

First Women: The Contribution of American Women to the Law

Antoinette Dakin Leach: A Woman Before the Bar

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Seegers Lecture

ANTOINETTE DAKIN LEACH: A WOMAN BEFORE THE BAR

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You will marvel at the labor that ended in so little;—but, what you will never know is how it was thinking of you and for you, that we struggled as we did and accomplished the little which we have done; that it was in the thought of your larger realization and fuller life that we found consolation for the futilities of our own.¹

One hundred and one years ago, Antoinette Dakin Leach challenged Indiana's constitutional and statutory provisions restricting the practice of law to voters and won for Hoosier women the right to practice law before the courts of Indiana. Mrs. Leach was a lawyer, business person, politician, and activist. Her life spanned the last half of the nineteenth century and two decades of the twentieth, a period in which the United States saw rapid social, political, and economic growth.

Mrs. Leach was a member of the second generation of women who fought

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1. OLIVE SCHREINER, *WOMEN AND LABOR* 23 (1911). In 1937, at the unveiling of a memorial tablet commemorating Mrs. Leach's accomplishments, M. Vashti Burr used this quote from Ms. Schreiner's book. See *Dignitaries of Law Profession Here as Memorial Tablet to Antoinette D. Leach, Leader in Cause of Suffrage, is Unveiled this Afternoon*, SULLIVAN DAILY TIMES (Sullivan, Ind.), Oct. 2, 1937, at 1 [hereinafter *Dignitaries of Law*].

for and eventually won the vote for women. She typifies that generation of suffragists²—she was a college-educated professional who participated in the suffrage movement on the local, state, and national levels. Although Antoinette Leach is not typical of the women of her day, her experiences and accomplishments reflect the changes which the country was undergoing.

Antoinette Leach lived most of her life in the small city of Sullivan, Indiana. Although the lives of professional women and suffragists were not easy anywhere, in cities like New York, Chicago, or even Indianapolis, like-minded women were able to band together for emotional and intellectual support and companionship. Antoinette must have been aware of these support systems as she travelled and lectured throughout the mid-west and on the east coast; however, Sullivan remained her home until the last few years of her life. At times her choice must have been isolating and lonely.

There is little direct history about Antoinette Leach; she left neither journals nor correspondence. Just before she retired from her legal practice, her Sullivan house was destroyed by fire, and we believe that her records and writings perished. Most of what we have discovered about Leach is gleaned from newspaper articles that mention cases on which Antoinette worked, meetings she hosted or attended, gatherings at which she spoke, or merely mentioned her in passing. These articles give us an outline of her work, but do little to reveal Antoinette's character or personality. We were fortunate that Mrs. Rachel C. Springer, Mrs. Leach's grandniece, was able to provide some insight into the personal life of her great-aunt.³

Mrs. Springer was a young person during the last years that Antoinette lived in Sullivan. She told us that her "Aunt Nettie" was a good-looking woman and not at all like other suffragists, that is, she did not have the hard edge that the people of Sullivan associated with women who were politically active. Antoinette Leach had adventurous tastes in food, and the Leach family lore contains stories about Antoinette's unusual pets, which included a parrot and a monkey.

2. "Suffragist" was the name by which women working for the franchise in the United States preferred to be known. Their critics called them "suffragettes," and used that word mockingly. JUNE SOCHEN, *HERSTORY: A WOMAN'S VIEW OF AMERICAN HISTORY* 177 (1974).

3. Interview with Mrs. Rachel Crowder Springer in Sullivan, Ind. (Dec. 15, 1993) [hereinafter Springer Interview].

We also found in the Sullivan County Library four of the six volumes of *The History of Woman Suffrage*⁴ and *The Suffragette, The History of Women's Militant Suffrage Movement 1905-1911*,⁵ authored by E. Sylvia Pankhurst. In the inside cover of THE SUFFRAGETTE is a typewritten note:

Presented to the PUBLIC LIBRARY of Sullivan, Indiana with the hope that those who may read this book will have a better understanding regarding this great cause. Sincerely yours, A.D. Leach.

Mrs. Leach signed the opposite cover of the book in an extravagant hand and dated her note 1911. The same hand noted in the beginning of each volume of *The History of Women Suffrage* that the books were "Presented by the National American Woman Suffrage Association." These few personal items confirm that Antoinette Dakin Leach was an independent woman who was committed to her profession and her community.

