

ABSTRACT

The New Advocate: A History of Early Female Lawyers in the United States from 1860
to 1920

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This thesis will explore the history of the first female lawyers in the United States. I will detail the struggles and successes of those women who, from 1860 to 1920, formed a sense of professional identity for American female attorneys. These women found success and overcame many social and legal limitations because of two primary factors: (1) the support of family and friends and (2) a strong personal commitment to their values concerning the practice of law. America's first female lawyers also changed the face of their communities through interacting personally with their neighbors; the woman attorney displayed her unique talents and capabilities on an individual level to those around her. Personal connections with peers, family, classmates, and others allowed the early female attorney to promote her career, enrich her society, and make a way for the female lawyers of the future.

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THE NEW ADVOCATE: A HISTORY OF EARLY FEMALE LAWYERS IN THE
UNITED STATES FROM 1860 TO 1920

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CHAPTER ONE

What Makes a Woman Lawyer: An Introduction

The time will come when no “double consciousness” will disturb a *woman* who wishes to be a *lawyer*.

-Martha K. Pearce

In her original petition to the Wisconsin Supreme Court, Lavinia Goodell (1839-1880) claimed that it was not only her right to practice law, but the right of every able woman in Wisconsin. She argued that it was unwarranted to arbitrarily exclude one half of the citizenry from the legal practice, “an honorable and remunerative field, for which many of them [the women] have both taste and ability.”¹ Goodell’s petition, presented for admittance to the bar in 1875, was denied the next year; the Chief Justice of the court believed her request to be invalid and unnatural. Such a desire to move outside of the domestic sphere, according to the judge, was not only “a departure from the order of nature,” but indeed was “treason against it.”² Goodell’s gender, and the expectations surrounding it, were the sole factors in her initial inability to obtain admittance to the Wisconsin bar.

After the disappointment of 1876, Goodell continued the practice of law. Although she was not formally admitted to the bar, she worked to present bills of legislation which would open the legal profession to women in Wisconsin. With the help of her good friends,

¹ *In re Bradwell*, 55 Sup. Ct. 535 (1870), quoted in Catherine Cleary, “Lavinia Goodell, First Woman Lawyer in Wisconsin,” *Wisconsin Magazine of History* 74, 243 (Summer 1991), 257.

² *In the Matter of the Motion to Admit Miss Lavinia Goodell to the Bar of this Court*, 39 Wis. 232, 245 (1875) quoted in Cleary, “Lavinia Goodell,” 243.

one of whom was a prominent judge, she proposed several bills, one of which would allow admission regardless of sex, to the Wisconsin legislature in 1877. The legislation passed, and in 1879, Goodell reapplied for state bar admission. Her request was granted; she was found worthy to practice in the state of Wisconsin.³ Goodell persistently pursued her interest in the legal field; she attained her goal, and through legislation she opened the bar to all qualified women after her. Goodell's efforts promoted not only her own career, but the advancement of all female lawyers—in Wisconsin, and beyond.

Goodell's situation was not unlike many of her contemporaries. Women's entrance into professional fields, specifically lawyering, was uncommon in the late nineteenth century. For those American women who were the first to pursue legal practice, there were unique challenges and difficulties. These women were brave. These were the lawyers who would take up the cause of not only their clients, but that of all female attorneys to come. They forged the path for women's entrance into the legal practice; indeed, they were the new advocates.

These new advocates held certain traits in common; there were factors that helped them to be successful legal practitioners in a world which was generally unfavorable to their position. Although many historians have studied America's first female lawyers—their trials, triumphs, and qualities—none has synthesized this information to discuss the common ties amongst early female attorneys that made them truly successful. This thesis strives to understand what most or all of America's first female lawyers held in unity with each other—those privileges or qualities which supported them in their careers and their

³ Cleary, "Lavinia Goodell," 269.

lives. As will be discussed in the second chapter, most of these women had strong support from family, friends, associates, and others. The third chapter explains that they were women of will: people who held firmly to their beliefs about legal practice.

The fourth chapter continues this discussion and explores how these early women attorneys contributed to the success of future female lawyers. Few sources have elaborated on the vital role that relationships played in overcoming prejudicial barriers against women in the legal field, allowing them to truly be “successful” in effecting change in the community. Through their personal character, conviction, and charisma—conveyed through individual interaction with others—these women were able to sway many towards the belief that men and women should have equal educational and employment opportunities. It was personal connection that influenced others towards a more egalitarian view of women in the workplace. This thesis, then, first looks at the common qualities which early female lawyers possessed—those things that helped them become the attorneys and women that they were. It will then analyze the ways that they changed their societies through personal interactions with others.

The Struggles of the Early Female Attorney

Until the start of the Civil War, few women had practiced law in any capacity. With the tide of war, however, came change. The passage of the Fifteenth Amendment, which allowed all American men the right to vote regardless of race, provoked the question: well, what about women?⁴ Concepts regarding what it meant to be a citizen altered and

⁴ Nancy Gilliam, “A Professional Pioneer: Myra Bradwell’s Fight to Practice Law,” *Law and History Review*, Vol. 5, No. 1 (Spring, 1987): 107.

developed in the postbellum years. Places of higher education needed students and jobs needed workers to fill the slots that men left empty after the terrible death toll.⁵ Old ideas concerning woman's place in society could not help but change; indeed, they were impractical. A once thriving nation was devastated by internal war and needed its women to step into places they had not gone before.

American universities were furthermore experiencing a change in their approach to academics in the late nineteenth century. The prior focus had emphasized the training of male students into ministry, medicine, or law. In the late nineteenth century, however, American higher education became more interested in providing students a foundation for entering a wider variety of useful occupations. Women could benefit from mental and moral formation just as much as men; were not universities expanding their intellectual and ethical mission by admitting the other sex?⁶

Indeed, more women began to prioritize higher education as the university reordered its purpose. College-educated women came to dominate certain professions considered "appropriate" for women due to their nurturing emphasis—teaching, social work, nursing. It became increasingly important for women to achieve higher education if they wanted professional work, and most educated women did seek out these more traditional paths. Some, however, aspired towards the "masculine" fields, like medicine or law. In the late-nineteenth and early-twentieth centuries, the feminine ideal for an educated, middle-class woman was that she might be a help and support in her community wracked

⁵ Virginia Drachman, "Women Lawyers and the Quest for Professional Identity in Late Nineteenth-Century America," *Michigan Law Review* 88, 8 (1990): 275.

⁶ Andrea L. Turpin, *A New Moral Vision: Gender, Religion, and the Changing Purposes of American Higher Education* (Ithaca: Cornell University Press, 2016).

by the challenges of Reconstruction and industrialization—whether through volunteer or professional work. In this mindset, many women pursued higher education; our early women lawyers seized upon these new opportunities to enter a field formerly exclusive to men.⁷

The “first generation” of female lawyers in the United States faced many struggles in their journey to enter these new professional opportunities. Some historians have described the “first generation” as those women who had either graduated law school or been admitted to the bench by 1890.⁸ In my study, however, this term refers to all American women who made efforts to pursue either a legal education or career from 1860 – 1920. It was in this period that a sense of professional identity for American female lawyers grew. Around 1860, when women began to attend professional school in higher numbers, from 1920, when the Nineteenth Amendment granted voting rights to all American women, we see the foundations of organized, professional, and collaborative female lawyering in the United States.

In 1869, Arabella Mansfield (1846-1911) of Iowa was admitted to the bar in the United States.⁹ She was a lucky one, however, for many women petitioned for admittance to the bar and failed. Myra Bradwell (1831-1894) had studied under her lawyer husband’s tutelage and successfully ran one of the most respected legal journals of the time, the

⁷ Lynn D. Gordon, *Gender and Higher Education in the Progressive Era* (New Haven: Yale University Press, 1990); Elisabeth Perry, “Men Are from the Gilded Age, Women Are from the Progressive Era,” *Journal of the Gilded Age and Progressive Era* 1 (January 2002): 25-48.

⁸ Jill Norgren, “Ladies of Legend: The First Generation of American Women Attorneys,” *Journal of Supreme Court History* 35, no. 1 (2010): 7.

⁹ Donald E. Young, “Mansfield, Arabella “Belle” Babb,” *The University of Iowa: The Biographical Dictionary of Iowa*, <http://uipress.lib.uiowa.edu/bdi/DetailsPage.aspx?id=249>.

Chicago Legal News. She was fully qualified to practice, was as knowledgeable and capable as any male attorney, but the Illinois Supreme Court rejected her rightful request on one primary claim—she was a married woman.¹⁰ Richard Aynes explained that the common belief of judges, the power holders, was that women and men maintained separate spheres of influence—the female in the home, the male in the workplace—and that God ordained these positions.¹¹

Indeed, most historians have focused on the challenges that early female attorneys faced without discussing the common traits which helped these women to overcome those obstacles. Aynes also argued that the one judge who dissented in *Bradwell v. Illinois* maintained more progressive ideas about women’s advancement because of his relationship with his career-driven daughter. According to Aynes, Chief Justice Chase believed Bradwell to be capable because he saw the same potential in his daughter, whom he often employed to take his place in diplomatic affairs.¹² Aynes’ argument has explained that, through personal relationship, the Chief Justice’s daughter played a role in forming his perception about female lawyers; but it has not explained that early female lawyers did this very thing for their peers, families, and communities.

According to Virginia Drachman, nineteenth-century societal standards proclaimed a woman to be naturally submissive, feeling, and sentimental—qualities not to be seen in the courtroom.¹³ The woman was the paragon of morality and the transmitter of

¹⁰ Gilliam, “A Professional Pioneer: Myra Bradwell’s Fight to Practice Law,” 105-133.

¹¹ Richard Aynes, “*Bradwell v. Illinois*: Chief Justice Chase’s dissent and the sphere of ‘women’s work,’” *Louisiana Law Review* 59, no. 2 (January 1999), 526.

¹² Aynes, “*Bradwell v. Illinois*,” 525-541.

righteousness to her home and community. It was this ideal of feminine characteristics, according to Jane Friedman, that compelled the Illinois court to deny Bradwell her claim; the stresses of litigation were thought to defile female virtue and thus taint the home and society at large.¹⁴ Bradwell's misfortune elucidated one of the struggles for women first entering the legal practice: social expectations of feminine virtue inhibited many aspiring attorneys from their desired professions.

The law itself also hindered women from entering the legal field. Linda Kerber elaborated on women's legal status in America from the birth of the republic to the mid-twentieth century. During the time in which women began to pursue careers in law, wives transferred their legal rights to their husbands through coverture laws—that is, married females were unable to create or sign any legal contracts by themselves: in the eyes of the law, their identity was heavily intertwined with their marital status. Furthermore, before the 1920 passage of the Nineteenth Amendment, most females in the United States were disenfranchised. They were unable to vote; therefore, they were not represented when taxed, nor were they able to effect political or legal change through suffrage.¹⁵ Even in the West, which was the most progressive region of the U.S. for women's legal rights, women did not serve on juries until the very late nineteenth century.¹⁶ In the eyes of the law, then, a woman (and especially a married woman) was essentially a political nonentity.

¹³ Virginia Drachman, "Women Lawyers and the Quest for Professional Identity in Late Nineteenth-Century America," *Michigan Law Review* 88, 8 (1990): 2414-2443.

¹⁴ Jane Friedman, *America's First Woman Lawyer: The Biography of Myra Bradwell* (Buffalo, NY: Prometheus Books, 1993).

¹⁵ Linda Kerber, *No Constitutional Right to Be Ladies* (New York: Hill and Wang, 1998).

In the late nineteenth and early twentieth centuries, women were considered a threat to the courtroom as well. Barbara Babcock, in “Women Defenders of the West,” explained male lawyers’ primary fear associated with female litigators. If a woman entered the courtroom as an attorney, it would be necessary to have women serve on juries; a female lawyer could easily sway an all-male jury with her feminine charms, and so having women on the panel would be necessary to mitigate this negative influence. According to nineteenth-century critics of women in law, women attorneys would inevitably cause other women to enter the courtroom—as spectators and jurors—and thus defile justice with their excessive emotion and seductive schemes.¹⁷ One of the barriers which impeded females from first entering the legal practice, then, was the misconception that they might threaten the pure course of justice in the courtroom. A woman was the paragon of morality, and yet she could also be a degrading force.

Furthermore, law schools inhibited women from legal education and thus a legal career. Up until the late nineteenth century, most attorneys gained their expertise by apprenticeships—studying under the tutelage of another lawyer.¹⁸ As the nineteenth century progressed, however, law school became the preferred way to acquire a legal education. Here, women were at an incredible disadvantage.

Virginia Drachman elaborated on this phenomenon. Women were barely admitted to law schools until the late nineteenth century. In 1869, Washington University of St Louis admitted the first female law student in America; in 1870, Ada Kepley entered the Union

¹⁶ Barbara Allen Babcock, “Women Defenders in the West,” *Nevada Law Journal* 1, 1 (Spring 2001): 2–3.

¹⁷ *Ibid.*, 3–4.

¹⁸ Drachman, “Women Lawyers,” 3.

College of Law, now Northwestern University, and became the first female to ever attain a formal law degree.¹⁹ The elite Harvard Law School denied women until 1950.²⁰ Women's entrance into the field was disadvantaged, not least because it was late. Legal education placed early female lawyers in a difficult position—one that was less developed and had less support than that of their male counterparts.

Nearly all but a few law schools discouraged women from entering at all. Janette Barnes explained this phenomenon in her article, "Women and Entrance to the Legal Profession." She related that even until the mid-twentieth century, most law schools focused their energies on recruiting men. Barnes argued that because law schools experienced outside stresses from firms—most law firms did not want women attorneys—the schools, faced with pressures from their alumni, did not want women students.²¹ In the late nineteenth and early twentieth centuries, women certainly did not have an equal variety of options in choosing a place for legal education; indeed, they were barred from some of the highest-quality schools until the twentieth century.

Furthermore, once women exited law school or legal training, they found great difficulty in attaining the career. According to Barnes, when the female lawyers found work, they often did not venture beyond family or probate law—areas of the field which were more "feminine." Women felt pressured to keep away from certain legal arenas that

¹⁹ Barbara Joan Zeitz, "The Lady & the Law School," *AAUW Illinois: CountHerHistory* (Oct. 2009): <https://aauw-il.aauw.net/files/2013/04/Oct2009.pdf>.

²⁰ Jannette Barnes, "Women and Entrance to the Legal Profession," *Journal of Legal Education* 23, no. 2 (1970): 276.

²¹ *Ibid.*, 276-308.

were already male-dominated—specifically, courtroom litigation.²² Furthermore, Drachman argued in *Sisters in Law* that females immediately entered a male-dominated workforce upon entering the field—there were not separate law schools for women, nor was there really any female influence in firms or courtrooms. Women lawyers immediately entered majority-male law schools and firms.²³ In this reality, they faced an immense struggle in redefining social barriers for women in the professional sphere at the time.

Furthermore, Jill Norgren found that female lawyers were often unable to find employment, especially at important firms in big cities. She related that Catharine Waugh McCulloch (1862-1945), a member of the Equity Club and graduate of the Chicago's Union College of Law, faced gender prejudices when she worked in urban Chicago. Her judge proclaimed his general disapproval of women in the legal practice and advised McCulloch to “go home and take in sewing.”²⁴ Similarly, Lelia Robinson (1850-1891) of the Equity Club suffered inequity when she practiced in Boston.²⁵ She remarked that Bostonians generally did not trust women for legal counsel and was forced to move to the West Coast to find employment, where women had already been admitted suffrage and jury rights.²⁶ Thus female lawyers could not always practice the type of law they wished

²² Ibid., 292.

²³ Virginia Drachman, *Sisters in Law: Women Lawyers in Modern American History*, (Cambridge, Mass.: Harvard University Press, 1998).

²⁴ Jill Norgren, “Ladies of Legend: The First Generation of American Women Attorneys,” *Journal of Supreme Court History* 35, no. 1 (2010): 77; Catharine W. McCulloch, handwritten manuscript of essay “Women as law clerks,” series VI of the Mary Earhart Dillon Collection, 1869-1945, Schlesinger Library, Radcliffe Institute, call no.: A-68, Folder 59, page 7, <https://nrs.harvard.edu/urn-3:RAD.SCHL:518358>.

²⁵ Robinson tragically died at age forty-one from medication overdose (see Drachman, *Women Lawyers*, 261).

²⁶ Norgren, “Ladies of Legend,” 78.

in the places they desired to work—gender prejudices and structural hindrances inhibited a woman’s legal career. Early female lawyers faced many struggles, both within their society and legal institutions, upon entering and whilst maintaining their careers.

While these sources have focused on the frustrations that many early female attorneys experienced while they pursued legal careers, few studies have emphasized the power that interpersonal relationships had in dissolving these prejudices and barriers. Simply by existing, by doing their work well, and by interacting positively with others, early women lawyers altered their society’s ideas about females in legal practice.

What Makes a Woman Lawyer

One of the difficulties in researching these women lawyers is, admittedly, a lack of diversity. Most, but not all, were white and middle-to-upper-class. Almost every early woman lawyer came from an advantaged social and racial background, and many had sufficient economic resources for their education and career pursuits. In continued historical study, there would be value in a specific and thorough look into those early female attorneys who hailed from disadvantaged racial and socioeconomic circumstances.

Nonetheless, historians have discussed what it meant for these early pioneers in law to be “successful.” Some women, although prohibited from the bar, still influenced the community with their efforts. John Lupton discussed Myra Bradwell’s contribution to legal knowledge. She studied law under her husband’s training and founded the *Chicago Legal News* in 1868, which she continued to publish faithfully even after the Illinois Supreme Court denied her the right to practice law in 1869. Her newspaper provided a service to the legal community which it desperately needed: timely publications of relevant legal news.

