Americans into the navy. The lawyers insert the term heterosexual where white appears in the original and homosexual where another race appears. The board stated:

Enlistment for general service implies that the individual may be sent anywhere—to any ship or station where he is needed. Men on board ship live in
particularly close association; in their messes, one man sits beside another; their hammocks or bunks are close together; in their common tasks they work side by side; and in particular tasks such as those of a gun’s crew, they form a closely knit, highly coordinated team. How many white men [heterosexuals] would choose, of their own accord, that their closest associates in sleeping quarters, at mess, and in a gun’s crew should be of another race [homosexual]?

How many would accept such conditions, if required to do so, without resentment and just as a matter of course? The General Board believes that the answer is “Few, if any,” and further believes that if the issue were forced, there would be a lowering of contentment, teamwork and discipline in the service.

(Memo in Support 1994, 44)

17. Joan Acker explains the nature of a gendered organization: “To say that an organization is gendered means that advantage and disadvantage, exploitation and control, action and emotion, meaning and identity, are patterned through and in terms of a distinction between male and female, masculine and feminine” (1990, 146).

18. As Defense Department general counsel Gorelick testified at the hearings, “The courts have . . . rejected the notion that a status-based policy is appropriate.” This precedent alerted the government as early as 1981 that “if we did have a status-based as opposed to a conduct-based rule, that it would be vulnerable in the courts” (Policy Hearings 1993, 777).

19. Despite his opening disclaimers, Thurmond later rebukes two gay service members who testify before the committee, saying, “Your lifestyle is not normal. It is not normal for a man to want to be with a man or a woman with a woman” (Policy Hearings 1993, 567). He refers to homosexuality as “abnormal” (688) and a “handicap” (689), and he asks all the gay service members who testify on one panel if they have ever considered seeking “psychiatric or medical help” to “correct” their situation (688).

20. Defenders of the ban claim that there is an escape clause for those who have made such a statement. Built into the policy is a “rebuttable presumption” provision which states that when one has made such a statement, the presumption is that it is true, but the individual may “rebut” this presumption by proving otherwise, that is, proving “that he or she does not engage in homosexual acts and does not have a propensity or intent to do so” (Policy Hearings 1993, 702–3; see also 713). The only proof that would suffice would have to establish that the individual was drunk or otherwise mentally incapacitated at the time of the statement and did not know what he or she was saying, and that the statement simply was not true. Although this clause is made much of during the hearings, Defense Department representatives concede that while this rebuttable presumption was also incorporated into the old policy, it has never successfully been used to clear a service member from the charge of homosexuality.

21. Although technically the military recognizes three categories of sexual ori-
entation—heterosexuality, homosexuality, and bisexuality—for all practical purposes, bisexuality drops out of the discussion and leaves only the binary opposition. The reasons for this exclusion of bisexuality, which characterizes discussions of sexual orientation in many other forums as well, are too complex to address within the scope of this study. Nevertheless, it is probably safe to surmise that because bisexuality confounds the comfortable division of “them” and “us” that homophobia upholds, it is easier to ignore than to confront the ambiguity of bisexual status or conduct. For perspectives on bisexuality, see Beemyn and Eliason 1996; Hall and Pramaggiore 1996; Rose, Stevens, and the Off Pink Collective 1996; Tucker 1995; Eadie 1993; and George 1993.

22. Cammermeyer’s formal statement to Agent Troutman reads, in part: “I am a Lesbian. Lesbianism is an orientation I have, emotional in nature, towards women. It does not imply sexual activity… I want the Government to see me as a human being, not a woman who has sex with other wom[e]n. My sexual preference is irrelevant” (Memo in Support 1994, 9).

23. The obscuring of lesbians behind inaccurate stereotypes of gay men is prevalent elsewhere in the testimony of the Senate hearing. For example, in an article written by a retired Marine Corps colonel and submitted for the record by Senator Conrad Burns, the author argues that “homosexual conduct in the society does not present a convincing example from which to conclude that open homosexuals can conduct themselves, in general, with the restraint necessary to avoid serious disruption in efficiency and combat effectiveness” (Policy Hearings 1993, 503). He bases this assertion in part on comparisons of the number of sex partners of gay men versus that of heterosexual men. (Intriguingly, the numbers for gay men come from studies done in the late 1970s and early 1980s, while the numbers for heterosexual men come from studies completed in 1989 and 1990.) He also cites statistics for the rates of sexually transmitted diseases, alcoholism, and attempted suicide among gay men. The only claim he makes about lesbians is that “between 25 percent and 50 percent of homosexual men and women are alcoholics.” However, even this “finding” is cited from an article titled “Alcoholics Anonymous and Gay American Men” (Policy Hearings 1993, 503; emphasis mine). Despite the obvious omissions here, he draws the sweeping conclusion that “open homosexual behavior is not correctable to the standards of good order and discipline established by all the Armed Forces and that such individuals do not seem good candidates for successful military service.”