This article is divided into four parts. Part I reviews the history of the woman suffrage movement in order to provide a context within which to understand and appreciate Antoinette's choices and achievements. Part II traces Antoinette's life and work. Part III examines the legal challenge and precedent of *In re Leach*.⁶ Finally, Part IV discusses the legacy left by Antoinette Dakin Leach.

I. THE EQUAL SUFFRAGE MOVEMENT⁷

The woman suffrage movement derived from the abolition movement and

4. The following women compiled and edited the six volumes of *The History of Woman Suffrage*: Elizabeth Cady Stanton, Susan B. Anthony, and Matilda J. Gage on volumes 1-3, Susan B. Anthony and Ida H. Harper on volume 4, and Ida H. Harper on volumes 5-6. 1 & 2 THE HISTORY OF WOMAN SUFFRAGE (Elizabeth Cady Stanton et al. eds., 1881); 3 THE HISTORY OF WOMAN SUFFRAGE (Elizabeth Cady Stanton et al. eds., 1886); 4 THE HISTORY OF WOMAN SUFFRAGE (Susan B. Anthony & Ida Husted Harper eds., 1902); 5 & 6 THE HISTORY OF WOMAN SUFFRAGE (Ida Husted Harper ed., 1922).

5. E. SYLVIA PANKHURST, *THE SUFFRAGETTE, THE HISTORY OF WOMEN'S MILITANT SUFFRAGE MOVEMENT 1905-1911* (1911).

6. 134 Ind. 665, 34 N.E. 641 (1893).

7. We have relied primarily on four sources in compiling this abbreviated history of the woman suffrage movement: ELEANOR FLEXNER, *CENTURY OF STRUGGLE, THE WOMAN'S RIGHTS MOVEMENT IN THE UNITED STATES* (1972); AILEEN S. KRADITOR, *THE IDEAS OF THE WOMAN SUFFRAGE MOVEMENT, 1890-1920* (1965); SOCHEN, *supra* note 2; MILDRED ADAMS, *THE RIGHT TO BE PEOPLE* (1967). All of these sources rely, at least in part, on *THE HISTORY OF WOMAN SUFFRAGE*, *supra* note 4. This six-volume compilation took many years to write and had a number of editors. We have primarily used volumes 4 and 6; *see supra* note 4.

the women's rights movement of the nineteenth century.⁸ The women's rights movement was conceived during the World's Anti-Slavery Convention in 1840 in London. When the American delegates arrived at the Convention, they discovered that women delegates were relegated to a balcony and were not permitted to participate.⁹ During the convention, delegates Elizabeth Cady Stanton and Lucretia Mott decided the time had come for women to fight for the abolition of slavery and for their own rights.¹⁰

Eight years later, in Seneca Falls, New York, Mrs. Stanton and Mrs. Mott called together several hundred women and prepared the Declaration of Sentiments and Resolutions.¹¹ This document, modeled after the Declaration of Independence, began:

When, in the course of human events, it becomes necessary for one portion of the family of man to assume among the people of the earth a position different from that which they have hitherto occupied, but one to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes that impel them to such a course.¹²

It enumerated the ways in which American society kept women politically, socially, and economically inferior to men, and concluded with a list of resolutions, including:

Resolved, therefore, That it is the duty of the women of this country to secure to themselves their sacred right to the elective franchise.¹³

When Mrs. Stanton proposed the suffrage resolution, Mrs. Mott argued that it was too radical; however, the intervention and support of abolitionist Frederick Douglas persuaded Mrs. Mott to include it in the Declaration.¹⁴ Sixty-eight women and thirty-two men signed the Declaration on July 20, 1848,¹⁵ thereby formally commencing the woman suffrage movement in the

8. The earliest women's organizations in the United States were church sewing circles, which were started to raise money for missionary or charitable work. These were followed by groups like Rhode Island's Smithfield Female Improvement Society, which met each week in the 1820s to read "useful books" aloud and discuss original compositions. FLEXNER, *supra* note 7, at 41.

9. KRADITOR, *supra* note 7, at 2.

10. FLEXNER, *supra* note 7, at 72.

11. SOCHEN, *supra* note 2, at 425-29.

12. *Id.* at 425.