Bradwell recognized that the gap between the passage of a law and its publication was too great, so she ventured to craft a newspaper which might solve this issue.²⁷ Although she was not technically admitted to the bar until 1890, Bradwell provided a service which the legal community desperately needed.

Furthermore, historian Nancy Gilliam commented on Bradwell's role in effecting change within the legal community. Bradwell herself claimed that the *Chicago Legal News* would be a journal "devoted to legal information, general news, the publication of new and important decisions, and of other matters useful to the practicing lawyer or man of business."²⁸ So she certainly contributed to the development of the legal field at large. But Gilliam also explained that Bradwell used her newspaper to advocate for reform. She utilized the journal to propose change, whether that be related to courthouse renovations or the allowance of women's suffrage rights.²⁹ The Illinois Supreme Court terminated Bradwell's career plans, but she used her abilities to promote women's empowerment.

Similarly, Richard Chused elaborated on Bradwell's great success in positively influencing her community. According to Chused, "the very existence of the paper was a powerful cultural statement," and Bradwell had claimed a leadership position in legal periodicals, an area mostly dominated by men; she thus utilized the journal "as a site for the exercise of women's power."³⁰ With Bradwell as an example, historians have discussed

²⁷ John A. Lupton, "Myra Bradwell and the Profession of Law: Case Documents," *Journal of Supreme Court History* 36, 3 (2011): 236-263.

²⁸ *Chicago Legal News*, Oct. 3, 1868, at 4, col. 1 quoted in Gilliam, "A Professional Pioneer," 106.

²⁹ Gilliam, "A Professional Pioneer," 105-133.

³⁰ Richard H. Chused, "A Brief History of Gender Law Journals: The Heritage of Myra Bradwell's *Chicago Legal News*," *Columbia Journal of Gender and Law* 12, 3 (Sept. 2003): 421.

what it meant for a female in the late nineteenth century to become “successful” in the field: with her knowledge and skills, she affected practical, relevant, and meaningful change within her community.

Historians have also characterized a “successful” female lawyer as one who reshaped people’s perceptions about the law in a positive way. Barbara Babcock discussed the contribution of lawyer Clara Foltz (1894-1934) to criminal defense law and in changing jurors’ understanding of what it meant to be innocent until proven guilty.³¹ Foltz became California’s first female attorney in 1878 and was responsible for introducing the concept of a “public defender” in her state.³² She recognized that defendants often did not receive adequate legal representation. Up until Foltz’ recommendations, there was a state fund only for public prosecutors to represent plaintiffs.

Foltz suggested, however, that there should be an equal fund for defense attorneys, so that defendants might have competent advocacy regardless of their ability to pay. The peak of Foltz’ fight for a “public defender” was her speech at the Chicago World’s Fair in 1893. There, many distinguished attorneys, professors, and judges listened to her argument. Babcock described Foltz’ concept of what a public defense attorney might be: an effective figure who could counter the prosecution, balance the evidence, and provide justice and order to legal proceedings.³³ Furthermore, according to Babcock, Foltz believed that her

³¹ Barbara Babcock, “Reconstructing the Person: The Case of Clara Shortridge Foltz,” *Biography* 12, 1 (Winter 1989): 5.

³² Barbara Babcock, “Inventing the Public Defender,” *American Criminal Law Review* 43, 4, (Fall 2006): 1267-1315.

³³ *Ibid.*, 1271.

defender would challenge people's general presumptions of guiltiness for the accused and bring about just and fair conditions for a defendant's representation. Due to her efforts and community mobilization, California implemented its first public defender office in 1913.³⁴ Clara Foltz, then, was one who challenged the law's inherent prejudices and worked towards an egalitarian society.

She utilized her position as a lawyer to advocate this reform and her disadvantaged position as a woman to empathize with the downtrodden and accused. A successful early female attorney was one who saw the law's flaws and society's needs, positively influencing notions of justice within her community. All in all, "success" for these early female attorneys was indeed achievement of their personal goals, but it also meant accomplishing justice for others. Successful female lawyers of the late nineteenth and early twentieth centuries not only strove to better themselves, but they endeavored to empower and enrich others.

Moving Forward

The first female lawyers in the United States shared some unifying qualities. One was the support that an early woman attorney received from parents, friends, and especially husbands. Another was the high level of inner strength—commitment to personal conviction—which every early female lawyer maintained. Moreover, these women altered forever the perceptions of their peers, loved ones, and communities concerning females in the legal practice. The personal relationship—between the lady lawyer and her husband,

³⁴ Babcock, "Inventing the Public Defender," 1274.

her father, her friend, her local judge, her colleague—promoted the progression of her career and that of all female lawyers to come.

So, these “first-generation” female attorneys faced seemingly insurmountable obstacles but overcame them with great bravery. They achieved success by attaining personal goals and administering justice for the community. But who were these women? What common ties did they possess? Indeed, the answer to this query holds importance for historical study and contemporary thought. What made a successful lawyer in 1880 may ring true for the aspiring attorney today. This discussion might offer insight into what makes a person a strong person, what helps an individual to overcome deep difficulties. It may be discovered that the needs and feelings of America’s first female lawyers were not so different from our own.

CHAPTER TWO

A Tower of Strength

For what can be so refreshing to an aspiring soul, that has been stifled in narrow conventionalism, as to be simply *understood*? It is the breath of life.

-Martha K. Pearce

America's "first-generation" of female lawyers—those women who, from 1860 to 1920, pursued law as a profession in the United States—discovered that support from others was crucial for their success in the career. Most of these legal pioneers recognized how the encouragement and aid of loved ones enabled their aspirations, which were so challenging in the late-nineteenth and early-twentieth centuries. American women particularly experienced specific struggles that, in most cases, they could not have overcome without cooperation from family and friends.

Some of these issues rested in the ways lawyers attained their education and how communities recognized a woman's place during the 1860s – 1920s. Law school was not a requirement, as it is now, to achieve a sufficient legal education or to acquire lasting and meaningful employment in the field; an up-and-coming lawyer could seek training from other attorneys to gain instruction. Furthermore, most law schools did not admit women until the twentieth century, so aspiring female attorneys often had to choose the alternate route—apprenticeship in a law office. Since most law schools prohibited their admittance, some early female attorneys found that their best avenue towards the career was through

the tutelage of other male lawyers: husbands, brothers, and fathers.³⁵ In acquiring legal education, support from male loved ones who knew the trade was often necessary for adequate training and thus suitable employment.

Certain social expectations for women attorneys also necessitated family support in their endeavors. Generally, a woman's "sphere of influence" rested in her devotion to homemaking and childrearing. Many voices from state and society told a woman that her proper place belonged primarily in the home—any other pursuit could be a distraction from this superior calling.³⁶ These influences could have an effect on the way women, no matter how independent or tenacious, viewed their work. The explicit and implicit social stereotypes manipulated how communities, employers, families, and other lawyers perceived females in the legal field. If a woman was to overcome these social barriers, and effectively conduct business both as a homemaker (if she married) and a lawyer, she required backing from family. Therefore early women lawyers met with special challenges in their callings as attorneys that necessitated the assistance of family and loved ones.

In 1886, a small group of female lawyers formed the Equity Club to encourage and connect other women attorneys in the United States and across the globe. It began as a dinner at the home of Letitia Burlingame (1859-1890), a law student at the University of Michigan at Ann Arbor; the group included other law students and lawyers from Michigan. These women had discussed and decided that a method of camaraderie was necessary for

³⁵ Virginia Drachman, *Women Lawyers and the Origins of Professional Identity in America: The Letters of the Equity Club, 1887 to 1890*, (Ann Arbor: University of Michigan Press, 1993), 3.

³⁶ *Ibid.*

their encouragement and fulfillment.³⁷ Membership in the Equity Club required a small fee and the writing of a letter to be circulated among the other members of the group. Qualifications were loose—a woman only need either to be pursuing her legal education or to have attained it. She did not have to be practicing or even have plans to practice.³⁸ In their letters, these women revealed their thoughts not only about the legal field but about their personal convictions—in law, life, or otherwise. And many emphasized the great influence that loved ones had over their decisions to study law.

The women of the Equity Club personally voiced their concerns and questions regarding their unique challenges. Their anxieties often permeated their letters to one another, displaying the great need these women felt for communal support. For most early female attorneys, support specifically from parents, friends, and husbands was crucial to their success in law and in life.

Parents

Certain attorneys highlighted the importance of parental encouragement in their legal careers. Letitia L. Burlingame, one of the younger “up-and-coming” lawyers of the Club, described how her parents empowered her choice to pursue law. She expressed that an uncle once reproved her course, and he declared that a woman solely devoted to home and hearth was “much more interesting” than a lawyer—“and much more sought after.”³⁹ Burlingame quipped, “As you observe this explosion of masculine opinion did not frighten

³⁷ Drachman, *Women Lawyers*, 1-38.

³⁸ *Ibid.*

³⁹ Drachman ed., *Letters of the Equity Club*, 46.

me much.”⁴⁰ She then attributed her progressive thoughts on a woman’s place in society to her parents—they “were inherited from my Father and Mother who have given me every encouragement possible.”⁴¹ As Burlingame related, her parents provided the necessary foundation to believe that women may have other destinies than solely wife and mother—her upbringing formed the belief that she could in fact be a lawyer. Lettie died at thirty one, well before her time; she had a “sickly adolescence” and succumbed to “brain disease” after a severe case of influenza.⁴² For Burlingame, her parents’ support at a young age was crucial to her confidence, identity, and future in what was an unfortunately short-lived career.

Another Equity Club member, Jane M. Slocum (1842-1924), remarked on the importance of parental support from a teacher’s angle. Slocum had been trained sufficiently in the law and could apply for admittance to the bar if she wished, but she chose to return to teaching. She believed it was absolutely necessary to inform young women about social sciences, for if these girls could recognize their need to understand the community’s inner-workings and their potential influence in society, “there is large hope for the future.”⁴³ But at Slocum’s school, one factor particularly barred these young women from receiving the proper training: their parents. Slocum claimed that “the time parents are willing to allow

⁴⁰ Drachman ed., *Letters of the Equity Club*, 46.

⁴¹ *Ibid.*

⁴² The historian notes that for a year and a half after contracting influenza, Burlingame suffered from nervous prostration. “Nervous prostration” could result in “odd sensations” in the head, “depression,” and weakness—this likely caused the “brain disease” from which Burlingame died. See Roberts Bartholow, “What is Meant by Nervous Prostration?” *Boston Medical Surgical Journal* 110, no. 3 (1884): 53; Drachman, *Women Lawyers*, 214-215.

⁴³ Drachman ed., *Letters of the Equity Club*, 69.

their daughters in boarding school is too limited to admit a course in Social Science.”⁴⁴ Thus, the knowledge that Slocum found so important for a young woman’s impact in society was hindered by the parent’s wishes.

According to Slocum, a law school graduate who decided to teach, an understanding of social sciences was imperative if a girl wished to move forward in the world—perhaps even to become a lawyer. In nineteenth-century society, women could find professional fulfillment in charitable organizations and social work. Nurturing, pure, and inherently good, women were generally viewed as transmitters of righteousness, in their communities and especially their homes.⁴⁵ Indeed, many early female attorneys developed their legal career by participating in social causes, and they worked within the mindset that women were best suited to advocate for social justice. Parents, however, had the ability to squelch this learning with their influence, wrote Slocum. From the perspective of a teacher who had legal education, parents had great sway over a young woman’s perception of her place and abilities in the community.

Another lawyer from Hawaii, Almeda E. Hitchcock (1863-1895), explained her father’s special support in her decision to attend law school. After college in Honolulu, Hitchcock tried to teach but found it very taxing. So, she began to work for her father in his law office. According to Hitchcock, “He would take me on the court circuits with him, until I began to wish for more knowledge of the law.”⁴⁶ She had not yet thought about

⁴⁴ Drachman ed., *Letters of the Equity Club*, 69.

⁴⁵ Claire R. Snyder, “Radical Civic Virtue: Women in 19th-Century Civil Society,” *New Political Science* 46, no. 1 (March 2004): 52; Drachman, *Women Lawyers*, 23-25.

⁴⁶ Drachman ed., *Letters of the Equity Club*, 103.

entering law school herself, until she met another female law graduate. They discussed the profession together and suddenly the idea “flashed” through Hitchcock’s mind: that she should go to law school herself and become fully trained in the occupation.⁴⁷

She presented the thought to her father, “and his consent was immediately gained.”⁴⁸ She did attend law school, and was admitted to the Hawaii bar in December of 1887.⁴⁹ Hitchcock’s love for and knowledge of the law came from working in her father’s law office. He showed her the inner-workings of the legal profession and fostered her inclination for the job. When she was encouraged by another female attorney, and chose to fully pursue the occupation, her father offered instantaneous approbation. Hitchcock died from “bilious fever” at thirty-two, but her father’s influence inspired her aspirations even at such a young age.⁵⁰

Ellen A. Martin (1847-1915), a lawyer from Chicago, listed the factors that assisted her career pursuits. One such help, she explained, “was that my father prepared for the bar and was always a great deal among lawyers and in court, and took pains to tell at home what was going on and explain the legal points involved.”⁵¹ Martin also lamented that

⁴⁷ Ibid.

⁴⁸ Drachman ed., *Women Lawyers*, 103.

⁴⁹ Ibid.

⁵⁰ Drachman notes that for the last two years of Hitchcock’s life, the lawyer traveled around the island of Hawaii in “primitive conditions” to offer legal services; such travels taxed her health greatly (*Women Lawyers*, 234-235). “Bilious fever” was synonymous with malaria or typhoid and caused severe abdominal aches, headaches, and constipation (see “Common Civil War Medical Terms,” The Ohio State University Department of History, <https://ehistory.osu.edu/exhibitions/cwsurgeon/cwsurgeon/commonterms>).

⁵¹ Drachman ed., *Letters of the Equity Club*, 114.

women had difficulty in acquiring general knowledge about law and business.⁵² Her father, however, was a substantial influence in her legal wisdom because he taught her things that other women would not have known, simply because they had not been told. Her father greatly aided her competency in the law by bringing the information into his home.

According to many women in the Equity Club, parental support was imperative in their decisions to study law or become lawyers. A father's and mother's inspiration, training, and encouragement could catalyze a woman's choice to pursue her legal ambitions. The Equity Club letters have displayed, then, that parents played an imperative role in enabling the success of America's "first-generation" of female lawyers. Support from parents often built the foundation for a young woman's mobility in the world—it formed the belief that she could rise above social conventions. Family, many times, fostered and inspired her love of the law. Parental encouragement enabled the foundation and continuance of a young woman's success in the legal field.

Friends, Colleagues, and Mentors

Early female attorneys also found vital edification from other friends and colleagues. The women of the Equity Club wrote about their experiences with the fellow associates who enabled their careers. Mary A. Greene (1857-1936), graduate of the Law School of Boston University in 1888, described her time in the law office of Mr. Hemenway. By permitting her to work in his office, she was able to read legal documents and procedures; this training enhanced her education while she studied at Boston

⁵² Drachman ed., *Letters of the Equity Club*, 114.

University's law school.⁵³ She described Mr. Hemenway's assistance as a "kindness" and a "helping hand."⁵⁴ Such benevolence from her employer, Greene explained, was a great aid in her career.

Further, Greene referenced her friendship with another female attorney and Equity Club member in Boston, Lelia Robinson. Greene asserted that Robinson's "friendship, sympathy, and counsel" were of immense value; Greene claimed, "I think it is helpful to both of us to feel that neither is 'the only woman lawyer in Massachusetts.'"⁵⁵ Greene testified to the importance of camaraderie in her legal career.

Emilie Kempin (1853-1901), a female lawyer from Switzerland, produced a letter for the Club in 1888 and strongly confirmed the necessity of support from colleagues and mentors in her legal pursuits. The account of her experiences was at first quite grim. "I cannot go before the court," she explained, "twice have I sought recognition before the highest court, but without success."⁵⁶ Only active citizens, all masculine, were granted such a privilege. She included a humorous yet disheartening insight about the Swiss courts' requirements: "While every gin for catching birds may be an advocate, and make game of the law, a woman, no matter her qualifications, even though all that are requisite, has not

⁵³ Drachman ed., *Letters of the Equity Club*, 98.

⁵⁴ *Ibid.*

⁵⁵ *Ibid.*

⁵⁶ Drachman ed., *Letters of the Equity Club*, 98; "Kempin-Spyri, Emilie," Biographical Archive of Psychology, <https://biapsy.de/index.php/en/9-biographien-a-z/152-kempin-spyri-emilie-e>.

this right.”⁵⁷ She furthermore explained that this hindrance was disadvantageous and dispiriting, especially financially.

Moreover, she insinuated that the authority figures in the Swiss legal world, those who effected change in the practice, were of poor and selfish character. So she did not expect any real improvement of the situation.⁵⁸ She described, too, that many believed her intention to study and apply the law was ridiculous and “half demented” and claimed that it was not possible “for a frail woman to reason logically.”⁵⁹ These were Kempin’s conditions.

But her letter took a brighter turn after these discouraging accounts. Kempin noted some exceptions to the critical attitudes in Switzerland; namely, that of her employer and law professors. She was a secretary in a law office, and explained that her boss elevated her “trifling merit in the most auspicious light, whenever possible; and reproved others, who would have frowned.”⁶⁰ In the most significant legal cases, he kept only her as a partner. Her law professors also provided great encouragement and protection in Switzerland’s challenging legal conditions for women. She referred to both her employer and her professors as loyal friends for their support, and claimed, “They have lightened my pathway that would otherwise have been dark with difficulty and mortification.”⁶¹ Kempin’s testimony has clearly described how much she appreciated and required support

⁵⁷ Drachman ed., *Letters of the Equity Club*, 105.

