

Margaret A. Nash and Karen L. Graves

Mad River, Marjorie Rowland, and the Quest for LGBTQ Teachers' Rights

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This wonderfully complex book, *Mad River, Marjorie Rowland, and the Quest for LGBTQ Teachers' Rights*, examines the ripple effects of Marjorie Rowland's attempt to gain recognition for the discrimination she faced as a bisexual teacher in 1974. Nash and Graves wind together Rowland's personal experiences with the burgeoning legal theories that initiated LGBTQ-related employment equity claims and provide intricate analysis of the multiple ways that such claims have been refused, sidestepped, and otherwise resisted by courts and employers, even when legislative progress has been seemingly made. This apparently ever-timely examination of the challenges facing recognition of LGBTQ rights is an important reminder that progress all too often is not linear. Further, the authors remind us that anti-LGBTQ backlash is also all too often directed at education and educators (and students as well). As Nash and Graves point out, while gay rights began to make progress in the 1970s, conservatives focused their energies on removing gay and lesbian teachers from schools. Graves' *And They Were Wonderful Teachers* provides an excellent account of teacher purges in Florida.

Rowland undertook a series of court challenges when she was fired from her school counselling job for telling another employee she was bisexual and eventually tried appealing to the Supreme Court. When Supreme Court Justice William Brennan dissented from the court's determination to not hear Rowland's case, he pointed out the historical and contemporary discriminations facing gay people and the public concern of Rowland's words, two aspects of her case that the Supreme Court and other courts had denied. His dissent had an impact well beyond her case: it helped bolster LGBTQ-related employment discrimination cases that followed, including those of other educators as well as those serving in the military. Like Rowland's unsuccessful bid to have her freedom of speech protected as a bisexual woman, Brennan's dissent, while unable to directly help Rowland, went on to open the cracks in legal unwillingness to recognize LGBTQ people.

Nash and Graves carefully note the shifts in legal strategy from early cases like Rowland's that relied on freedom of speech to the more recent trend of using due process and dignity. (The latter two strategies were recently called into question by Justice Thomas's concurrent decision in *Dobbs*.) While showing these theoretical complications, this book also shows how LGBTQ equality has been built and the sacrifices of those LGBTQ people, like Rowland, whose livelihoods and careers were upended but who kept going. Nash and Graves caution, too, that even if legal strategies work and laws are reformed to include LGBTQ people under non-discrimination policies, school administrators and districts find ways to fire LGBTQ educators using trumped up excuses.

As local practices, policies and, in too many cases, state laws continue to obstruct LGBTQ rights, the lessons in this book are important reminders of the continuity of

struggle. Without the willingness to name discrimination *as* discrimination, LGBTQ rights remain under challenge. Without a clear understanding, as the authors here provide, of the double binds associated with attempting to enact LGBTQ rights, those rights remain partial, contradictory, and too often unattainable. Nash and Graves detail, for instance, how cases in the military were lost because a lesbian service member noted that while she was gay, she did not openly advocate for LGBTQ political equality and just sought to continue to do her job well. Judges found that because she herself had stipulated she had not engaged in political speech, she had no valid claim to First Amendment protection. While the jury in one of Rowland's early cases all agreed that she had been fired because she was bisexual, the appeals court found that because her speech was not "of public concern," she had no claim (33).

The lessons from Marjorie Rowland's case, including general issues related to LGBTQ rights, legal strategies, and education-related issues, all continue to reverberate. Nash and Graves' fine sense of legal principles and their shortcomings can help current activists, advocates, and allies all understand that multiple strategies have been attempted in the past. The challenges faced by Rowland and others continue to create difficulties for LGBTQ people and increasingly more so for transgender people, especially transgender youth. The last few years have witnessed the visibility of transgender youth being met with legislative efforts to prevent their access to affirming medical care, recognition in schools, and access to supportive literature in school libraries and curricula. If they are out, they face bias; if they stay hidden, they face districts that claim there are no transgender students there in need of facilities and recognition.

This book provides, too, not only fine theoretical analysis but detailed narrative accounts that remind us of how much has changed. So many of the litigants struggled for LGBTQ employment rights not knowing that others were working toward the same goals. Without school professionals like Rowland, willing to risk their reputations to help LGBTQ youth (she outed herself while advocating for two young people who had come out to their parents and faced difficulties), students will continue to come up and out in educational settings shaped by silences, isolation, exclusion, and bias.

Given the complicated, intertwined accounts Nash and Graves provide of the education-related struggle for LGBTQ rights, we are left wondering what will come next to impede or encourage progress and how to encourage more to learn from what came before. Their work encourages us to stay aware that our rights may be voided because we are either too public or not of enough public concern at all, or whether we're out too much or not out enough. We might wonder, too, if allies, intentional or not, will have as great an impact as Justice Brennan did in nudging LGBTQ equity decisions along. As we witness educators losing their jobs or leaving the teaching profession over "don't say gay" and "don't say trans" laws and policies, Nash and Graves help us to see the specific educational stakes of these restrictions and the widening circles of impact that education-related discrimination has as well.

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