13. *Id.* at 428 (emphasis in original).

14. KRADITOR, *supra* note 7, at 1.

15. FLEXNER, *supra* note 7, at 77. Among the signers was Charlotte Woodward, who was the only signer to live to vote in the Presidential election of 1920.

United States.

From 1850 to 1860, national women's rights conventions were held every year except 1857. State and local meetings were also held in Ohio, Indiana,¹⁶ New York, Pennsylvania, and Massachusetts.¹⁷ However, no permanent women's rights organizations were established during the 1850s because the movement's founders feared that an organization would be cumbersome and restrict the efforts of individual women.¹⁸

The early work of individuals and informal groups did not go unnoticed. In 1860, Mrs. Stanton addressed the New York State Legislature from the Speaker's desk.¹⁹ The bill she promoted became law and gave women the right to own property, to collect their own wages, to sue in court, and to have rights in marital property after a husband's death.²⁰

Similar and earlier efforts by Hoosier women were unsuccessful. In 1844, women petitioned the Indiana General Assembly to grant married women the right to own property,²¹ but the petition was not taken seriously. By 1846, Hoosier women gained only the right to make wills and to protect property that they brought into the marriage from the husband's creditors.²² On January 19, 1859, three women addressed the Indiana General Assembly and presented a petition signed by more than 1000 Wayne County residents, both legal voters (men) and women.²³ The speakers, Mary F. Thomas, Mary B. Birdsall, and Agnes Cook, asked the legislature to grant women equal property rights and the right of suffrage.²⁴ The women were subjected to ridicule and humiliation in the Assembly chambers and the local newspapers. The *Indiana Daily State Sentinel* commented that allowing the women to address the Assembly was foolish and did not advance their cause.²⁵

16. The earliest woman suffrage society in Indiana was begun in Dublin, Indiana, in 1851, just three years after the Seneca Falls convention. 4 THE HISTORY OF WOMAN SUFFRAGE, *supra* note 4, at 614.

17. FLEXNER, *supra* note 7, at 81.

18. *Id.* at 82. This view did not change until women gained experience with organizational work during the Civil War.

19. *Id.*

20. *Id.*

21. Pat Creech Scholten, *A Public "Jollification": The 1859 Women's Rights Petition before the Indiana Legislature*, IND. MAG. HIST. 347 (Dec. 1976).

22. *Id.* at 349.

23. *Id.* at 348.

24. *Id.* at 350, 354.

25. *Id.* at 356. It concluded that the legislature "for the sake of woman" should never again "give its sanction to such a proceeding." *Id.* (quoting IND. DAILY ST. SENTINEL, Jan. 20, 1859) (italicized portion was underlined in the original). It was 12 years before Indiana women again addressed the legislature on women's rights. *Id.* at 358.

As years passed, the women's rights movement gained supporters in the Indiana state government. In the beginning of the twentieth century, Governor Samuel Ralston provided an office in the Indiana Statehouse for women to do research on suffrage issues, send out mail to legislators, and lobby for suffrage and prohibition.²⁶

In the years prior to the Civil War, the founders of the women's rights movement also worked for the abolition of slavery, believing that the natural outcome of equal rights for African-Americans would be greater rights for women. However, many abolitionists tried to separate the two issues and distance themselves from the supporters of women's rights because they felt that advocating women's rights was too radical an issue and might jeopardize the popular support for emancipation.

During the Civil War, the women who supported both women's rights and emancipation suspended their women's rights work and threw themselves into the war effort.²⁷ Women were forced to do "men's work."²⁸ Women taught in schools, nursed wounded soldiers, took work in factories and government offices, and performed manual labor and the work of absent businessmen and lawyers.²⁹ In Indiana, the Governor ordered that the women of Indianapolis register for community service work, which the women took "as seriously as the soldiers did . . . going to the front."³⁰

Although women were not satisfied with the inequality espoused by the abolitionists, the emancipation movement trained its advocates as public speakers and organizers. When the male-dominated abolitionist societies refused to admit women or allow them to participate, the women formed their own societies.³¹

26. *Hoosiers Vie For Rights*, INDIANAPOLIS NEWS, Jan. 31, 1973 (available in the Indiana Files, Equal Rights Amendment at the Central Library of the Indianapolis-Marion County Public Library).