⁵⁸ *Ibid.*

⁵⁹ *Ibid.*

⁶⁰ *Ibid.*

⁶¹ *Ibid.*, 105-106.

from professor-mentors and colleagues if her path as a lawyer was to be enduring. Although Kempin was not American, her account in the Equity Club letters paralleled the claims of other American female members and indicated the universal need for support among women attorneys during the late nineteenth century.

Ellen A. Martin also spoke to the importance of camaraderie in the legal profession. She stated in her letter that women were often uninformed about business or law and found difficulty in communicating with men about general business matters.⁶² This would have been a great hindrance to her, had she not been in a collaborative law office. She related that three other law students worked alongside her in the establishment, and they all “had a great deal of discussion on legal and business matters, which helped to bring out important points and fix things in mind.”⁶³ She also explained that the young lawyers of Boston met up with the law students to discuss different applications of the law and whatever was happening in their community, and because of these influences, the group together “knew pretty much everything of importance.”⁶⁴ Legal knowledge was difficult for a woman to gain in Martin’s time and place. She acquired such wisdom by communing and collaborating with other lawyers and law students; associations with other lawyers enhanced Martin’s career.

Lelia J. Robinson similarly testified to the value of support from friends in the profession. A lawyer out of Boston, Robinson related in her letter that a woman had recently come to ask for legal counsel in her divorce proceedings. The woman’s husband

⁶² Drachman ed., *Letters of the Equity Club*, 113-114.

⁶³ *Ibid.*, 114.

⁶⁴ *Ibid.*

filed against her in California, and so she needed a reliable California attorney. Because of her connections, Robinson “knew exactly the man for the business,” a former student whom she befriended in law school; Robinson telegraphed to him the whole case and, since she trusted him completely with the situation, she felt satisfied: “The matter is off my mind,” the Boston lawyer declared.⁶⁵

She further asserted the significance of interpersonal connections among other lawyers: “In this way lawyers in different parts of the country profit by being well known to each other.”⁶⁶ According to Robinson, it was particularly helpful for female attorneys to be as knowledgeable as possible about each other’s experiences and professional positions, “that we may be able to render mutual aid and support.”⁶⁷ Robinson was one of many early woman lawyers to testify to the truth that friendship and professional camaraderie were crucial for mobility. Connection with peers strengthened her career, as it did in the divorce case. She then communicated the need for friendship among lawyers for professional elevation and personal edification. Robinson’s testimony spoke to a general attitude which the voices of the Equity Club evinced: support from others, whether they be friends, peers, or other professionals, greatly enhanced early female attorneys’ success in their education and careers.

Furthermore, these associates served as people whom the early female attorneys could emulate. The boss who hired Mary Greene provided insight on the study and practice of law; indeed, he showed her that there were employers in this world who would value

⁶⁵ Drachman ed., *Letters of the Equity Club*, 119.

⁶⁶ *Ibid.*

⁶⁷ *Ibid.*

her aspirations. Friendship among the lady lawyers, and even among male colleagues, offered the attorneys an opportunity to learn from one another. Kempin's boss kept her as a partner in his most difficult work; he showed to her the ins-and-outs of a challenging case and provided an example for her career aspirations. Those who were in the legal field, as friends, mentors, bosses, and other associates offered a unique help to America's early female attorneys: they could be encouraging exemplars.

Even the purpose of the Equity Club itself testified to the female lawyer's need and desire for support among other attorneys, friends, and colleagues. One letter stated clearly the mission of the group, that it was "a practical attempt to secure something of which *every* woman lawyer or student in a law school has at some time, perhaps at many times, felt the need—the sympathy of other women of similar tastes and experiences."⁶⁸ Laura de F. Gordon (1838-1907), an attorney from California, went so far as to call the other members "Sisters-in-Law."⁶⁹ In reference to her "family" of female attorneys, she related,

Every woman in the Legal profession must feel that want of Professional companionship . . . must, at times, (as I have for years) longed for expressions, or assurances of that close sympathy born of mutuality of interests which women alone can extend to a woman. There is a certain "moral support" in the confiding sympathy of brave-souled, warm-hearted women, who have dared and suffered in kind with ourselves, which becomes a *tower of strength* to nerve the heart and sustain the brain when both are taxed to the utmost as is often the case in the practice of our grand profession . . . I became convinced years ago, that the few women lawyers of the country should become better acquainted for their mutual benefit.⁷⁰

⁶⁸ Drachman ed., *Letters of the Equity Club*, 76 (own emphasis added).

⁶⁹ Drachman ed., *Letters of the Equity Club*, 50; Gordon was also the first female newspaper editor and publisher in the United States, and she raised an adopted son as a divorcee (see Drachman, *Women Lawyers*, 215).

⁷⁰ Drachman ed., *Letters of the Equity Club*, 50.

This was the goal of the Equity Club: to provide support where it was obviously needed and mutuality where America's first female attorneys had little. Connection among peers and "sisters" was vital for these lawyers, as they explained in their letters to each other. Their accounts have testified to the larger truth that encouragement from friends, colleagues, mentors, and other associates also greatly contributed to early female attorneys' triumphs in the legal field. When comrades stood beside these women, the lawyers' paths became much more endurable; success in the career was more attainable.

Spouses

The woman lawyer of the Progressive Era found strength and comfort in the influence of her parents and friends, certainly. There was, however, a special emphasis by many of the married attorneys placed on the importance of choosing the right husband. They voiced the significance of a husband's encouragement in a female lawyer's legal practice—his impact truly had the ability to bolster or inhibit his wife's career.

Professional women in the late nineteenth and early twentieth centuries expressed varying viewpoints on marriage, whether or not it was feasible for a female lawyer to have a home and a career, and the extent to which a professional woman should devote her resources to housework and family. Nuptial ideals altered throughout the nineteenth and twentieth centuries and so did women's opinions about them. Some adhered to a conservative understanding that a woman must be willing to give up her legal practice if her husband so requested. Others held a more progressive perspective, arguing that it was

unnecessary for an attorney to compromise her career to be an able wife and mother.⁷¹ Each woman held her own unique and nuanced opinion on the matter based upon her personal values and experiences.

In her article, “My ‘Partner’ in Law and Life,” Virginia Drachman explained the importance for the early attorney of choosing the right spouse (if the woman married) to maintain the proper balance between work and family. She discussed the three main schools of thought at the time—separatism, Victorian submissiveness, and an integrated approach—and related that for those women who were married, the issue of *who* they married was crucial. Their marriage partners often either propelled them into the career or inhibited them. In a healthy and equitable marriage, the husband was the greatest enabler and encourager for an early women lawyer.

The issue remained that a woman’s personal life was interwoven with her professional life—she had to learn how to balance the two if she wished to achieve her goals, and a husband who was willing to help share the burdens of housekeeping and childrearing could enable this reality for a married woman.⁷² For these early female lawyers, then, the support of family members and especially husbands was often crucial for attaining and maintaining a legal education, and in their time, it was vital for the balance of a legal career and family life.

Kelly Weisberg also found that, in order for many women to increase their legal education, they actually went into practice with their husbands. Weisberg even cited an

⁷¹ Virginia Drachman, “My ‘Partner’ in Law and Life’: Marriage in the Lives of Women Lawyers in Late 19th- and Early 20th-Century America,” *Law & Social Inquiry* 14, no. 2 (Spring 1989), 221-250.

⁷² *Ibid.*

example of a lawyer-husband working towards legislation which would have opened the profession to women.⁷³ A variety of factors existed, such as sexist legal language and male-dominated social norms, which discouraged women from legal practice. According to Weisberg, male support systems held unique value for early women lawyers.⁷⁴ The men were able to move in places where their female counterparts could not, and in some ways they could crack the doors that the women attorneys later swung open. Weisberg discusses the influence of male relatives upon a successful female lawyer's profession but does not go in-depth.

In an interesting study conducted in 1919 by the Bureau of Vocational Information, an all-female group committed to women's empowerment in New York City, women lawyers were surveyed to determine their beliefs concerning family and work. Many of the women who took a more progressive approach upheld that the important point lay not in *whether* a woman married, but in *who* she married. "Choose the broader-minded man," one woman advised.⁷⁵ Many of the women surveyed in the Bureau's study expressed that there were some men willing to marry a professional woman, and the key to a proper work-life balance in a marital relationship was "the right man."⁷⁶ With the support of the "right" husband, an early female attorney truly could have had it all, according to many of the Bureau's interviewees. This was a common theme often found in testimonies from

⁷³ Kelly Weisberg, "Barred from the Bar: Women and Legal Education in the United States 1870-1890," *Journal of Legal Education* 28, no. 4 (1977): 495.

⁷⁴ *Ibid.*, 485-507.

⁷⁵ Bureau questionnaire #172 March 5, 1920 quoted in Drachman, "My 'Partner' in Law and Life," 248.

⁷⁶ Bureau questionnaire #161 March 2, 1920 quoted in Drachman, "My 'Partner' in Law and Life," 248.

America's first female lawyers. A good husband had great influence over his wife's happiness and career. With his cooperation and encouragement, an early woman attorney had a unique accomplice in law and life.

The letters of the Equity Club have offered valuable insights into early female lawyers' thoughts concerning a husband's role in supporting his wife's career goals. In a world where women struggled to obtain admittance to most law schools and had little camaraderie in the profession, a husband's support could enable his wife's chance to gain legal education and, later, clientele in her practice. Attorney Ada M. Bittenbender (1848-1925) related that she began studying the law under her husband's tutelage and encouragement, passed her examination for admission to the bar two years later, and began practice with her husband in 1882. Professionally, the two spouses were partners in their firm.⁷⁷ They practiced together in a joint law office under supposedly equal terms.

Other women found ample legal training under their spouses' teaching or encouragement. Lelia Robinson wrote of a young friend, Mrs. Fall, who studied alongside her husband. Another friend, a widow, went to law school together with her spouse. After her husband died, the widowed lawyer continued to practice law, which was what "would be his wish for her."⁷⁸ Robinson explained, "Young, bright and with practical knowledge of legal thought and methods, she will succeed."⁷⁹

⁷⁷ Drachman ed., *Letters of the Equity Club*, 90.

⁷⁸ *Ibid.*, 170.

⁷⁹ *Ibid.*

Ada H. Kepley (1847-1925) expressed a similar experience. She studied in the office of her husband, Henry B. Kepley. After also taking a course at the University of Chicago, she applied for the bar and was rejected, although her male peers were all admitted. Kepley explained her husband's role in supporting her aspirations. She expressly related that she received her "impulse to enter this" from her husband.⁸⁰ "I was willing enough and desired to help my kind and the world," Mrs. Kepley explained, "but like many others the usages and customs of sex so bound me that I needed an impelling force, and I gratefully record this as due my 'partner' in law and life."⁸¹ Kepley attributed her inspiration to practice law to the influence of her spouse. According to Kepley, the gender norms of her time were so binding that she required reassurance from another interested individual: her husband.

Kepley's husband even enabled his wife's career through legislation. After Mrs. Kepley had gained her legal education, she applied for the admittance to the Illinois bar and was rejected. She explained that her husband drafted a bill which aspired to give all women the liberty of entering "the *learned* professions."⁸² After this bill became law, Kepley re-applied to the bar. The Illinois Supreme Court granted her admittance; she fully began her legal practice—and with apparent success.⁸³ In Kepley's story, her husband both inspired and facilitated her career. Where Mrs. Kepley was unable to move because of

⁸⁰ Drachman ed., *Letters of the Equity Club*, 107.

⁸¹ *Ibid.*

⁸² *Ibid.*

⁸³ *Ibid.*

social restrictions, Mr. Kepley used his influence to remove those barriers. For Ada H. Kepley, a spouse's support was crucial to her success as a lawyer.

Emma Haddock (1845-1907) of Illinois explained how a husband could bolster or discourage his wife's legal career in the late nineteenth century. Haddock decided that she should work because she had no children. When she applied to her husband for advice on a career, he entreated her to begin law school and train for the legal profession.⁸⁴ In this way, Haddock's husband encouraged the start of her career. But Haddock's story also revealed the particular position of a married woman and her need for continued support from her spouse.

She expressed that her health failed one month before the end of her first year at law school. It was not, as many had assumed, from excessive "mental effort"—it had resulted from the strains of maintaining a home unaided while training to be a lawyer.⁸⁵ She indeed graduated and later participated in a profitable career, but her health problems in law school were due to her husband's lack of support in the housework. "Like all women who attempt to do anything outside of homework," she "did really the work of two people, that of a student as well as that of a housekeeper."⁸⁶ Although Haddock began her legal career on her husband's encouragement and later worked alongside him in his office, her experience displayed the great burden of women to uphold the home. Because of gender-specific social expectations, a husband could either strengthen his wife's career by helping with housework or hinder her prospects by leaving the job in her hands alone.

⁸⁴ Drachman ed., *Letters of the Equity Club*, 101.

⁸⁵ *Ibid.*

⁸⁶ *Ibid.*

Other women commented on how marrying another attorney might support a woman's career in a unique way. Lelia Robinson believed that a woman may step down from her legal practice if she married and her duties as a wife interfered, because, according to Robinson, marital responsibilities were paramount. "But," she explained, "the happiest thing, surely, for the woman lawyer who marries is to marry into law rather than out of it."⁸⁷ The best prospect for an early female attorney who wished to marry was to wed another lawyer: someone who would understand her distinct trials and needs. "Was there ever a more delightful romance?" quipped Robinson.⁸⁸ In this regard, a lawyer husband might bolster his wife's career because of shared experience—the right man, according to Robinson, might make a young female attorney quite happy.

Catharine Waugh McCulloch gave a very telling account of how marrying into the profession strengthened her prospects and brightened her life. She followed in the footsteps of some other Equity Club sisters by choosing to marry. She related, "I have . . . 'doubled my joys and halved my sorrows' in regular orthodox shape."⁸⁹ The individual was a law school classmate, "a brilliant young man doing beautifully in his business."⁹⁰ According to McCulloch, her marriage did not force her to leave the profession but actually allowed her to "step into a wider field of work."⁹¹ Catharine Waugh (who became Catharine

⁸⁷ Drachman ed., *Letters of the Equity Club*, 118.

⁸⁸ *Ibid.*

⁸⁹ *Ibid.*, 191.

⁹⁰ *Ibid.*

⁹¹ *Ibid.*

McCulloch) found that her husband's job prospects were her own—his influence and success in the legal sphere opened doors for her career as well.

But there were indeed women lawyers who married outside of the legal profession—and yet still found in the supportive husband a great source of comfort and assistance. Lelia Robinson was one such individual, an attorney who married a businessman. She discovered, actually, that when she went home after working in the law office, she did not want to see anyone who had any extensive knowledge of law.⁹² Robinson declared that she was too exhausted from her daily legal practice to discuss the same matters at home, so a lawyer husband did not suit. “However,” she joked, “if I had happened to fall in love with a representative of bench or bar (and he had reciprocated) I should probably now be arguing just the other way.”⁹³

More seriously, she explained, her husband was proud of her professional pursuits and did everything he could “to encourage and sustain” her in them.⁹⁴ For Robinson, who became Lelia Sawtelle after marriage, the right husband (even if he was not a lawyer) bolstered and enhanced her career. It came with mutual respect and understanding. Robinson's spouse not only acknowledged but rejoiced in her aspirations, and this to her was a fountain of strength and support. He was able to think outside of cultural parameters for gender and therefore allow his wife the space she needed to fulfill all her responsibilities, work included. “He does not fret very much when it is discovered that

⁹² Drachman ed., *Letters of the Equity Club*, 200.

⁹³ *Ibid.*

⁹⁴ *Ibid.*

every pair of his socks is in need of mending,” Robinson remarked. “To be sure,” she continued, “I sit down the same instant, usually and have a pair ready in about three minutes.”⁹⁵

Emma M. Gillett (1852-1927) also believed that a healthy marriage did not have to restrict a woman’s ambitions and could even enhance them. Gillett was not convinced that the wifely position alone should interrupt a legal practice, nor did she sympathize if it did—“for no woman has any right to give up her health, happiness and future prospects in life for the mere gratification of her husband.”⁹⁶ Instead, Gillett found that “equal rights to self-gratification and restraint,” not only in marriage but in all kinds of relationships, have “almost invariably resulted in increased respect and happiness in the home and improved health on the part of the wife.”⁹⁷ So a good marriage had the ability to increase a wedded woman attorney’s happiness and well-being, according to Gillett. An early female lawyer need not sacrifice her aspirations for her husband’s sake but instead could find a source of strength in the demands of her profession.

Thus, many female attorneys discovered that a husband’s influence could enhance their lives and careers. Catharine Waugh McCulloch summed it up perfectly in her 1890 letter to the Equity Club. She went into law practice with her husband in Chicago. They left for work at the same time and came back home together every day. The two divided the housework equally between themselves. She told the Club that in her job and marriage

⁹⁵ Drachman ed., *Letters of the Equity Club*, 201.

⁹⁶ *Ibid.*, 162.

⁹⁷ *Ibid.*

she was “more contented and yet more ambitious than ever before.”⁹⁸ Her husband did not undermine her prospects as an attorney but instead improved them.

McCulloch, the married woman attorney, found a special source of encouragement in a loving husband. According to her, “It makes all the difference in the world who one marries, and I should never again oppose a woman lawyer marrying, if she devotedly loved her husband and he was clean and brilliant and honorable and progressive enough to be proud that his wife was a lawyer.”⁹⁹ Her spouse uniquely offered daily assistance and empowerment in a culture which tended to discourage women’s professional ambitions. The women lawyers who did marry expressed the necessity of an empathetic, loyal, and considerate husband. He held the power to inhibit or enhance his wife’s career and happiness. For the early woman attorney, a good husband served as a special helpmate and ally in a demanding and challenging profession.