In another example, Senator Murkowski voices his opposition to lifting the ban based on the risk of AIDS (Policy Hearings 1993, 469). The argument itself is erroneous because, as Senator John Kerry observes, the disease is increasing faster in the heterosexual community than it is in the homosexual community (Policy Hearings 1993, 489). Moreover, the position is unconvincing given the military’s policy of testing all military personnel for HIV every six months. Just as important, however, is the fact that such an argument excludes lesbians from the class of “gays” entirely,
for lesbians have a lower rate of infection than gay men or heterosexual men or women and much less risk of contracting the disease through sexual contact than does any other sexually active group (Editors of the *Harvard Law Review* 1990, 19). Senator Kerry reflects that if the military’s goal is to eliminate the problem of HIV infection in its ranks, “I do not know what you do, go to an all-lesbian army or something” (*Policy Hearings* 1993, 489).

24. In an apparent, if failed, attempt to correct the accuracy of his statement, Thurmond then added, “Or [heterosexuals] do not admit they do. Homosexuals do admit they practice sodomy.”

25. The misinterpretation of sodomy statutes to suggest their specificity to homosexuality has been pervasive in legal arguments at even the highest levels (Halley 1991). One of the most blatant examples of this error appears in *Bowers v. Hardwick*, in which the state of Georgia “justified its facially neutral statute based on its ‘interest in prosecuting homosexual activity’” (Editors of the *Harvard Law Review* 1990, 21). The Supreme Court itself magnified the mistake when “the plurality opinion in Bowers restrict[ed] itself to reviewing the constitutionality of the Georgia statute as applied to homosexual sodomy even though the gender of Hardwick’s partner was never stated in the original complaint, the only official record of the incident” (Currah 1995, 67–68).

26. This view echoes the homophobic application of Christian charity: love the sinner, hate the sin. The Catholic Church, for example, holds the position that “because of homosexuality’s involuntary nature, it cannot of itself be morally culpable (although homosexual acts still are)” (Sullivan 1993, 26).

27. Although the appropriateness of the sodomy statute is itself highly arguable, debate on this issue is beyond the scope of my discussion.

28. An interesting side note concerns the considerable slippage that occurs between the categories of “speech” and “conduct,” an ambiguity that regularly functions to protect and maintain patriarchal power. Most frequently, as in this case, this slippage is an effect of linking categories of speech and conduct through the medium of sex and manipulating the definition of sexual acts as speech or as conduct, depending on dominant interests. Perhaps the most notable example is that of pornography, which is defined as speech and protected as such under the First Amendment, even though pornography clearly involves conduct: violent sexual acts involving pain, injury, or even death, carried out through coercion or physical force, are regularly performed on women’s bodies to produce pornography (Dworkin and MacKinnon 1988). Yet, despite the startlingly broad definition of what may be protected as “speech” in this context, the military maintains that in the absence of any activity whatsoever, a verbal statement of homosexual identity is itself an instance not of speech but of conduct and, as such, is not subject to First Amendment protection.

29. I thank Celeste Condit for drawing my attention to the origins of this distinction in Greek thought.
30. A simple example is the use of E-mail for “private” discussions, perhaps of illegal activities. Whereas phone tapping is subject to legal restrictions and reading someone else’s mail is a felony, E-mail is a publicly accessible medium (records of E-mail sent and received are kept by systems operators and can be readily accessed by legal authorities) that most of us nevertheless use freely, as though it were private and protected.

31. Senator Warner points out the enormity of the expectations such a policy places on gay and lesbian service members: “You are asking homosexuals to take an oath of celibacy, mental and physical, for the balance of their terms of active duty. I think that is unrealistic, unfair, and discriminatory. It is not a step forward, it is a step back” (Policy Hearings 1993, 736).

32. One explanation for this hypocrisy is that “the military establishment, schools, churches all understand the importance of the closet in maintaining institutional order. That is why the services never cared a damn about gays who did not proclaim their identity, by word or deed. It is why school superintendents have lived for centuries with lesbian and gay teachers, but panic when anyone comes out. It’s why churches countenance lesbian nuns and gay priests and ministers as long as they lie about themselves” (Kopkind 1993, 577).

NOTES TO CHAPTER FOUR

1. For a thorough analysis of the connections between legal reform and attitude change, see Cuklanz 1996.

2. More specifically, “while some law reforms may indeed benefit some women, it is certain that all law reforms empower law” (Smart 1989, 161).

3. The term partner is sometimes used, for lack of a better word, to describe each member of a committed relationship between two gay men or lesbians. Yet it is often rejected as sounding too formal and impersonal, as though one were referring to a business associate. Lover is sometimes used, but many couples find it too personal or misrepresentative of what is valued in the relationship. Some lesbians and gay men use the term mate, and others prefer spouse, especially if they have participated in a commitment ceremony. Still others, with or without a degree of irony, use husband or wife.