27. FLEXNER, *supra* note 7, at 108. Some of the leaders, notably Miss Anthony and Mrs. Stanton, did not accept this decision gracefully. Both women mistrusted President Lincoln and were opposed to any compromise with the slave states. *Id.*

28. *Id.*

29. *Id.* at 106-08. During the course of the Civil War, women worked at jobs that were never open to them in peace time, and they were praised for their contributions to the war effort. However, as soon as the war was over, women were replaced by male workers returning from service in the war, removing the women from the work force. This pattern has been repeated with every war the United States has fought. SOCHEN, *supra* note 2, at 160-61.

30. Untitled newspaper article (source unknown, dated 1916 by a librarian) (available in the Indiana Files, Indiana—Women at the Central Library of the Indianapolis-Marion County Public Library).

31. FLEXNER, *supra* note 7, at 41. In 1830, the leading abolitionists met in Philadelphia to found the American Anti-Slavery Society. Although they permitted women to attend the meeting and speak, the women were not allowed to join the society or to sign the Declaration of Sentiments and Purposes. When the meeting adjourned, twenty women formed the Philadelphia Female Anti-

They became accustomed to political activity and leadership.

After the War, when women again turned to gender issues, they agreed that their goal was equal suffrage. They renewed their demand for their own rights, including the vote, expecting that the Republican Party would respond more favorably than before the war out of gratitude for their war-time activities.³² However, to the chagrin of the women, Republican leaders were interested in securing the vote only for African-American men, and the women were told to wait their turn.³³ However, they disagreed over the manner in which enfranchisement should be attained and what else, if anything, should be included in their agenda.³⁴ In 1869, the woman's movement split over these issues. Mrs. Stanton and Miss Anthony formed the National Woman's Suffrage Association (National), while Lucy Stone and Julia Ward Howe organized the American Woman's Suffrage Association (American).³⁵ Although this split within the movement was characteristic of American reform movements throughout history,³⁶ the result was that the women's movement, along with the pool of talent, membership, money, and public support, was cut in half.³⁷

During the 1870s, the women's rights movement pursued its goals through demonstrative,³⁸ legal,³⁹ and political activity. By 1880, the women's

Slavery Society. *Id.* at 42.

32. *Id.* at 142.

33. *Id.* at 142-43. With the inclusion of the word "male" in the proposed Fourteenth Amendment, the question of whether women could vote was no longer a state law issue, like women's property rights and divorce laws. Adoption of the Amendment meant that another amendment would have to be passed to give women the right to vote in federal elections. *Id.*

34. SOCHEN, *supra* note 2, at 175.

35. The organizations adopted the personalities and philosophies of their leaders. Mrs. Stanton was a thorough-going feminist, who insisted that the National focus exclusively on women's issues, including reforming divorce laws, help for working women, and censure of the church for its unfeminist perspective. SOCHEN, *supra* note 2, at 175. In regard to woman suffrage, the National concentrated on a national constitutional amendment granting women the vote. FLEXNER, *supra* note 7, at 175.

Miss Stone, on the other hand, focused the American on woman suffrage only after the emancipation and voting rights of African-American men were accomplished. In the later part of the century, the American worked to amend the constitutions of individual states to enfranchise women. *Id.*

36. SOCHEN, *supra* note 2, at 175.

37. The annual meetings of the Indiana suffrage organizations were convened under the auspices of the American until 1887, when Miss Anthony attended a Hoosier convention to establish a rival Indiana organization which was an auxiliary of the National. 4 HISTORY OF WOMAN SUFFRAGE, *supra* note 4, at 615. The officers of the new auxiliary were Mrs. Helen M. Gougar, president; Mrs. Zerelda G. Wallace, vice-president; Mrs. Ida Husted Harper, secretary; and Mrs. Juliette K. Wood, secretary. *Id.*

38. An example of demonstrative activity is the attempt of 150 women who vote in 11 elections in 1871 and 1872. FLEXNER, *supra* note 7, at 164.

movement engaged primarily in political activity in the form of organizing state suffrage associations, educating public opinion, conducting state campaigns for suffrage referenda, and maintaining pressure on Congress for a constitutional amendment.⁴⁰