Children

What has yet to be discussed in this chapter, or among historians of early female attorneys largely, is the effect of childrearing on the early woman attorney’s career. Whether or not she had children could certainly influence her professional decisions. But in the women of the Equity Club, we find a mixed bag. Some of these women, although they were trained in the law, chose to forgo the profession itself to raise children. Some waited until their children were grown to practice law. Still, there were those who, while raising children, stayed in the career. In the writings of the Equity Club, it seems that the

⁹⁸ Drachman ed., *Letters of the Equity Club*, 192.

⁹⁹ *Ibid.*

choice depended on the woman lawyer's individual health, constitution, and conviction when it came to legal practice and children.

Historian Virginia Drachman studied the lives of each Equity Club member and described their situations, but she has not made an argument concerning childrearing and its impact on an early woman lawyer's career. Jessie Wright Whitcomb (1864-1930), a graduate of Boston University's law school in 1887, married George Herbert Whitcomb in 1888. The couple opened a joint practice in Topeka, Kansas. According to Drachman, however, "The practice of law provided little satisfaction to the energetic young attorney."¹⁰⁰ Whitcomb instead chose to give much of her time to household management and administrative functions for the law firm. After her son was born in 1891, Whitcomb never returned to legal practice and devoted herself to raising six children. Whitcomb was an incredible mother, renowned Sunday school teacher, an author of children's books, and a seasoned traveler.¹⁰¹

Although Whitcomb did not practice law while she raised children, this mostly seems because she had other interests and did not have an entirely supportive husband. For example, after Jessie Whitcomb birthed her first son, she expected to return to her and her husband's shared practice; instead, George Whitcomb entered practice with a fellow male attorney and thus dissolved the couple's joint firm.¹⁰² George's career was not so aligned with his wife's, and his choice to enter another practice made Jessie's professional hopes difficult or even unattainable. It is true, however, that Jessie Whitcomb had her own

¹⁰⁰ Drachman, *Women Lawyers*, 273.

¹⁰¹ *Ibid.*, 273-274.

¹⁰² *Ibid.*, 273.

interests, which mostly rested in raising her children and creating a warm home environment for her family. For Jessie Wright Whitcomb, children were a factor in her professional decisions, but the primary influencers were her personal interests and her husband's career choice. Essentially, the difficulty of childrearing was not the reason why Whitcomb stepped back from the legal profession.

A few Equity Club women chose to pursue a legal education after their children were grown. Corinne Douglas, Catherine V. Waite, and Sarah Wertman all completed their legal schooling after the childrearing was done. This seems mostly due to personal conviction about a mother's role in the home. While raising five children, Corinne Douglas (1860-1934) committed her time to several charitable organizations, including groups which promoted women's educational advancement, the Red Cross, and the Anti-Tuberculosis Association.¹⁰³ Once her daughters had grown, they encouraged her to enter law school and express her social interests through the practice of law.¹⁰⁴ Douglas studied at the University of Michigan law school, and after her husband passed away in 1922, she replaced his position in the family firm.¹⁰⁵ Douglas began the legal profession later in life, but this rested in her personal conviction about a woman's role in the home.

Douglas' position clearly fell on the side of domesticity. "I have no sympathy," she explained, "with those who can say of a woman, 'She is burying herself in her home; throwing herself away upon the children.' Thank God for the noble women who thus

¹⁰³ Drachman, *Women Lawyers*, 221.

¹⁰⁴ *Ibid.*

¹⁰⁵ *Ibid.*, 221-222.

‘throw themselves way.’”¹⁰⁶ The attorney believed that a mother’s higher calling, “the more imperative” aspiration, was in maintaining a happy and healthy home.¹⁰⁷ “To have made one happy household is to have made no small addition to the sum-total of human good,” she expressed.¹⁰⁸ For Douglas, the choice to wait to advance her professional pursuits came from her personal values more than anything else. Indeed, she had children, and this reality influenced her career path; but it affected her plans because she believed that it should.

Similarly, Catherine V. Waite (1829-1930) attained her legal degree at Chicago’s Union College of Law in 1886, but only after her children had grown. This appears to be less a result of the burdens of motherhood than it does timing, because even while Waite raised six children, she committed her time to a number of other organizations and social issues. From 1857-1859, Waite taught at a local university; afterwards, she opened the Hyde Park Seminary to provide increased educational opportunities for her daughters and her neighbors’.¹⁰⁹ After moving to Utah, Waite observed the disadvantages in polygamous marriages for Mormon wives and published *The Mormon Prophet and His Harem* in 1866.¹¹⁰ Upon moving back to Chicago, Waite and her husband founded the Illinois Equal Suffrage Association in 1869, and she served as its president until 1871—all while she

¹⁰⁶ Drachman ed., *Letters of the Equity Club*, 49.

¹⁰⁷ Ibid.

¹⁰⁸ Ibid.

¹⁰⁹ Drachman, *Women Lawyers*, 268.

¹¹⁰ Ibid., 269.

continued to run Hyde Park Seminary and raise her children.¹¹¹ Clearly, Waite's time was not consumed solely in childrearing. Maintaining a home did not prevent Waite from doing exactly what she wanted, and this likely rang true for her decision later to attend law school.

In 1871, Sarah Killgore Wertman (1843-1935) became the first woman to graduate from the law school at the University of Michigan.¹¹² She was later to be the first woman admitted the bar in Michigan.¹¹³ When Wertman married an Indianapolis attorney in 1875, the two opened a joint practice. After Wertman had children, however, she put aside her career to raise them. According to Drachman, the attorney held rigidly to "middle-class, Christian values of the era."¹¹⁴ The historian also believed that Wertman's parents held much influence over her ideology. Like her mother, Wertman "believed firmly that women's chief role as lawyers was to introduce the purity of Christian love to the bar."¹¹⁵ After the "mantle of motherhood" fell upon the lawyer, "Sarah Wertman followed the example of her mother and stayed at home to raise her family."¹¹⁶ Wertman also had health issues, but this was before she had children.¹¹⁷ Wertman set aside her career to raise children, but it was mostly because of her personal religious convictions and her health.

¹¹¹ Drachman, *Women Lawyers*, 269.

¹¹² *Ibid.*, 271.

¹¹³ *Ibid.*

¹¹⁴ *Ibid.*, 271-272.

¹¹⁵ *Ibid.*

¹¹⁶ *Ibid.*, 272.

¹¹⁷ *Ibid.*, 271.

Finally, there were women who practiced law while bringing up a family. A notable example is Catharine W. McCulloch of Illinois. From 1891-1905, McCulloch birthed four children, all while beginning her legal practice and even increasing her commitments to various educational, social, and political organizations.¹¹⁸ Obviously children did not keep McCulloch from pursuing her professional and social aspirations.

Emilie Kempin, originally from Zurich, Switzerland, completed her law degree with three young ones at home. In 1888, Kempin moved from Switzerland to New York City to find work in the legal profession.¹¹⁹ Leaving her husband and children in Switzerland, Kempin did sacrifice her home life for her career. But it appears that this cost was necessitated mostly from Swiss legal restrictions against women in law. Swiss law rejected Kempin twice from the bar on account of her sex because she could not be considered an active citizen—only men had that right.¹²⁰ If the law allowed Kempin to practice in Switzerland, it would have more easily enabled her balance of family and work. Clearly, Kempin could achieve a rigorous law degree, even with a husband and children. It was the law, however, which inhibited her ability to support both a career and home simultaneously. When Kempin returned to her family in Zurich, she taught at the University of Berne.¹²¹ Even while a wife and mother, Kempin still found fulfillment in her professional pursuits. It was not simply a family life which restricted Kempin's career aspirations, but also the law and its ramifications.

¹¹⁸ Drachman, *Women Lawyers*, 253.

¹¹⁹ *Ibid.*, 282.

¹²⁰ *Ibid.*, 281-282.

¹²¹ *Ibid.*, 282-283.

Many of the Equity Club woman had children, and in these accounts, it appears that childrearing was not the primary reason that a woman might set aside her legal practice or education. Often, it was motherhood alongside social or religious conviction, personal health, or other restrictions, that might impact an early female lawyer's progress in the field. Most women who had families still had the strength and ability either to maintain their legal careers or pursue other social interests. According to the lives of many Equity Club women who did have children, a life outside of home, whether that be legal practice or social involvement, was still possible, and childrearing was not the primary reason that a woman lawyer might limit her professional goals.

Conclusion

The first female lawyers in the United States recognized that support from others held high importance in their success as attorneys. Life in the late nineteenth and early twentieth centuries was often stifling for professional women due to various factors, social and otherwise. But aid from loved ones opened doors and created inroads where women were unable to go before. The word of a father or mother allowed a young woman to believe she could move beyond her "sphere." Encouragement from a boss or mentor afforded a female attorney with new ground in her legal career. Assistance from a loving and understanding husband gave his lawyer wife the resources and space she needed to grow professionally.

Beloved parents, friends, and husbands presented moral support for the woman lawyer in a taxing and demanding profession. When these brave and tenacious women were inhibited by social or structural parameters, the aid of loved ones stepped in to mitigate or

even remove these barriers. For many early women lawyers, support from others played a crucial role in their success in law and life.

CHAPTER THREE

Just Wicked Enough: Union in Diversity

Indeed I love the profession dearly. None other could I love half so well.

-Ada M. Bittenbender

“One problem is not yet settled entirely to my satisfaction,” wrote early lawyer Lelia Robinson, “and that is: Shall the woman attorney wear her hat while arguing a case or making a motion in court, or shall she remove it?”¹²² Among the Equity Club members, this was a topic of hot debate. Their presence in the legal sphere was unprecedented, and new questions arose. To wear or not to wear the bonnet while in court, at its heart, was a small discussion representative of a larger issue. How would these women, who had just begun their career journeys, cooperate within the already-existing system? In what ways would they work with men? What would make them similar to their colleagues, and what would make them different? These questions held unique, distinct, and individual answers for many early female lawyers.

America’s first female lawyers were varied. They represented a mixture of values, backgrounds, and experiences. Some did not have the support that others were afforded. Different women grew up in different environments; one lawyer was not just like the other.

¹²² Drachman ed., *Letters of the Equity Club*, 127.

The achievements, memoirs, and writings of these early women attorneys has made a certain reality clear: *all* of these successful pioneering lawyers believed in themselves. They had faith in their values. While most women attorneys did receive strong support from friends and family, some unfortunately did not. In this instance especially, it was a woman's willpower and conviction that compelled her on.

Historian Jill Norgren has explained the case of many female attorneys and the diversity of their beliefs. In her article, "Ladies of Legend: The First Generation of American Women Attorneys," she elucidated the experiences of several famous and influential female attorneys who practiced in the late 1880s and early 1900s and who provided a place for women in America to be lawyers. These early attorneys were from different areas of the United States—from the Midwest, New England, and even California. They had differing views and passions. Clara Foltz defended criminals in court; Lavinia Goodell focused on reform for jail conditions; Belva Lockwood sponsored a black man to be admitted to the Supreme Court bar.¹²³ Their foci were not the same; the careers of early female attorneys took many different turns.

Moreover, in her book, *Rebels at the Bar*, Norgren argued that early women lawyers promoted positive change even though their outlooks, convictions, and methods may have been different from each other. That is, while some women were focused on social justice, others preferred simply to be quality lawyers and believed that a crusade for social reform might inhibit women's progression in the field. Some early female attorneys were naturally

¹²³ Jill Norgren, "Ladies of Legend: The First Generation of American Women Attorneys," *Journal of Supreme Court History* 35, no. 1 (2010): 71-90.

shy, others bold; some religious, others not; many feminists, but some traditional. Though these women were different, they altered the way their society and their government viewed women in the legal field because they were relentless in their pursuits and, however different, stayed faithful to their convictions.¹²⁴ In the late nineteenth century and the early twentieth centuries, if a “first-generation” female attorney wished to be successful in the career at all, she was a woman of true conviction.

As it is, early female attorneys held varying beliefs about the legal practice. Mary Hall avoided the courtroom because of public sentiment against women in court, while Catharine Waugh McCulloch stated that female lawyers ought to “stir up” the “slow-moving people,” those who did only office work.¹²⁵ It is implied in McCullough’s letter that Hall agreed with the general opinion, or else allowed it to direct the course of her work. McCullough, instead, could not agree less. Lelia Robinson at first believed that trial advocacy should be left to the men, but she later changed her mind after moving West and learning the trade.¹²⁶ Clara Foltz had no qualms about court—in fact, she invented the “public defender,” a state-provided attorney who would represent criminal defendants.¹²⁷

Some female attorneys held that social reform was the highest aim of the woman lawyer, and many contributed their talents and energy to reform movements. Others staunchly opposed pro bono work, maintaining that the best way for a woman lawyer to

¹²⁴ Jill Norgren, *Rebels at the Bar: The Fascinating, Forgotten Stories of America’s First Women Lawyers* (New York: NYU Press, 2013).

¹²⁵ Norgren, “Ladies of Legend,” 75-76; Drachman ed., *Letters of the Equity Club*, 136.

¹²⁶ Norgren, “Ladies of Legend,” 77-78.

¹²⁷ Babcock, “Inventing the Public Defender,” 1267-1315.

make a difference was simply to do her work (for pay) and do it well.¹²⁸ Yet, regardless of their different values or practices, these women—the lawyers that this thesis celebrates—were highly successful. Not only did they make their own way as attorneys, but they forged a path for future lawyers to follow. It was this devotion to personal conviction that facilitated the early woman lawyer’s upward mobility.

Still, some female attorneys’ lives were so inspiring that it is valuable to study the ways their values shaped their practice. In the life of Belva Lockwood (1830-1917)—who from the beginning had no kind of support from community, family, or friends—personal commitments shaped her practice and facilitated her success. It has also been revealed in the writings of the Equity Club—members disagreed often but still contributed meaningfully to the legal practice and to their societies.

Few stories have displayed the power of personal conviction like that of Charlotte E. Ray (1850-1911), the world’s first female African American attorney. Faced with not only gender-based but intense racial prejudice, Ray created a place for black women in law just a few years after the American Civil War. Finally, the life of Judge Florence Ellinwood Allen has underlined the power of a woman devoted to cause and career. In each of these accounts, the early female attorney’s individual strength and values sustained her goals.

Belva Lockwood

Many women attorneys from the Progressive Era found a great source of strength in their family and friends. There were, however, women who did not know such support. Indeed, some early female attorneys experienced neutrality or even discouragement from

¹²⁸ Drachman ed., *Letters of the Equity Club*, 96-97.

those who should have been their greatest allies. Yet, they still succeeded, encouraged other lawyers, and made their mark on the legal practice. What tied these women—the lone pioneers—with those who did possess assistance from others was individual devotion to personal conviction.

The first female member of the U.S. Supreme Court bar was one of these special women—the ones that received little-to-no help from others but pursued their goals anyways. Belva A. Lockwood was born to Lewis and Hannah Bennett, two modest New York farmers, in 1830. The Bennett family lived in a rural area, separated from urban life and opportunities. Belva Bennett, who became Belva Lockwood in 1868, grew up in a home and community that taught women’s submissiveness and devalued higher education—especially for a young girl. Thus, Belva Bennett left her schooling at fourteen to work as a teacher and help her family with finances. She still had dreams of a more ambitious calling, however, and hoped one day to fulfill these ideals. The young woman furthermore had no role models in her family—none had achieved a very high level of education. When at eighteen years old, Belva asked her father if she could return to school, he responded negatively—for the family had little money and Mr. Bennett did not think further schooling necessary for women.¹²⁹ The future female attorney had no support during her upbringing to encourage her aspirations or goals.

Moreover, Belva Bennett married Uriah McNall in 1848. When McNall died in 1853, Belva was left alone with her three-year-old daughter. Circumstances for pursuing higher education did not seem so available to the widowed mother, but still she persisted.

¹²⁹ Norgren, *Rebels at the Bar*, 74-75.

Belva worked, saved money, and persuaded her parents to care for her young daughter while she attended Genessee Wesleyan Seminary, one of the first coeducational universities in the nation.¹³⁰ She moved with her daughter to Washington, D.C. in 1867. A year later, Belva Bennett married Ezekial Lockwood.¹³¹

Ezekial was a lay minister and dentist who held the kind of aspirations Belva appreciated. “Although modest,” claimed historian Jill Norgren, “this was the kind of striving that Belva expected and admired.”¹³² Ezekial had high ambitions and entered court with her on one occasion to support her goals.¹³³ Yet, when Belva applied for admittance to the Columbian College Law Class, she was rejected on the count that she would “distract the attention of the young men.”¹³⁴ Her husband begged her to keep silent about the affront, as he was in close connection with the school’s president; instead, Belva gave her story to the local newspapers to disseminate.¹³⁵ So Belva’s second husband was both supportive and discouraging, perhaps eager to assist his wife’s goals, but conflicted by what that would mean for his own career and reputation.

Belva Lockwood participated heavily in women’s rights activism and finally began law school in 1871. In her career as an attorney, she especially worked with divorce cases,

¹³⁰ “Historical Note” in *Genesee Wesleyan Seminary Collection*, (Syracuse, NY: Syracuse University Special Collections Research Center, 2017), https://library.syr.edu/digital/guides_sua/html/sua_gws_prt.htm.

¹³¹ Norgren, *Rebels at the Bar*, 78.

¹³² Ibid.

¹³³ Belva Ann Lockwood, “My Efforts to Become a Lawyer,” *The Green Bag* 19, 4 (2016): 427.

¹³⁴ Ibid., 423.

¹³⁵ Ibid.

representing women against their defendant-husbands. Though Lockwood's journey was entirely challenging, she became the first woman admitted to the U.S. Supreme Court bar in 1879, was the first woman to run for the U.S. Presidency in 1884, and labored extensively for women's liberties.¹³⁶ She overcame her obstacles and succeeded—not just as an attorney but as an exemplar to other women—by sheer willpower.

Though she was discouraged by her family and her circumstances, Lockwood tirelessly held to her beliefs about women's equality and her passion for higher learning, the convictions that sustained her educational and professional journey. "Human rights," she expressed in her 1871 letter to the U.S. Senate, "are predicated of natural necessity, not of sex."¹³⁷ She wrote of women's right to vote, but her statements expanded to her view of equality. "A perfect government," Lockwood continued, "can only come of a perfect manhood and womanhood with their efforts united for the common good."¹³⁸ This belief in equality between men and women, although it was not taught by her family or community, compelled Lockwood into her legal practice. She believed that she could and should pursue her aspirations just as any man—it was both her joy and duty to claim her own future.

Lockwood's ideals compelled her to pursue goals which, at the time, she knew were impossible to achieve. Belva Lockwood was the first woman to ever run for the United States Presidency. The Equal Rights Party, founded just before the 1884 election, decided

¹³⁶ Norgren, "Ladies of Legend," 84; Norgren, *Rebels at the Bar*, 75-91.

¹³⁷ Belva Ann Lockwood, *The Right of Women to Vote Guaranteed by the Constitution*, (Washington: Cunningham & M'Intosh Printers, 1871), 4.

¹³⁸ *Ibid.*

to nominate Lockwood as a joke. Her friend who spoke for the party, Marietta Stow, lightheartedly encouraged her to take on the campaign. For Lockwood, this was another opportunity to further women's rights. Upon running for the election, Lockwood attracted the attention of newspapers, lecturers, cartoonists, and other outlets of information. She was the first woman to ever fulfill a complete campaign for the U.S. presidency; she did it again in 1888. Although Lockwood lost these elections, she rallied her supporters from multiple states and created a space for women to participate in federal elections.¹³⁹

Moreover Lockwood was tangibly involved in causes for women's equality and advancement. Working alongside a Tennessee congressman, Lockwood lobbied in 1874 for the first legislation which addressed sex discrimination in employing federal workers. As a member of the National Woman Suffrage Association, she dedicated a great deal of her time and talents to advocating for women's enfranchisement. Lockwood lead women's suffrage marches, gave speeches, and wrote extensively on a woman's right to legal equality.¹⁴⁰ Similarly to a few of her sisters-in-law, Lockwood petitioned Congress to pass legislation which would prohibit discrimination against female lawyers.¹⁴¹ In many ways, Lockwood's life was devoted to enabling and empowering other women, legally and otherwise. This passion greatly influenced her philosophy about work and law.

Belva Lockwood practiced from 1871 until her final case in 1914.¹⁴² She is an incredible example of an early female attorney who, until she met other like-minded friends

¹³⁹ Norgren, *Rebels at the Bar*, 101.

¹⁴⁰ *Ibid.*, 74.

¹⁴¹ *Ibid.*

¹⁴² *Ibid.*, 103.

as an adult, had literally no aid in her career aspirations. Her community and family discouraged women's higher education, and her circumstances as a young widow were less-than-ideal. Her situation has revealed that *all* successful female attorneys, whether or not others supported their goals, maintained a robust dedication to their personal values. For Lockwood, it was her unflinching ambition and sincere commitment to women's rights that compelled her on.

"Side Issues" and Social Work

Not every female lawyer had the same beliefs or adhered to the same principles. These women disagreed amongst each other about social reform, politics, and directives. Regardless of their disagreement, each of these early female attorneys contributed to the legal practice and their societies in meaningful and unique ways. Those early female attorneys who communicated in group settings had differences in opinion and articulated them to each other. The Equity Club letters revealed this truth. Within the Equity Club writings, there were several issues that the women discussed amongst each other; they often took a stand and expressed it clearly.

One of the greatest debates between these attorneys was the problem of taking up "side issues." Among progressive-minded women in the late nineteenth century, there was a belief that educated and capable females should use their talents in outside organizations such as the Women's Christian Temperance Union (WCTU) and women's suffrage campaigns. In the nineteenth century, many believed women to be the community's moral exemplars; they represented goodness, purity, and integrity.¹⁴³ Several female lawyers of

¹⁴³ Snyder, "Radical Civic Virtue," 52; Drachman, *Women Lawyers*, 23-25.

the Equity Club maintained this belief and chose to commit themselves to social reform in addition to their legal profession.

Many Equity Club voices asserted that female lawyers could make effective change by contributing to these “side issues” of temperance, suffrage, and other moral battles. “As for myself,” explained Nebraska lawyer Ada M. Bittenbender, “I am drawing nearer to a successful professional career than would have been the case had I stuck entirely to my office and the court practice which would have come to me through such sticking.”¹⁴⁴ Bittenbender wrote to her Equity Club sisters that her outside position as the attorney for the National WCTU offered a substantial increase to her pay. Some of her other career privileges, such as communication with other leading lawyers and the ability to occasionally attend daily U.S. Supreme Court sessions, came only by her “dabbling in side issues” through the WCTU.¹⁴⁵ For Bittenbender, her devotion to issues of temperance and moral purity (she worked as a legal advisor to a branch of the WCTU that kept women from prostitution) actually expanded her career horizons.¹⁴⁶ Her legal education and social influence grew because of her devotion to outside organizations.

Ada H. Kepley believed that attorneys had great power to edify their communities, and she expressed this by her involvement in the WCTU. She asserted that her profession “more than any other” assisted society in its movement towards “sweeter manners—purer laws.”¹⁴⁷ This belief probably drew her to social work with the WCTU, where she utilized

¹⁴⁴ Drachman ed., *Letters of the Equity Club*, 153.

¹⁴⁵ *Ibid.*

¹⁴⁶ *Ibid.*

¹⁴⁷ *Ibid.*

her legal knowledge “both as an educational force and as a means of securing enforcement of the laws.”¹⁴⁸ Kepley valued social reform through the WCTU, and through the organization she was able to educate the public and improve the legal system. Her outside commitments contributed to her idea of success in the legal practice—she believed that a lawyer sustained and edified her community’s moral fiber.

Catharine G. Waugh gave an amusing story about her involvement in a political campaign that was separate from her general work as an attorney. The Prohibitionists had nominated her for state’s attorney in 1888. At first she was opposed, but decided to run for office (perhaps due to peer pressure) but also because more voters tended to show up to Prohibitionist political meetings if “the woman lawyer” was a speaker.¹⁴⁹ She ran for the office of state’s attorney and afterwards lightheartedly wrote to the Club, “Was I elected? Oh no, no one expected I would be.”¹⁵⁰ But she found that even her presence as a candidate did a great deal for “the woman question,” for some people had never seen or imagined a female lawyer speaking before a crowd. “My harmless, insignificant appearance amazed them,” she joked.¹⁵¹ Waugh believed that her presence as a political candidate enhanced the opportunities of women everywhere. Her mere existence as a potential office-holder perhaps opened doors for future females and helped to normalize the idea of a woman lawyer.

¹⁴⁸ Drachman ed., *Letters of the Equity Club*, 153.

¹⁴⁹ *Ibid.*, 177.

¹⁵⁰ *Ibid.*

¹⁵¹ *Ibid.*

While quite a few of the Equity Club sisters devoted themselves to outside work, many of these lawyers chose to stay fully committed to their legal practice. They believed that the best way for a female attorney to achieve success in her career and to bring about positive change in the community was to stick to her chosen profession. “It has been a rule of my professional life,” explained Florence Cronise (1845-1930), “to go quietly on, remaining very closely at my business, seldom doing anything of a public character outside my law business.”¹⁵² As a lawyer, Cronise dealt with cases concerning divorce, alimony, libel, and others. She claimed that this conviction to stick to her job, rather than commit herself to women’s rights work, had resulted in greater advancement for her own career and for others.¹⁵³ Although Cronise’s beliefs differed from her other “sisters-in-law,” her personal values drove her career progress, bettered the livelihoods of her clients, and perhaps indirectly improved women’s professional opportunities.

Emma M. Gillet mirrored a similar sentiment. After passing the bar in 1883, Gillet began work as a full-time attorney after having been a teacher for ten years. She was extremely satisfied as an attorney, for she loved the work and appreciated the pay. Gillet also believed that sticking solely to her legal practice was her highest calling. “I have endeavored to do thoroughly and conscientiously whatever I have had to do, to stick to my profession and not be lured into any class of philanthropic work,” she explained.¹⁵⁴ She did this because the law was “a jealous mistress” and, according to Gillet, there was no better

¹⁵² Drachman ed., *Letters of the Equity Club*, 95.

¹⁵³ *Ibid.*

¹⁵⁴ *Ibid.*, 96-97.

job for her than to show that women could “by persistent application earn a competency at the law as one of the many who are doing it, and to avoid notoriety.”¹⁵⁵ Gillet held to this conviction and claimed that it was the reason for whatever success she had attained.¹⁵⁶ Although her belief about outside work was different from other female attorneys of the Equity Club, Gillet’s commitment to her values inspired her achievements and, she maintained, promoted women’s advancement.

Ellen A. Martin, a Chicago attorney, wrote a letter to the Club in 1888 and had been practicing law for nearly twenty years before then. Firstly, she explained that “no one should enter the legal profession who is not fond of the profession for its own sake.”¹⁵⁷ Martin did not see the law as a stepping stone for other opportunities into social or political organizations—the profession was satisfying work on its own. She decided to include in her letter what she believed to be some misunderstandings among women lawyers of the time. Concerning “side issues,” her opinion was very clear: “A lawyer cannot devote any great amount of energy to anything else and make headway in the profession. Law is a severe task and demands undivided allegiance.”¹⁵⁸ The seasoned attorney asserted her conviction that if a woman wished to progress in her career, she must be entirely devoted to her work.

¹⁵⁵ Drachman ed., *Letters of the Equity Club*, 96-97.

¹⁵⁶ *Ibid.*

¹⁵⁷ *Ibid.*, 112.

¹⁵⁸ *Ibid.*, 115.

“Side issues” were of minimal importance to Martin. She explained that women were already at a disadvantage with their lack of education on business matters, and held that devoting too much time to outside causes would diminish the female attorney’s health.¹⁵⁹ In the nineteenth century there was a general belief that higher education would negatively affect a woman’s physical wellbeing. Furthermore, social norms painted women to be weaker and frailer than men, and there was a widespread fear and concern that intellectual and professional work could impair a woman’s functions.¹⁶⁰ Although these female lawyers obviously believed in the value of higher education for women, the social belief that their physical constitution was feebler than a man’s may have impacted their philosophy. Whether some of the Equity Club women had sincere health problems, were influenced by social ideology, or both, we cannot fully know.

Moreover, women were generally expected to maintain their homes and, if they had children, be the primary caregivers. These added stressors did affect the health of many nineteenth-century women. So too was there a belief that intellectual pursuits could negatively impact a woman’s reproductive system; her sexual organs would somehow become less functional if she studied too much.¹⁶¹ For nineteenth-century American society, a professional career could diminish a woman’s ability to procreate—her primary duty. We do not know the extent to which these repressive views affected our early lawyers, but the ideology did exist, and it influenced society’s understanding of women in law.

¹⁵⁹ Drachman ed., *Letters of the Equity Club*, 113-114.

¹⁶⁰ Drachman, *Women Lawyers*, 31.

¹⁶¹ *Ibid.*

Although the Equity Club women disagreed about commitment to peripheral causes in addition to a legal career, the ladies who spoke about this topic were forthright and clear. Whatever their belief about “side issues,” each of the women stood behind it. Their opinion about the matter sustained and enhanced their practice of law. What made a successful female lawyer, then, was devotion to her ideals—particularly concerning “side issues.”

Charity Cases

As on the topic of social work, the Equity Club women also differed in their opinions about charity or pro bono cases. Some believed it was appropriate or Christian to do at least some work without pay for a needy client; others maintained that this kind of charity diminished the value of a lawyer’s work. Nonetheless, the Equity Club ladies who spoke about this held to their personal positions. It was not the specific belief that was important to an early woman lawyer’s success, but her strong devotion to it.

Mary Greene also expressed her opinion on the matter. She stated that she had experienced ingratitude from such charity clients who could not pay, and that what offended her most was the idea among some that, had she been paid, she would have devoted much more energy and time to the job. She committed the same effort to both kinds of cases and wished her clients would appreciate that. Nonetheless, her belief about pro bono lawsuits was clear. “If it be our duty to take such a case,” she related, “and we have really done our best ‘for the Love of Christ, and in His Name,’ we ought to leave results to him... who understands and appreciates it fully.”¹⁶² Greene asserted that while

¹⁶² Drachman ed., *Letters of the Equity Club*, 165.

charity cases could be troublesome, there was a time and place for them. When this situation arose, Greene explained, the early female attorney should work with a peaceful heart, looking to the Lord for guidance. Although a young lawyer, Greene had been admitted to the Suffolk bar in 1888; she had drafted legislation to give female attorneys more authority, worked for women's suffrage, and educated other females about legal matters.¹⁶³ Indeed, Greene earned success in her work—she fruitfully pursued her own goals and uplifted other women in the process. One of her beliefs held that charity cases, while tedious, were important to her mission as a lawyer.

Catharine Waugh McCulloch maintained a similar view on charity cases, although with a slightly different outlook. “When a good fee comes in, the money is, of course, gratefully received,” she expressed.¹⁶⁴ When the client was a poor woman unable to pay, however, “I call that a free dispensary case and rejoice that I had an opportunity to learn some new point there.”¹⁶⁵ McCulloch's charity work actually improved her legal knowledge and thus enhanced her opportunities as a lawyer. Plus, she asserted, “This philosophy keeps me in good spirits and undismayed—generally.”¹⁶⁶ According to McCulloch, a belief in the usefulness of charity work kept her learning fresh and her heart light. Her personal conviction on the matter contributed to her success.

¹⁶³ Drachman ed., *Letters of the Equity Club*, 163-164.

¹⁶⁴ *Ibid.*, 174.

¹⁶⁵ *Ibid.*

¹⁶⁶ *Ibid.*

Other female lawyers of the Equity Club disagreed with these philanthropists on the positives of charity work, and with valid reasoning. Florence Cronise gave a very honest opinion in her 1889 letter to the Club. She disagreed with other women who believed the female lawyer's mission was "to purify."¹⁶⁷ "I am too matter of fact," she explained.¹⁶⁸ "My mission is to honestly, earnestly, and decently earn my living, doing it in the way I seem most fitted for."¹⁶⁹ She had entered the field wishing to achieve a better income than what her former teaching career provided, and she had never thought of being a "public benefactor."¹⁷⁰ To Cronise, indulging in idealistic beliefs about womankind's humanitarian mission did not make a living and served no practical good—in the legal field or otherwise.¹⁷¹ Cronise's conviction about charity cases, while different from Greene's or McCulloch's, upheld her career and helped her accomplish meaningful work.

Emma M. Gillet gave her advice to her Equity Club members on the matter. She maintained that the lawyer should reject all but the most extreme charity clients. The reason for this was simple: "They have no more right to a lawyer's services for nothing than a washer-woman's."¹⁷² According to Gillet, if a woman took on a case for free, she diminished "her professional tone" and depleted her time and resources.¹⁷³ Gillet made an

¹⁶⁷ Drachman ed., *Letters of the Equity Club*, 158.

¹⁶⁸ Ibid.

¹⁶⁹ Ibid.

¹⁷⁰ Ibid.

¹⁷¹ Ibid.

¹⁷² Ibid., 161.

¹⁷³ Ibid.

even broader statement concerning a woman's personal choice to do pro bono work; if she utilized her own income for charity, that was fine, but when a female attorney drove herself to ill health in her work, "it concerns us all."¹⁷⁴ Gillet, a Washington, D.C. lawyer, believed it was necessary for her own success and even for the success of all female lawyers that a woman avoid unnecessary charity work. If Gillet had served in pro bono cases, she asserted that her health would have failed.¹⁷⁵ It was necessary for her continued growth as an attorney to avoid charity cases, and her opinion on this matter sustained her career.

Lastly, Ella A. Martin included a point about charity clients in her 1888 letter. She and her partner, Mrs. Perry, once committed much of their time to pro bono cases for women. Martin explained that Perry's death was due to overwork; Perry gave her services to needy women and then additionally had to make enough to live. Martin also claimed that charity work "was more severe than" representing "business people," since charity clients, unlike businessmen or businesswomen, were unable to do much for themselves and had no money for extra expenses.¹⁷⁶ Martin watched her friend and partner die due to overcommitment, and asserted that the cold which killed Perry would have been insignificant otherwise.¹⁷⁷ After seeing her friend's example, Martin believed for the sake of her own health that she should avoid pro bono work.

Several women of the Equity Club had opinions on charity clients—and their beliefs differed amongst each other. Green and McCulloch valued pro bono work,

¹⁷⁴ Drachman ed., *Letters of the Equity Club*, 161.

¹⁷⁵ *Ibid.*

¹⁷⁶ *Ibid.*, 114.

¹⁷⁷ *Ibid.*

explaining that it served both the community and their own development as lawyers. Other early attorneys, like Cronise, Gillet, and Martin, expressed a distaste for such laboring. To them, this effort diminished both the female lawyer's value and possibly her health. Although these women held different values concerning charity cases, each of their individual convictions kept them grounded in their journeys as attorneys. Waugh gained new knowledge from such work, while Gillet protected her livelihood and health precisely by avoiding these strains. For the early female attorney, one's personal conviction, particularly concerning the topic of charity cases, contributed to her success and happiness as a lawyer.