The late 1860s also saw the beginning of many publications for women, controlled primarily by women, which reported on the societal changes women were experiencing.⁴¹ National and regional women's newspapers and magazines served to bind together their increasingly far-flung readership, and even the smallest publication educated and eventually politicized the women who contributed to and read them.⁴² On January 8, 1869, the *Woman's Journal*, edited by Miss Stone, Henry Blackwell, and Mary Livermore, began publishing.⁴³ This weekly, national newspaper owed its success to the moderate and inclusive views of its editors.⁴⁴ It gathered, as its readers and contributors, a growing multitude of women who were experiencing increased social freedom in the 1870s, including those who were not yet fully prepared to support woman suffrage.⁴⁵ From its beginnings until the 1920s, the *Woman's Journal* kept its readers informed about the status of woman suffrage and the progress of women's rights.

In 1872 in Indiana, Mrs. Zeralda Wallace, wife of the Governor of Indiana,

39. An example of legal activity is *Minor v. Happersett*, 88 U.S. (21 Wall.) 162 (1874). Francis Minor, a St. Louis lawyer whose wife was president of the Missouri Woman Suffrage Association, contended that the Constitution gave women the right to vote and that no enabling legislation by the states to permit them to do so was necessary. His argument was based on U.S. CONST. art. I, §§ 2, 4, 9; U.S. CONST. art. IV, §§ 2, 4; and U.S. CONST. amend. 14. FLEXNER, *supra* note 7, at 168. The Supreme Court unanimously held that the Constitution did not confer upon all citizens the right to vote. The states, having withheld voting rights from classes of males through property qualifications, mental fitness, color, and criminal activity, could withhold voting rights from women. FLEXNER, *supra* note 7, at 169; *Minor*, 88 U.S. (21 Wall.) at 172. Mrs. Stanton believed that this decision had as far-reaching an implication for woman suffrage as the Dred Scott decision had for abolition. FLEXNER, *supra* note 7, at 172.

40. *Id.* at 163.

41. On January 8, 1868, Miss Anthony and Mrs. Stanton, with the financial help of Francis Train, a financier and speculator, began publishing a weekly newspaper, *The Revolution*, whose motto was "Men, their rights and nothing more; women, their rights and nothing less." Although it lasted only 18 months, it contributed greatly to the women's movement by publishing articles on discriminatory laws and employment practices, prostitution, and women's dress, health and hygiene, as well as news stories. FLEXNER, *supra* note 7, at 150-51.

42. A.D. Leach founded and served as the editor of the *Woman Citizen*, a monthly journal of the Equal Suffrage Association of Indiana.

43. FLEXNER, *supra* note 7, at 152.

44. *Id.*

45. *Id.*

lent her support to the founding of the Indianapolis Suffrage Society.⁴⁶ From the founding of Indiana's societies in 1851 until the Nineteenth Amendment was ratified in 1920, national suffrage leaders frequently spoke in Indiana. These speakers included Miss Anthony, Mrs. Stanton, Mrs. Livermore, Julia Ward Howe, Belva Lockwood, Harriet Beecher Stowe,⁴⁷ Carrie Chapman Catt, and Dr. Anna Howard Shaw.⁴⁸

Suffrage supporters spent enormous amounts of time and energy persuading male voters to add woman suffrage laws to their state constitutions. Their first victory was in the Territory of Wyoming in 1869,⁴⁹ which was followed quickly by the neighboring territory of Utah in February, 1870.⁵⁰ By 1875, Kentucky, Kansas, Michigan, and Minnesota allowed women to vote in school elections, and thirteen other states and territories had adopted similar measures by 1890.⁵¹ Wyoming entered the union in 1890 as the first state with full woman's suffrage, and by 1896, Colorado, Utah, and Idaho followed.⁵²

By the 1890s, the founders of the women's movement were retiring from the scene. In their place, a new generation, more conservative in their politics and more systematic in their methods, came to leadership.⁵³ There were fewer housewives and middle-class women, and more professionals, writers, and women of substantial means.⁵⁴ The movement, still not generally accepted, could boast of friends in Congress. Annual conventions of the National in Washington, D. C., included hearings before Congressional committees, lobbying on the hill, and White House teas and receptions.⁵⁵

Social and economic changes were changing the role of women in America.

46. *Indianapolis Suffragettes 'Dignified but Resolute'*, INDIANAPOLIS STAR (n.d.) (available in the Indiana Files, Indianapolis—Women at the Central Library of the Indianapolis-Marion County Public Library) [hereinafter *Dignified but Resolute*]. Like many women's rights activists, Mrs. Wallace supported both woman suffrage and temperance. *Hoosiers Vie For Rights*, *supra* note 26.

47. *Suffrage Society Founded in 1872*, INDIANAPOLIS NEWS, Dec. 6, 1969 (available in the Indiana Files, Indiana—Women at the Central Library of the Indianapolis-Marion County Public Library).

48. *Hoosier Women Have Played Active Role in Rights Fight* (n.d., source unknown) (available in the Indiana Files, Indiana—Women at the Central Library of the Indianapolis-Marion County Public Library) [hereinafter *Hoosier Women*]. In Indianapolis, Dr. Shaw's address was entitled "The Democracy that Is Safe for the World." *Id.*

49. FLEXNER, *supra* note 7, at 159.

50. *Id.* Women lost the franchise in Utah before the territory became a state. KRADITOR, *supra* note 7, at 4.

51. KRADITOR, *supra* note 7, at 4.

52. *Id.* at 4-5.

53. *Id.* at xi.

54. FLEXNER, *supra* note 7, at 217.

55. *Id.* at 218.

Women's clubs multiplied, female college graduates were more accepted,⁵⁶ more women worked in factories and organized in labor unions, and middle-class women discovered that household inventions and changes in living patterns gave them time for activities outside their homes.⁵⁷

During this time, the suffrage movement spread to the southern states,⁵⁸ and later, it reached out to working women and foreign-born voters in Eastern cities, groups that the suffragists had previously ignored or condemned in their literature.⁵⁹ Changes in the philosophy of the movement and the compromises made to accommodate an ever-widening membership were necessary for the movement to gain enough popular support to be successful in a national arena.⁶⁰

By the 1880s, it was apparent that the factors which had divided the national suffrage organizations were steadily diminishing in importance,⁶¹ and after three years of negotiations between the American and the National, the National American Woman's Suffrage Association was formed in February, 1890, under the leadership of the seventy-five year-old Mrs. Stanton.⁶² By the time the vote was won in 1920, the organization had three additional leaders: Miss Anthony from 1892 until 1900, Dr. Anna Howard Shaw from 1902 until 1915, and Carrie Chapman Catt from 1900 until 1902 and again from 1915 until 1920. It was Mrs. Catt's leadership and organizational skill that finally guided the movement to victory.⁶³

Even as the movement gained solidarity and solidified its position, serious

56. In 1890, over 2500 women were awarded a bachelor of arts degree. *Id.* at 179.

57. KRADITOR, *supra* note 7, at 5. Some of the domestic innovations of the latter half of the nineteenth century which freed women from time-consuming household chores were gas lighting, municipal water systems, domestic plumbing, canning, the commercial production of ice, the improvement of furnaces, stoves, washtubs, and the sewing-machine. FLEXNER, *supra* note 7, at 179.

58. KRADITOR, *supra* note 7, at xi. However, because southern suffrage organizations were not integrated, southern participation in the movement meant breaking with the movement's abolitionist roots.

59. *Id.*

60. Although working-class and foreign-born women and women of color benefitted from the women's movement and from equal suffrage, the suffrage movement was essentially a struggle of white, native-born, middle-class women for the right to fully participate in the public affairs of a society whose basic structure they accepted. *Id.* at x.

61. FLEXNER, *supra* note 7, at 216.

62. *Id.* at 220. In Indiana, unification of the major suffrage organizations occurred at the 1889 convention in Rushville, Indiana, with Miss Anthony in attendance. Helen M. Gougar was elected president of the united National American Suffrage Association of Indiana. 4 HISTORY OF WOMAN SUFFRAGE, *supra* note 4, at 615.