The Courtroom

The early female attorneys of the Equity Club even held a difference of belief on courtroom work. Public sentiment during the late nineteenth century typically was against a woman appearing in court, mostly because it was so rare. Furthermore, some asserted that if a female litigator served in the courtroom it would either dampen her virtue, tamper with the jury's judgment, or both.¹⁷⁸ These beliefs held sway because it was not yet common for males and females to work alongside each other in court. When female lawyers began to enter the scene in the late nineteenth century, these ideas about women's capabilities in the courtroom and her undue influence over a jury had to be challenged. The Equity Club letters displayed the divide between different female lawyers over their opinions concerning courtroom work.

¹⁷⁸ Norgren, "Ladies of Legend," 76.

Mary Greene asserted that indeed, it was fitting for a woman to appear in court. “Her beneficial influence” was needed in that place as much as any other platform—“and the less agreeable the moral atmosphere the more her presence is needed.”¹⁷⁹ Moreover, Lettie L. Burlingame, a lawyer from Illinois, expressed a similar sentiment. She lamented a letter written by a law professor to Ada Bittenbender, in which the professor hinted that women were unfit for the court’s “contentions.”¹⁸⁰ Burlingame responded teasingly that this bothered her because she was “just wicked enough to prefer courtroom work.”¹⁸¹ The questioning and logic of court appealed more to her than forms and papers. “I think women ought to go into court,” she explained, “Where are they needed more? If your heart, O woman versed in the law, fails you at the threshold of the forum, what if her whose all, and often more than all, is there at stake? Shall not your courageous dignity sustain her in her hour of trial?”¹⁸² Both Greene and Burlingame decided that a woman’s influence was sorely needed in court, for the sake of moral edification and of her client.

Not every woman attorney felt like Greene and Burlingame on this issue. Emma Gillet pointedly avoided the courtroom for the sake of her health. She “chose this course from the beginning” because “by experience” she recognized her body would fail under such conditions.¹⁸³ Furthermore, Emma Haddock avoided the courtroom merely because

¹⁷⁹ Drachman ed., *Letters of the Equity Club*, 164.

¹⁸⁰ *Ibid.*, 92.

¹⁸¹ *Ibid.*

¹⁸² *Ibid.*

¹⁸³ *Ibid.*

she liked office work better. Although she decided not to make her knowledge publicly known in court, she made a great effort to inform other women of legal matters. She often travelled to teach women about their property rights.¹⁸⁴ Haddock contributed meaningfully to her community even though she decided against courtroom work.

Similarly, Laura LeValley (d. 1918) never intended on courtroom law, but did office work with her husband, practiced stenography, and ran a pension business.¹⁸⁵ LeValley's interests, although different from other female lawyers', allowed her to effectively practice her preferred legal career and run a business. Gilley avoided court so that she could maintain her health and thus continue to practice, while Haddock and LeValley chose office work mostly because it appealed to them. Either way, all three women were able to have successful legal careers in large part because of their personal choice to avoid the courtroom. Whether an early female lawyer was for or against trial lawyering in court, her individual belief about the matter enriched her livelihood.

Commitment to one's personal convictions sustained the careers of America's first female lawyers. Concerning the topics of "side issues," charity cases, and courtroom work, early women attorneys in the Equity Club disagreed amongst each other. The difference in beliefs, however, did not diminish these lawyers' impact or careers. Each of them overcame the challenges of the day, practiced law, and made headway for women of the future. What truly made a "successful" female lawyer in the late-nineteenth and early-twentieth centuries was her strength of conviction, without which she could not pursue the legal

¹⁸⁴ Drachman ed., *Letters of the Equity Club*, 101.

¹⁸⁵ *Ibid.*, 109.

profession. If she waffled in her beliefs, her health may have failed, her learning may have decreased, or her career may have been jeopardized. Personal conviction, no matter how varied, upheld these successful female lawyers in their careers.

Charlotte E. Ray

Charlotte Ray, born January 13, 1850 in New York, New York, was America's first black female lawyer, the first black female graduate from an American law school, and the first woman of either race to gain admittance to the District of Columbia bar.¹⁸⁶ Having graduated law school and achieved admittance to the bar in 1872, Ray entered the legal field just seven years after the American Civil War and only ten years after D.C. abolished slavery in its territory.¹⁸⁷ Ray's life is the embodiment of a woman lawyer who achieved success in her career amidst immense social and legal obstacles, yet she was among the few American women who were the first to practice law.

Ray's abolitionist upbringing, along with her personal commitment to gender and racial equality, inspired her values and work. According to historian J. Clay Smith, Ray's abolitionist community influenced her ideology. Her father, Reverend Charles Bennett Ray, a prominent minister, journalist, and abolitionist, was a conductor of the famous Underground Railroad.¹⁸⁸ The Reverend demanded that Ray and her siblings have a formal education, so Ray studied at the Institution for the Education of Colored Youth in

¹⁸⁶ J. Clay Smith, Jr., "Black Women Lawyers: 125 Years at the Bar, 100 Years in the Legal Academy," *Howard Law Journal* 40, no. 365 (Winter 1997): 366.

¹⁸⁷ Howard Cabiao, "Charlotte E. Ray (1850-1911)," *Black Past*, 16 Nov. 2010, accessed 22 March 2020, <https://www.blackpast.org/african-american-history/ray-charlotte-e-1850-1911/>.

¹⁸⁸ Smith, "Black Women Lawyers," 369.

Washington, D.C. until her graduation in 1869.¹⁸⁹ It was in that year, at age nineteen, when Charlotte entered Howard University's law school; she graduated three years later in 1872.¹⁹⁰ In her time, Ray had the unusual advantage, for women generally and especially black women, of attaining a complete education throughout her adolescence and attending an institution of higher learning. These factors—Ray's abolitionist family and her access to education—no doubt influenced her values.

Ray expressed her devotion to equality through her social commitments and work as an attorney. While Ray practiced commercial law in Washington, D.C., she committed her time to the National Association of Colored Women and participated in women's suffrage conventions.¹⁹¹ Although no letters or writings of Ray's have been discovered, her convictions lie clearly in her actions. Ray opened her own commercial law practice in Washington and gained repute as one of the best corporate lawyers in the city. Her practice failed, however, due to a lack of business resulting from racial discrimination.¹⁹² Ray later returned to New York and worked in the Brooklyn school system.¹⁹³ To be the first black woman lawyer in the United States and the first woman admitted to the D.C. bar required a particular strength. Ray found this strength in her abolitionist upbringing and well-rounded education; she witnessed freedom movements in her community and believed in her own inherent value. America's first black female lawyer, doubly disadvantaged from

¹⁸⁹ Smith, "Black Women Lawyers," 369-370.

¹⁹⁰ *Ibid.*, 370-371.

¹⁹¹ *Ibid.*, 371-372.

¹⁹² *Ibid.*, 371.

¹⁹³ *Ibid.*, 372.

racial and sexual discrimination, maintained deep values of equality based in her experiences.

Florence Ellinwood Allen

Florence Ellinwood Allen lived from 1884 to 1966 and was raised in Cleveland, Ohio.¹⁹⁴ Allen therefore was born when women were just beginning to enter the legal practice. She underwent the struggles of being a female lawyer during the Great Depression, World War II, and the family-centered culture of the 1950s. Her life and career have encompassed pivotal times in America for women's rights. Her experience as a lady lawyer has provided a critical source for understanding women's motivations to enter the legal career and the social and structural difficulties they faced in pursuing such a profession throughout the twentieth century. Allen committed herself to many important issues both before and during her career as a lawyer, particularly women's suffrage rights. In her autobiography, *To Do Justly*, Allen explained that her opinions on and devotion to this matter promoted and enhanced her career greatly.

Before and during her legal profession, Allen dedicated a great deal to the women's suffrage movement. She worked under such illustrious leaders as Carrie Chapman Catt and Harriet Taylor Upton. It was Allen's efforts in 1917 that enfranchised Cleveland women.¹⁹⁵ Allen started law school at the University of Chicago Law Department in 1909, eventually completed her law degree in 1913 at New York University Law School, and from 1910 to

¹⁹⁴ Lynne Ford, *Encyclopedia of Women and American Politics* (New York: Facts on File, 2008): 25-26.

¹⁹⁵ Florence Allen, *To Do Justly* (Cleveland: Western Reserve University Press, 1965): 29, 37.

1920 she gave much energy and effort to women's enfranchisement.¹⁹⁶ In 1912, Allen was recruited as a young female student to the National College Equal Suffrage League.¹⁹⁷ At the time, Allen was living in Cleveland and worked under suffragist Maud Wood Park. Allen claimed in *To Do Justly* that this experience under Park laboring for equal suffrage "influenced me in ways of which I was not aware, and always to my advantage."¹⁹⁸ Under Park's direction, Allen was recruited as a speaker to suffrage rallies in Massachusetts in 1915.

She also learned, under Park's tutelage, to organize local counties in Ohio for women's suffrage. This job forced Allen "to make ninety-two speeches in eighty-eight counties of Ohio."¹⁹⁹ Allen detailed the difficulties of such a task. There were challenges in arranging meetings, attracting an audience, communicating with the women (who may or may not care about enfranchisement), and convincing them that the issue of suffrage was worth their while. According to Allen, she learned "to take advantage of every circumstance" that would allow her a hearing.²⁰⁰ These lessons contributed to Allen's future as a prosecutor and a judge.

Allen's career quickly grew; she became a judge in the court of common pleas in 1920, and in 1922 Allen was the first woman elected as a justice for the Ohio Supreme

¹⁹⁶ Allen, *To Do Justly*, 29; "Florence Ellinwood Allen," The Supreme Court of Ohio and the Ohio Judicial System, accessed August 29, 2019, <https://www.supremecourt.ohio.gov/SCO/formerjustices/bios/allen.asp>.

¹⁹⁷ Allen, *To Do Justly*, 29.

¹⁹⁸ *Ibid.*, 30.

¹⁹⁹ *Ibid.*, 32.

²⁰⁰ *Ibid.*, 33-34.

Court—she was the first woman appointed to any supreme court in the United States.²⁰¹ When she was re-elected to the Ohio Supreme Court in 1928, Allen claimed one overwhelming factor to her success: “the state-wide friendship of Ohio men and women” throughout her time as an attorney.²⁰² Through her networking, she built repute among Ohioans; the skills she learned and the reputation she developed during her suffragist days enabled the support of her community.

Allen’s efforts as a lawyer (which were greatly bolstered by her commitment to women’s suffrage) also resonated for women’s rights internationally. She included in her memoirs a letter from Nancy Astor, the first woman elected to the British House of Commons. Astor wrote after Allen had been re-elected to the Ohio Supreme Court in 1928. “I have been waiting to write to you,” expressed Astor, “to congratulate you on your wonderful victory. I broke all the rules when I telegraphed you that I hoped you would win, but in my opinion there are a great many rules which women will have to go on breaking!!”²⁰³ With two exclamation points, Astor conveyed her delight in Allen’s efforts to break rules that needed to be broken. Astor’s compliment is an example of the way Allen’s position, values, and goals affected women even internationally.

Before her legal career, Allen’s mission as a suffragist presented opportunities for name recognition, public speaking, and networking. Through her commitment to women’s suffrage, she learned to take advantage of all opportunities to speak about her mission and values. No doubt these lessons carried into her success as the first woman elected as a judge

²⁰¹ Lynne Ford, *Encyclopedia*, 25-26.

²⁰² Allen, *To Do Justly*, 71.

²⁰³ *Ibid.*, 78.

to the Ohio Supreme Court. As a suffragist, she developed skills in presenting her case to an audience, converting them to her cause, and boldly standing behind her position. Allen's commitment to issues of women's suffrage allowed incredible opportunity to enhance her legal career. Her personal values bolstered and supported her efforts as a lawyer.

Conclusion

In her 1889 Equity Club letter, Lelia Robinson expressed her enthusiasm for the potential success of a few law students at her alma mater, Boston University. Robinson stated optimistically, "*Now*, there are *four* women studying there."²⁰⁴ She wrote of a Miss Colesworthy, whom Robinson expected would soon graduate. Regarding Miss Colesworthy, Robinson explained, "She is a stenographer in a lawyer's office, and proposes to study only with a view to making herself more useful in clerical work, but I doubt her continuing in this mind after graduation."²⁰⁵ Robinson expected the young woman to graduate successfully and make her mark on the legal world.

Unfortunately, this did not play out to Robinson's hopes. Miss Colesworthy did not complete her law degree.²⁰⁶ The ultimate reason for this is lost to history. But for all the women who did hold a strong commitment to their goals, who did succeed in their legal careers, there were some who fell away. There may have been a multitude of reasons for Miss Colesworthy's withdrawal from law school; perhaps she struggled financially to support herself or did not have any backing from family. Perhaps she found other

²⁰⁴ Drachman ed., *Letters of the Equity Club*, 169.

²⁰⁵ *Ibid.*

²⁰⁶ Footnote 1 in Drachman ed., *Letters of the Equity Club*, 169.

professional passions. We know that she only wanted to do clerical work and could not, for whatever reason, complete her legal studies. Colesworthy's story, although brief, displays the challenges of the early woman lawyer's career. A woman attorney needed support, she needed conviction—and even then, external circumstances could conspire against her success. A strong sense of purpose and identity was necessary to combat such complex challenges. For all that could go wrong, it took a mighty woman to make it right.

America's first female lawyers were not all the same. They did not receive equal support; they did not all agree; they did not have identical aspirations. Yet their impact has resounded through history. Belva Lockwood had no encouragement to pursue law from her community or family. Because she believed in her right to equality and education, she persisted and became the first woman elected to the United States Supreme Court bar in 1879. The Equity Club women disagreed on many points, from social work to charity cases to courtroom law. Nonetheless, their stances enhanced not only their own careers but the prospects of women everywhere. Finally, the life of suffragist, lawyer, and judge Florence Ellinwood Allen has displayed the importance of conviction for an early lady lawyer's success. Not every first female attorney was the same, but they were connected by the same thread: each maintained her beliefs. She had faith in herself and her values—and she succeeded for it.

CHAPTER FOUR

A Regular Bulldozer: The Influence of a Lady Lawyer

Coming generations will reap the benefit though of the sower
they know not.

-Rebecca May

While she attended the Law School at the University of Michigan, Jane M. Slocum had finally been invited to join in the Webster Society, a club “to which women were not previously admitted.”²⁰⁷ This group, which provided male students support and camaraderie at Michigan Law School, was not open to women until that point. This newfound equality was due to the influence of another female law student, Mary Stockbridge. Because of this friend’s “superior intellectuality” and her “rare womanliness,” she had obtained the respect of faculty and students.²⁰⁸ Male colleagues witnessed Stockbridge’s character and talents and found not only her, but other women as well, worthy of admittance to this group.

This short account tells a bigger story. In the late nineteenth century, when only small numbers of American women were attending law school, there were few or no supports for their ambitions. In Slocum’s case, even something like a law school club excluded women’s participation, mostly because its members had not met many fellow law students who happened to be female. But once Slocum and her friend, Stockbridge, got

²⁰⁷ Drachman ed., *Letters of the Equity Club*, 68.

²⁰⁸ *Ibid.*, 67-68.

into the thick of school, took the same classes as their male peers, and succeeded just the same, there came a change. On a personal level, the male students and faculty formed relationships with these women—experienced their integrity and capabilities on an individual basis. After this they felt no need for exclusion. They recognized the ridiculousness of rejecting two women who, as the students discovered, were equally capable.

It was, in Slocum's case, personal interaction and relationship with others which mitigated prejudice against her as a female lawyer. This thesis has explained, so far, those things that "made" America's early female lawyers; it has described the factors that created the first American women attorneys. Both aid from loved ones and the strength of willpower buoyed them up to become the "first-generation." What has yet to be discussed in this project, however, is how these same women, who grew out of these support systems, changed their world in return. Many facets of their communities—legislation, public perception, legal education, political structures, gender dynamics—altered forever because a small group of women decided to venture into the legal career. In many ways, this social change was accomplished through friendship, common workplace interaction, or a simple conversation. Through interpersonal connection, America's early female attorneys enabled their careers, bettered their livelihoods, and improved their societies.

Three case studies will explore this phenomenon. The first will examine the experiences of Catharine Waugh McCulloch, Equity Club member and Illinois attorney. Her story shows the stark contrast between the opportunities of an early female lawyer in the city versus a small town, where she knew the residents personally. The second account comes from Lelia Robinson in her letter to the Equity Club. She too described the

difficulties of finding work in a big city, Boston, but explained how general opinion about female lawyers in urban areas could be changed for the better. Myra Bradwell was an early attorney who found success in a big city with her publications of the *Chicago Legal News*, but this came through an established reputation among other lawyers and the community.

The fourth study discusses the life and merits of Florence Ellinwood Allen. Her autobiography displays how the examples of the earlier female attorneys carried into Allen's career. Through specific examples of interpersonal interaction with others—those opportunities in which she was able to display her unique, valuable, and competent skillsets to people who knew her personally—she overcame prejudice in her legal education, career, and social circle. In all four examples, the sources show how these lawyers, through their dedication, charisma, and strong character, shaped the perception of their communities concerning women in the legal workplace.

Kitty McCulloch

Catharine Waugh McCulloch, known as “Kitty” to close friends and family, graduated from law school in 1886 with bright hopes. She moved to Chicago where, she claimed, “Many friends advised me to settle... and capture my share of the large fees floating about.”²⁰⁹ McCulloch went to the city, eager to find work and make a life for herself in a place with many professional opportunities. Although she tried time and again, undeterred, she struggled to attain employment in the largely impersonal city of Chicago—a place where she was not truly known as an individual.

²⁰⁹ Catharine W. McCulloch, handwritten manuscript of essay "Women as law clerks," 1887, series VI of the Mary Earhart Dillon Collection, 1869-1945, call no.: A-68. Folder 59, page 1, Schlesinger Library, Radcliffe Institute, [https://iif.harvard.edu/manifests/view/drs:2581380\\$1i](https://iif.harvard.edu/manifests/view/drs:2581380$1i).

In an 1887 letter published in the *Woman's Tribune*, McCulloch detailed the difficulty she faced in initially finding work. She approached potential Chicago employers, backed by personal recommendation letters from judges and law professors, and, in her words, "sallied forth to seek my fortune."²¹⁰ At first these employers let her down softly. "Mr. F.," she wrote, "already had more clerks than he knew what to do with."²¹¹ "Mr N. was glad to make my acquaintance," she explained, but it "was the wrong season of the year" for hiring a new associate.²¹² McCulloch pressed on, however, only to find overt discrimination while searching for work in Chicago.

Many employers openly expressed that they were only looking for male associates. "Mr J. preferred the help of his two sons," wrote McCulloch, "and must also confess he disapproved of women stepping out of their true sphere, the home."²¹³ Upon applying to a judge for career guidance, the "pompous Judge J." explained that "a dozen young men would be ready for a place," just as soon as it was available.²¹⁴ Another opposer, "bullet-headed Mr. B.," fervently expressed his disapprobation of female litigators, and advised McCulloch instead to "go home and take in sewing."²¹⁵ After such an insult, she jokingly

²¹⁰ McCulloch, "Women as law clerks," 2.

²¹¹ *Ibid.*

²¹² *Ibid.*, 2-3.

²¹³ *Ibid.*, 3.

²¹⁴ *Ibid.*

²¹⁵ *Ibid.*, 4.

wrote, “Take in sewing for 60 cents a dozen for five shirts? No thank you. He can make shirts himself. I’d never make shirts for him if he had to wrap himself in burlap instead.”²¹⁶

So McCulloch continued to face humiliation and prejudice in Chicago. Her personal letters are filled with examples of such employers, who really had no relationship with her, nor had ever truly seen a lady lawyer in action. Chicago let her down. “No objections were made to my qualifications,” she expressed, “but they wanted a man and as I was not a man nor never would be they were ready to wish me good day.”²¹⁷ She was assessed by purely superficial standards. One employer said she did not look “strong” enough—she might die “of overwork.”²¹⁸ One clerk explained that he wanted a clerk who was “a regular bulldozer” and McCulloch did not quite “look equal to it.”²¹⁹

In another instance, one man showed eager interest in the female attorney’s services. What she later discovered from a friend, however, was that his law firm was practically invalid, he had already divorced two wives, and he likely planned to promote McCulloch “to the eminence of No. 3”!²²⁰ In Chicago, where no one knew her personally, McCulloch was judged on the basis of her looks and her gender. She found no employer in Chicago willing to invest in her skills or talents. Indeed, in such a place, she was unknown and unvalued.

²¹⁶ McCulloch, “Women as law clerks,” 4.

²¹⁷ *Ibid.*, 5.

²¹⁸ *Ibid.*

²¹⁹ *Ibid.*, 6.

²²⁰ *Ibid.*, 7.

After experiencing discrimination in a big city, McCulloch moved back to her hometown of Rockford, Illinois. She expressed in her letter, “When at last I gave up the search it seemed as if there was no place on earth for a young woman just graduated from law school.”²²¹ In all of her searching, the usually optimistic McCulloch felt there was no opportunity for her as a female attorney. “But my fit of melancholy did not last forever,” she explained, “so I came back to my hometown of Rockford, Illinois.”²²² The rejections she faced in Chicago, she explained, “made the kind words and helpful deeds of those *who had known me all my life* so much of a consolation that...I believe I will succeed.”²²³ It was in Rockford and its surrounding area, where the people truly knew her, that McCulloch’s legal career took flight and altered the status quo.

As a city, Rockford cultivated at least a few forward-thinking women who greatly inspired their communities. Kitty attended Rockford Female Seminary with famous social worker and suffragist Jane Addams.²²⁴ Addams graduated just one year before McCulloch and later moved to Chicago where she founded Hull-House, a settlement house in which educated women provided much-needed social services to underprivileged populations in Chicago.²²⁵ In Addams’ words, Hull-House existed “to provide a center for a higher civic and social life; to institute and maintain educational and philanthropic enterprises and to

²²¹ McCulloch, “Women as law clerks,” 9.

²²² Ibid., 10.

²²³ Ibid., own emphasis added.

²²⁴ “Jane Addams: Biographical,” NobelPrize.org, Nobel Media AB 2020, accessed 25 Mar 2020, <https://www.nobelprize.org/prizes/peace/1931/addams/biographical/>.

²²⁵ Ibid.

investigate and improve the conditions in the industrial districts of Chicago.”²²⁶ For Addams’ philanthropic work at Hull-House, feminist efforts, and pacifist charity during World War I, she was awarded the Nobel Peace Prize in 1931, four years before her death in 1935.²²⁷ Addams was the kind of woman with whom McCulloch attended classes, and the city of Rockford was a place in which such women could learn and grow professionally.

In Rockford, local court officials and male attorneys provided McCulloch help and support. McCulloch wrote that the other attorneys took “special pains” to offer encouragement, loan books, and answer questions.²²⁸ The judges, sheriffs, deputies, and even the janitor gave her respect in “just the way” she liked it.²²⁹ She married another attorney in 1890, and in 1907 she was elected to be the justice of the peace for Evanston, Illinois, another small town not far from Rockford.²³⁰ According to historian Jill Norgren, McCulloch’s marriage indeed gave the lady lawyer an advantage in her career; when she married Frank McCulloch, Catharine joined his practice.²³¹ Norgren also describes McCulloch’s work as a lawyer before she married, but does not elaborate on how Kitty utilized her own personal connections to establish her reputation as an attorney in Rockford.

²²⁶ Jane Addams, *Twenty Years at Hull-House: With Autobiographical Notes* (New York: Macmillan, 1910), 112.

²²⁷ “Jane Addams: Biographical,” Nobel Media.

²²⁸ *Ibid.*

²²⁹ McCulloch, “Women as law clerks,” 11.

²³⁰ *Ibid.*

²³¹ Norgren, “Ladies of Legend,” 77.

Before McCulloch was married, she rented her own legal office and offered services to both paying and non-paying clients. The local male attorneys and officials were helpful to McCulloch before she met her husband.²³² It was this smaller community which accepted McCulloch because it had witnessed her talents and capabilities on a personal level. She was able to establish an office, albeit a meager one (many women attorneys explain the difficulty for *all* lawyers, male and female, in initially opening a practice); she found great support from other lawyers in the city because they knew her; they grew up with her, understood her talents, and empathized with her position. In Rockford, Kitty was one of their own.

It was in her own hometown where this lawyer found the necessary support to rebound from the prejudice she faced in the large and impersonal Chicago. It was personal relationship which allowed her to serve as a successful attorney and, eventually, as the first female justice of the peace for the state of Illinois.²³³ Upon returning home, McCulloch created inroads for the female in law. She entered productive legal practice—herself proving that a lady lawyer could really be successful—and eventually made a space for women in Illinois’ justice system.

McCulloch was an example of how the early female attorney, through one-on-one interaction with her neighbors, changed the face of her community. In McCulloch’s case, it was true that her friends in Rockford and the surrounding area already knew her personally and thus, one could argue, were biased in their evaluation of her work. In other

²³² Norgren, “Ladies of Legend,” 77.

²³³ Ibid.

words, one could say it was not McCulloch who created this opportunity for herself and who effected this progress in her society—rather, it was the community residents who enabled it.

But such an analysis ignores how a positive “bias” from McCullough’s neighbors came about. It discounts the obvious admiration that Rockford had held for this female attorney’s character. McCulloch was clearly a person of repute in her community. The attorney’s neighbors believed in her ability because, by living and working among them all her life, she had already proved it. The fellow lawyers and judges in Rockford supported her ambitions for law because they understood, on a personal level, that she could handle its challenges.

In Chicago, where potential employers did not know her closely, and where women generally had yet to make a breakthrough in the legal field, McCulloch was discouraged and ignored. Still hopeful, however, she returned to a place in which she was known, in which her aptitude was obvious, in which her familiar integrity was already admired. She had earned this respect. She merited her place as a prominent Rockford lawyer and Illinois’ first female justice of the peace. Her neighbors merely recognized this fact and supported her advancement. To Kitty McCulloch—to her character, to her dedication, to her relationships—do we owe thanks for the progression of the female lawyer in Illinois and beyond.

Lelia Robinson

Similarly, Lelia Robinson of the Equity Club suffered inequity when she worked in Boston. She remarked that Bostonians generally did not trust women for legal counsel.

When she moved to the West Coast, where women had been admitted suffrage and jury rights, she experienced the personal support and connection so valuable to women's mobility in the legal profession. Robinson became successful in trial advocacy because of the help of a local male judge and a male trial lawyer. With a recommendation letter "from the wife of the president of the North Pacific Railroad," she found professional support in Seattle.¹ Robinson's experience pointed to the power of personal connection for these early women lawyers. She even found that, when the public watched her perform trial advocacy, the community "judges a woman lawyer as it does a man, largely by his success or non-success in court, and if one is never seen or heard there, one's abilities are a matter of serious doubt."¹ Local colleagues and professionals helped Robinson, then, and society responded by viewing her work and abilities as equal to a man's.

In her 1888 Equity Club letter, Lelia Robinson humorously explained how her fellow male law students became accustomed to her presence in school. At Boston University law school, she was the only woman in her class, and thus had to choose how to handle herself socially. Where would she sit, she asked herself? How would she conduct herself around the men? She eventually decided that, of course, she would sit wherever she wanted, and talk to the men like fellow students. Due to this simple interaction, "the general opinion seemed to be favorable" to Robinson's presence.²³⁴ Indeed, as she explained, eventually "they paid me the great compliment of calling me a 'good fellow.'"²³⁵ Robinson's peers, all male, became familiarized with her attendance in the school and even

²³⁴ Drachman ed., *Letters of the Equity Club*, 127.

²³⁵ *Ibid.*

saw her as a kind of equal. Normal relationships and personal interactions allowed the men at Boston University law school to become accustomed to this lady lawyer, who “proved” her immense talents and worthy capabilities.

Robinson later moved to Seattle, Washington, where the public opinion concerning the “woman question” was more progressive. In “Women Defenders in the West,” historian Barbara Allen Babcock discussed Robinson’s journey from Boston to Seattle. The courts in Massachusetts did not admit her to the bar because of gender, until she lobbied for a bill in 1880 which allowed women lawyers to the bench.²³⁶ Even after receiving her license, Babcock could not find employment in Boston. So, leaving her parents and sister she set out for the Washington Territory, where women had achieved suffrage rights and were participating on juries.²³⁷ Both Babcock’s and Norgren’s analyses explain the difficulty for America’s first female lawyers in finding work in large cities, where many male lawyers were already established. In an area where woman had already “proved” their equal capacities of legal reason, like in the Washington Territory, the community was much more open to the woman lawyer.

While in Seattle, Robinson gained experience that helped her gain work when she moved back to Boston. Her friends, including illustrious Judge Roger S. Greene (himself a fervent advocate for women’s rights), encouraged Robinson to undertake court work, “where she had the invaluable experiences of going more than once before a mixed jury of both men and women.”²³⁸ She was the first woman to defend her client before a mixed

²³⁶ Babcock, “Women Defenders in the West,” 2.

²³⁷ Ibid.

²³⁸ Drachman ed., *Letters of the Equity Club*, 121-122.

jury.²³⁹ This opportunity along with her training in stenography, set her up for success when she moved back to Boston to work and be with her family.²⁴⁰

Robinson described one of the jobs she undertook after she moved home. It was a clerkship, “extremely hard” work, and her boss “was entirely unaccustomed to having a woman about the office, and could not get used to it.”²⁴¹ It was obvious that Robinson’s employer initially had his own conception of the female attorney; if his ideas were not entirely negative, they were certainly uncomfortable.

Nonetheless, Robinson greatly admired her employer’s character, expressing that he had zeal for his work, “fighting qualities,” and indeed a “sterling good heart.”²⁴² But it seemed that Robinson and her boss simply did not work well together; he could not get used to working around a woman, and she “could not get used to his gruff, short ways of speech and manner.”²⁴³ When the two finally decided to part professional ways, Robinson’s wrote, “He told me he really thought I was wasting my abilities in his office, and that in justice to myself and all women, I ought to be in practice for myself.”²⁴⁴ Robinson’s employer came to recognize her skills, and although they were not the best coworkers for one another, they each admired the other’s talents and character.

²³⁹ Babcock, “Women Defenders,” 3.

²⁴⁰ Drachman ed., *Letters of the Equity Club*, 122.

²⁴¹ *Ibid.*, 123.

²⁴² *Ibid.*

²⁴³ *Ibid.*

²⁴⁴ *Ibid.*

At first glance, this anecdote does not seem very encouraging: a sexist employer can't handle being around a woman and tells her to go someplace else. In actuality, Robinson's experience speaks to the power of individual relationships in the workplace. Her boss, who initially had great reservations about working with a woman, decided to give her a chance in his office. Robinson and he collaborated together; she gained great admiration for his skill and he observed her legal talents closely. Although the two eventually decided to split, the employer acknowledged that Robinson indeed had great aptitude—that, for her sake and that of all female lawyers, Robinson ought to run her own practice. The gruff, and perhaps insensitive, male employer formed a professional relationship with Robinson and came to appreciate her obvious abilities.

Robinson also expressed extensively her own thoughts on the progression of the female lawyer and what it would take to continue the cause of equality for women in law. In reference to Boston, she stated, "There seems a great difference in the general public feeling concerning women attorneys now from that which prevailed when I first started here."²⁴⁵ To her, it appeared that within only a few years, the public had generally "cleared away the fogs of doubt and hesitation" concerning lady lawyers.²⁴⁶ "The idea of a woman in the law is no longer an uncomfortable novelty," she went on.²⁴⁷ Robinson explained why this was the case. Another young lawyer had just graduated from Boston University, so that Robinson was "no longer the only alumna."²⁴⁸ Another attorney, Mary A. Greene,

²⁴⁵ Drachman ed., *Letters of the Equity Club*, 124.

²⁴⁶ *Ibid.*

²⁴⁷ *Ibid.*

²⁴⁸ *Ibid.*

planned to live and work in Boston.²⁴⁹ In this way, the number of female Boston lawyers was growing, if only in small numbers.

For Robinson, this gradual growth of female influence in the law was pivotal for women's progression. "These ladies have helped to accustom our good old conservative Boston to the thought of women in the legal profession," she expressed.²⁵⁰ "More women must come into the actual field of practice," she continued, "and the eyes of all must become accustomed to the sight."²⁵¹ It would then be easier for other women to make the same journey. According to the dean of Michigan University Law School in 1888, it was clear that a woman could study law, but women had yet to prove that they could achieve its practice. For Robinson, the "burden of proof" indeed rested on her and her sisters-in-law.²⁵² The Boston attorney believed that the way for women to progress in the legal field was simply to enter it.

Robinson's views on how a lady lawyer might promote her career spoke to a larger idea of how the female attorney could influence her society. A woman could help accustom her community to a female presence in the law. The woman lawyer influenced public opinion because, simply put, she was a lawyer. It was an uncommon sight, unknown terrain. For the female attorney to exist was earth-shattering. In her letter, the Boston lawyer did not attribute great strides for women's progression to legislation, political

²⁴⁹ Drachman ed., *Letters of the Equity Club*, 124.

²⁵⁰ *Ibid.*

²⁵¹ *Ibid.*

²⁵² *Ibid.*

movements, or social justice. She explained that the lady lawyer could create the most change by interacting with her community.

This interaction took many forms. The early woman attorney collaborated with her male colleagues; she served her local clients; she spoke about her job with friends and family. The influence of these relationships had a deep and lasting impact on a woman lawyer's society. Robinson believed this phenomenon to be true in Boston. Through personal connection to her town, city, peers, neighbors, employers, and more, America's first female lawyers altered forever the opinion of a woman's proper place. Relationships between early female lawyers and their communities showed a conservative American society that, indeed, a woman could practice law, and she could do it well.

Myra Bradwell

So far, this analysis has discussed two women lawyers who initially struggled to find work in a big city due to gender prejudice. Myra Bradwell, however, began in 1868 to publish the *Chicago Legal News*, which “soon became the most important legal publication in the western United States.”²⁵³ Her journal earned high repute in Chicago, and men in the city and all over the United States trusted her publications. How it was possible for a female, who had passed the Illinois bar, applied to Illinois' Supreme Court for formal admittance, and been denied this request because she was a married woman, to influence the legal world to such an extent is truly a marvel.²⁵⁴ Bradwell accomplished this

²⁵³ “Myra Bradwell: First Woman Admitted to Illinois Bar,” Illinois History & Lincoln Collections, University of Illinois, 16 March 2018, accessed 25 March 2020, <https://publish.illinois.edu/ihlc-blog/2018/03/16/myra-bradwell/>.

²⁵⁴ Ibid.

largely through her own grit, but she was established in Chicago in ways that McCulloch and Robinson were not in Boston.

In 1852, Myra married James Bradwell who, upon moving to Chicago, was admitted to the Illinois bar and began a legal practice with his brother. James was elected to be a county judge in 1861, and Myra began to take an interest in his work. Under her husband's tutelage, Myra read, studied, and analyzed the law; this is where she found her inspiration to apply to the bar.²⁵⁵ Although her request was denied, Myra did not forgo her legal interests. In 1872, Myra Bradwell, along with Ada H. Kepley and another female lawyer, Alta Hulett, presented a bill to the Illinois legislature that would forbid sex as an obstacle to the legal profession or any other career.²⁵⁶ Myra Bradwell accomplished important work for women's rights in Chicago, and had the support of her husband who was greatly involved in the city's legal system.

Myra Bradwell held a firmly established reputation in Chicago. She helped unite Chicago women by organizing the first convention for women's suffrage in the city. Bradwell actively worked to found the American Women's Suffrage Association, and she and her husband served on the legislative committee of the Illinois Women's Suffrage Association. In 1890, when her husband requested that Bradwell be admitted to the Illinois bar, she received formal admittance and became the first woman to practice before the United States Supreme Court in 1892.²⁵⁷ Bradwell's political work for Chicago women's suffrage, her husband's influence within the city, and her own personal reputation allowed

²⁵⁵ "Myra Bradwell," Illinois History & Lincoln Collections, accessed 25 March 2020.

²⁵⁶ Ibid.

²⁵⁷ Ibid.

for the *Chicago Legal News* to flourish as it did. Without such establishments, Bradwell's success in the journal may have been more difficult to achieve.

Concerning Bradwell's accomplishments, Historian Nancy Gilliam explains that "perhaps the greatest effort of her life was directed toward changing the ideas of male lawyers and judges concerning the abilities of women."²⁵⁸ This changing of ideas was certainly achieved by Bradwell through her journal and other labors. In 1873, the *American Legal Journal* wrote, "We have always felt a respect for Mrs. Myra Bradwell."²⁵⁹ The writer explained that Bradwell's journal was done "conspicuously well," and that it was "full, and full of good and valuable matter, without 'padding.'"²⁶⁰ Bradwell had earned the writer's admiration, as well as that of many male lawyers of the day, because instead of "shrieking her conviction" of women's equality for the legal profession, "she has set herself quietly and energetically to do hard and regular work in one of these avocations."²⁶¹ Bradwell's *Chicago Legal News* succeeded at least in part because people respected the Chicago woman. She had an integrity and intellect that could not be denied, and she used her established reputation to advocate for women's equality.

Myra Bradwell's story, although slightly different from McCulloch's and Robinson's, speaks again to what a woman lawyer could do through individual interactions. Unlike McCulloch and Robinson, Bradwell succeeded in a big city through her efforts because she had firmly founded connections in Chicago—it was there where

²⁵⁸ Gilliam, "A Professional Pioneer," 105.

²⁵⁹ "Book Notices," *American Law Review* 7, no. 2 (January 1873): 338.

²⁶⁰ *Ibid.*

²⁶¹ *Ibid.*

people knew her, knew her husband, and admired her passions and character. Through her service with multiple women's suffrage organizations, Bradwell interacted with a multitude of women within Chicago society. She was furthermore in close contact with the Illinois government while she lobbied for women's equality. The importance of her lawyer-husband's position for Bradwell's career advancement cannot be downplayed; he requested that Bradwell be admitted to the bar and held a place within Chicago society that Bradwell could not have reached on her own. In Bradwell's story, the *Chicago Legal News* flourished because people valued her work, appreciated her relevant contributions, and admired her integrity.

Florence Ellinwood Allen

Judge Florence Ellinwood Allen began her work as a lawyer right around the time of the Nineteenth Amendment's passage, and she continued to serve as a prosecutor and judge throughout the twentieth century. Since Allen began her career after the very first generation of female lawyers, her story displays the impact of the earlier female attorneys on American society. Her example relates to us how the work of McCulloch, Robinson, Bradwell, and others has resounded into the future.

Florence Allen was one of the first women to ever serve as a federal judge; she graduated from law school in 1909 and began her career as a prosecutor in 1919. She was elected to Ohio's Supreme Court in 1922 and was appointed by President Franklin Delano Roosevelt to serve on the U.S. Court of Appeals for the Sixth Circuit in 1934. Her work as a judge for the Sixth Circuit continued until 1958.²⁶² The earlier women attorneys made

²⁶² Ruth Bader Ginsburg, "Women in the Federal Judiciary: Three Way Pavers and the Exhilarating Change President Carter Wrought," *Fordham Law Review* 64, no. 2 (Fall 1995): 281-290.

great progress in entering the profession—women lawyers of their time had practiced law as attorneys, but Allen started a wave; now, American women were judges. Indeed, American women were appointed to the judiciary by the President, when in earlier times, the Supreme Court declared that “the law of the Creator” kept a woman in the home. In her own, new ways, Allen continued to progress women’s position in the legal field; like her earlier “sisters-in-law,” she in part accomplished this through personal relationship.

According to Florence Allen’s autobiography, *To Do Justly*, she faced discrimination during law school, in her career, and in her society. This prejudice against her success in law school came about because of the structure of the institutions. She could not apply to the law school at Western Reserve University, her undergraduate alma mater, because it was “not at that time open to women.”²⁶³ The system of her alma mater’s law school was set up in such a way as to discriminate against Allen’s entering at all.

Furthermore, when Allen indeed was admitted to the University of Chicago law school, she “was the only woman in a class of around one hundred,” and she claimed that “for a shy person it was terrifying to have to enter a classroom first while a hundred men stood aside.”²⁶⁴ The general preference of male law students and the obvious discouragement of women to contribute to the field provided no supports for Allen when she entered her legal schooling. The exclusion of women from many institutions—that of her own alma mater—and the scarcity of female students evinced the structural disadvantages of Allen’s initial entrance into law school.

²⁶³ Allen, *To Do Justly*, 23.

²⁶⁴ *Ibid.*, 24.

Florence Allen found difficulty in her professional pursuits not only while she attended law school, but during her career as well—both as she entered the legal field as a prosecutor and as she sought upward mobility in her job. Allen started her career as a prosecutor in 1919 as Cuyahoga County’s Assistant County Prosecutor. Just years after women were considered to be “unfit” for the courtroom, Florence Allen was appointed to serve the government as an assistant county prosecutor. This was barely prior to the passage of the Nineteenth Amendment and she was the first woman in the nation to ever hold such an office.²⁶⁵ Therein lay a structural flaw—females had never held prominent positions as state prosecutors before Florence Allen and she therefore had to forge her own path without a large female support system. The fact that women were legally disenfranchised also contributed to this scarcity of females who worked as lawyers for the state (and lawyers in general). It was the structure of American law which discouraged Allen’s initial pursuits in the field.

Allen did much to progress the women’s suffrage movement in Ohio, but because of negative ideology she encountered barriers from her fellow Ohioan citizens. Allen helped to pass a law in 1917 that granted Ohio women the right to vote for presidential electors, a law which would have in turn allowed them a say in who was elected as president. While Allen’s earlier “sisters-in-law” had implemented legislation allowing equal professional opportunities for women and had advocated for women’s suffrage rights, Allen herself was able to introduce actual legislation that put the concept into action. The bill was passed, but according to Allen, “our enemies instituted a referendum against

²⁶⁵ Allen, *To Do Justly*, 39.

it.”²⁶⁶ Some of those who were hostile to women’s suffrage had constructed many petitions in several Ohio counties to combat the recent passage of the law. Those who signed the petitions were normal, everyday citizens who either believed that women should not vote or were induced to believe this through the influence of “our enemies.”²⁶⁷ Thus, her community’s limiting ideology of women’s roles negatively affected Allen’s efforts in integrating females into legal practice.

Florence Ellinwood Allen, then, experienced a type of organizational and social oppression against her pursuits in the legal field while she attended law school, worked as an attorney, and existed as member of American society, even after the very first women lawyers had made their marks. She experienced, however, a mitigation of these biases in all three areas of her life due to personal relationships. Allen connected one-on-one with her peers and colleagues. These relational bonds caused others to witness her superior talents and ability, and they responded accordingly—with acceptance and even admiration.

After Allen overcame the hurdle of being admitted to and succeeding in law school, she found a community ready to affirm her aspirations. After completing the winter quarter at Chicago Law, Allen was surprised to discover that she was second in her class. Due to her achievements, male classmates approached her in the library, and according to Allen, they “congratulated me and then told me I had a masculine mind.”²⁶⁸ After witnessing her academic talents, Allen’s peers recognized and acknowledged that she was equally capable of performing in law school.

²⁶⁶ Allen, *To Do Justly*, 37-38.

²⁶⁷ *Ibid.*, 37.

²⁶⁸ *Ibid.*, 24.

Allen also studied under prominent law professors and learned from them personally how to be a successful attorney. She summed up her experience: “but I survived the ordeal [of entering the school and being the only female student], and in the school I had wonderful opportunities.”²⁶⁹ After surpassing the structural barriers that may have limited her, Allen found that her fellow students respected her work and her professors offered her all the opportunities that she needed to succeed. It was interpersonal connection in the law school that allowed Allen’s peers and superiors to witness her exceptional talents and believe in her abilities—relationships diminished prejudice.

Allen furthermore experienced a lessening of gender biases when she formed interpersonal bonds with others in her career as a lawyer. As the leader of the Grand Jury’s proceedings in Cuyahoga County, Allen accomplished such a feat only after the very first female attorneys had entered the field and worked for greater equality. The men on the Grand Jury were initially not so favorable to Allen’s position. Allen explained that she felt the discrimination at first, “but this gradually passed away.”²⁷⁰ The Jury gave Allen a gift at Christmas—white gloves—and the Jury’s secretary uttered his change of heart: “I viewed a woman lawyer and prosecutor with apprehension. My fears were unfounded. She did as good as any of the men and better than some. May her shadow never grow less.”²⁷¹

The secretary’s statement revealed perfectly Allen’s experience during her career as an attorney. Her coworkers originally had been doubtful to her pursuits, due to a systematic prejudice against women in the legal field. Upon witnessing her talents and

²⁶⁹ Allen, *To Do Justly*, 24.

²⁷⁰ *Ibid.*, 40.

²⁷¹ *Ibid.*

character, however, these same cohorts believed in her capabilities as a lawyer and viewed her as equal to any man. Allen's career influenced her coworkers, who witnessed her incredible achievements. Relational connection was the foundation for equality in Allen's life and work.

Finally, it was friendship which elevated not only Allen's law school experience and her work as an attorney, but also her society. By the 1940s and 1950s, her work as a Judge for the U.S. Court of Appeals was so respected, and Allen herself so admired, that she had effectively inspired leaders in all types of communities who had direct influence over their constituents. Mrs. Franklin Delano Roosevelt wrote a letter for Allen's honor to be read at a dinner in 1948. Roosevelt claimed that she "had great respect and admiration" for Allen and wished that if a president were to nominate a female for the Supreme Court of the United States, "it should be Judge Allen."²⁷² When Myra Bradwell applied for admittance to the bar in 1869, who would think that the First Lady of the United States would later advocate for a female Supreme Court Justice!

Among other acquaintances who spoke to Allen's superior integrity and talent were two of her closest friends, the "Chief Judge of the Court of Appeals for the District of Columbia" and a Home Economics professor at Cornell University, Dr. Elizabeth Lee Vincent, who was formerly the head of the psychology department and lecturer of medicine at Wayne State University in Detroit.²⁷³ Allen had friends and connections in influential places, in a time when the concept of a "lady lawyer" had become much more

²⁷² Allen, *To Do Justly*, 143-144.

²⁷³ Allen, *To Do Justly*, 145; Morris Bishop, *A History of Cornell* (Ithaca, NY: Cornell University Press, 1962), 575.

commonplace. Just a generation before, female lawyers were ridiculed as unladylike, unnatural—even disobedient to nature’s laws. In Allen’s time, however, she became a heroine admired by government officials, (female!) professors, and even the President of the United States himself.

At another function held in Allen’s honor in 1952, such illustrious and dominant figures as a Supreme Court Justice (Mr. Justice Stewart) and the Cincinnati Bar Association president commended her morality and accomplishments as an attorney. Even some members of Allen’s family were present—they rejoiced in her achievements. Her whole court attended and “was witnessing to twenty-five years of friendship.”²⁷⁴ These individuals praised Allen’s life and successes; they loved her. Indeed, they had a direct influence on many in Allen’s society—the First Lady of the United States shaped the way Americans saw women in power; prominent judges in the Court of Appeals and Supreme Court held sway over the law; a professor at Cornell could have inspired her students, just as a president of the Cincinnati Bar Association had a say over a woman’s place in the practice of law. Even Allen’s family had a direct impact on their loved ones and community.

Florence Allen achieved greater liberation for women in the legal field because she formed meaningful relationships with others—she changed her society for the better, and these interpersonal connections allowed her colleagues, peers, subordinates, loved ones, and leaders to witness her immense achievement in the practice of law. For Florence Ellinwood Allen, personal relationship trumped gender prejudices in the female pursuit of

²⁷⁴ Allen, *To Do Justly*, 147-148.

a legal career—they were relationships Allen was able to enter because her earlier “sisters-in-law” took the first steps. Connections with the U.S. President and a Supreme Court Justice were not made in a day; indeed, they came after the first group of female attorneys had proved a woman’s worth in the legal field. Relationship, then, was the great liberator for women, like Florence Allen, who continued to pave the way for females in the legal profession, even after the very first lawyers had initially opened the door.

Conclusion

Personal connection was the equalizer which diminished gender prejudices against early female attorneys in the late nineteenth through the twentieth century. Until that time, the legal profession was closed off to women—and when females decided to enter this arena, they experienced by many structural, legal, and social pressures. Women lawyers, both on a nationwide scale and on an individual sphere, felt this oppression as they attended law school, worked in their jobs, and lived in their communities.

According to the testimonies of Catherine W. McCulloch, Lelia J. Robinson, Myra Bradwell, and Judge Florence Ellinwood Allen, their peers, colleagues, and society became accepting and even respectful of these women’s goals because of interpersonal bonds—the formerly doubtful groups witnessed the attorneys’ skills, character, and capabilities on an intimate level and thus dispelled their preconceived notions about women in law. Because of their life and work, these lawyers in many ways dissolved the intolerance which inhibited women from the legal field.

Today, women have been free to choose their own career paths, especially within the legal field, because of these early female attorneys. After sharing her story of

difficulties and triumphs, McCulloch wrote in her 1887 letter, “What the moral of this tale is I can’t think unless it should be, ‘Despise not the day of small things.’”²⁷⁵ Despise not the small hometown, the simple friendship with the courthouse janitor, or the little Kitty McCulloch who decided to say, “I will do it.” Through relationships, early female lawyers proved their character and capabilities. Through this interaction, they elevated their careers and communities forever.

²⁷⁵ McCulloch, “Women as law clerks,” 10.

CHAPTER FIVE

Final Remarks: Conclusion and a Parting Message

Friction only fires progression, and the dullest flint when struck emits a spark.

-Letitia Burlingame

Oftentimes, it is the everyday occurrence—a conversation with a coworker, the gentle encouragement of a family member, a letter written from one friend to another—which moves history forward. This was certainly the case for America’s early female attorneys, the people who began to forge a sense of professional identity for women lawyers in the United States. In the period from 1860 to 1920, American females began to explore and create this concept of the professional attorney—not simply a woman who studies or applies the law, but a lawyer who carries out her duties effectively and in community with her peers.

In this forging of professional identity for the American female attorney, it was undoubtedly “the day of small things” which upheld, encouraged, and promoted America’s early female lawyers in their progress. The Equity Club women, in their various accounts, explained the importance of support from parents, friends, and especially husbands if they were to succeed in their careers. In this period, the encouragement of loved ones was imperative. In a society which relegated women generally to the home—in a nation whose Highest Court claimed that God Himself created females primarily for domestic purposes—the reinforcement from a parent or friend could change everything for the woman who, perhaps, had an interest in law. Many early women attorneys, married or

unmarried, expressed their deep gratitude to those friends, employers, or family members who believed in their capabilities. The small things—the father who shows his daughter the law book, the mother who tells her daughter that she can make her own way, the husband who shares a bit of the housework—made possible the idea of lawyering for American women.

Indeed, there were female lawyers who did not experience reassurance from others—yet they still succeeded. All of America’s early female lawyers held deep devotion and commitment to their values and their beliefs, regardless of their background or support networks. Truly, this seems an inconsequential occurrence—one woman has a specific opinion which drives her life and career. Together, however, many individual women with their individual values made up the community of early female lawyers—the ones who would open the door for those after them. Even so, the beliefs among these women were different. The lawyers did not hold the same outlooks, whether the discussion concerned social justice or bonnets. Nonetheless the influence of these attorneys resonates into today. America’s early women attorneys, due to their conviction, self-respect, and dedication, formed a unified force of professionals who altered the law and public perception to create a larger space for women in the legal field.

Undeniably, these women changed their worlds. Whether it was Kitty McCullough, who served as justice of the peace in her community, or Florence Allen, one of the first female federal judges, these lawyers proved their steady character and competence. This, more often than not, was achieved through relationship. The male law school classmates saw the female student’s capabilities in action. The coworker, who had never labored alongside a woman lawyer before, became convinced of her aptitude because he witnessed

her ability personally. By their integrity, charisma, and drive—conveyed through interpersonal connection with others— America’s early female lawyers bettered their communities forever.

In these stories, we find people whose examples extend beyond their own time. As of January 2019, almost forty percent of lawyers are female. Women make up over fifty percent of American law students. Three women serve on the nation’s highest court.²⁷⁶ These strides could not have been achieved without those early female lawyers, who believed in their own potential and took great pains to make their aspirations a reality.

This movement towards equality for woman in law would not have found its place without the small things. To young Kitty McCulloch, who told the cold Chicago judge that he could sew his own clothes; to the women of the Equity Club, who fortified their “sisters-in-law” through their letters; to America’s first female lawyers do we owe the advancement of women in the legal profession today. It is in the relatively insignificant relationships, interactions, and encouragements, found in the testimonies of these early attorneys, where we discover the foundations of professional equality for women in law. Perhaps it was the smaller things which held the greatest impact for these early lawyers. Perhaps, in our story, it is those things we do, which we find least significant, that can drive history forward towards a just and equitable future.

²⁷⁶ “A Current Glance on Women in the Law,” American Bar Association: Commission on Women in the Profession (April 2019): 1-5, https://www.americanbar.org/content/dam/aba/administrative/women/current_glance_2019.pdf.

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