63. KRADITOR, *supra* note 7, at 11-13.

objections to woman suffrage were espoused by the Anti-suffragists, who asserted that voting must be based on military service, although this restriction did not apply to men who did not serve in the military; that women's intellectual capacity was inferior; and that women lacked the time to participate due to maternal and "housewifely" chores.⁶⁴ The movement also had to contend with strong opposition from the liquor lobby and flagrant graft aimed at both the electorate and members of state legislatures.⁶⁵

Although the women's movement was dogged with continual failure between 1896 and 1910, supporters continued to conduct state campaigns, secure signatures on petitions, travel throughout the immense western territories, and speak again and again before voters and legislatures. Between 1896 and 1910, there were forty-one state amendment campaigns, with only nine victories.⁶⁶

Finally, in 1910, Washington amended its constitution and enfranchised women. The next year California followed, and in 1912, Oregon, Kansas, and Arizona passed measures enfranchising women.⁶⁷ In 1913, Illinois became the first state east of the Mississippi to give women the right to vote for presidential elections.⁶⁸

The Indiana General Assembly considered women's rights measures each year from 1895 onward. In Indianapolis in 1914, a group of women met at the Claypool Hotel and formed the Legislative Council of Indiana Women to lobby the 1915 General Assembly for health and welfare measures.⁶⁹ Although the life of this group was brief, it represented more than eight separate groups, including the Woman's Christian Temperance Union and the Indiana Equal

64. FLEXNER, *supra* note 7, at 174.

65. *Id.* at 177. In 1901, there was a bill before the Indiana General Assembly to strike the word "male" out of the Indiana Constitution. The measure was supported by a large petition and passed the House by a vote of 52-35. There had been sufficient votes pledged in the Senate to insure passage of the measure; however, the night after the successful House vote, "hurried consultations were held and the [liquor lobby] which [fought] woman suffrage to the death issued its edict." The next morning the House reconsidered its vote and the measure was defeated. 4 HISTORY OF WOMAN SUFFRAGE, *supra* note 4, at 618.

66. KRADITOR, *supra* note 7, at 5. After the first state referendum in Kansas in 1867, which failed, 55 more popular votes on state woman suffrage amendments took place in the next 50 years. In all, there were 480 campaigns in state legislatures for constitutional amendments; 277 campaigns to persuade state party conventions to include woman suffrage in their platforms; nineteen campaigns in Congress; and the ratification campaign of 1919 and 1920. *Id.*; FLEXNER, *supra* note 7, at 222.

67. KRADITOR, *supra* note 7, at 6.

68. *Id.* This was viewed as an important reform because the state legislatures could pass it without consulting their electorates.

69. *Dignified but Resolute*, *supra* note 46.

Suffrage Association, and had a total membership of 8000 Indiana women.⁷⁰ In 1917, a measure allowing Indiana's women to vote in presidential elections was passed; however, it was quickly held to be unconstitutional in a court challenge.⁷¹

The number of states which granted some form of woman suffrage grew, and in 1917, New York approved a full-suffrage constitutional amendment.⁷² With New York won, there was a sufficient number of Congressional members responsible to women constituents to secure passage of a national amendment. The measure passed in the U.S. House of Representatives on January 10, 1918, and in the Senate a year and a half later.⁷³

Ratification of the amendment took fourteen months longer. Indiana Governor James P. Goodrich called a special session of the legislature to ratify the Nineteenth Amendment in 1920.⁷⁴ Indiana was the twenty-sixth state to ratify, "with the General Assembly voting with a big majority on January 16, 1920."⁷⁵

The Nineteenth Amendment, popularly known as the Anthony Amendment,⁷⁶ was ratified by the thirty-sixth state, Tennessee, in August, 1920. Charles Greathouse, a Democratic national committeeman from Indiana, took credit for persuading Tennessee's governor to "take a chance on women."⁷⁷

The ultimate triumph of the Anthony Amendment could not have been accomplished without the organized effort of many women;⁷⁸ yet, the movement was ultimately dependent upon the transformation of American society, which permitted women to participate in activities that inevitably led them into politics.⁷⁹

70. *Id.* In 1915, the Woman's Franchise League, with a local membership of 1000, replaced the lobbying group and placed many measures before the General Assembly.

71. *Suffrage Society Founded in 1872*, *supra* note 47.

72. KRADITOR, *supra* note 7, at 6.

73. *Hoosier Women*, *supra* note 48.

74. *Dignified but Resolute*, *supra* note 46.

75. *Hoosier Women*, *supra* note 48.

76. KRADITOR, *supra* note 7, at 173. In 1868, the first woman suffrage amendment was introduced into Congress. In 1878, a close friend of Miss Anthony, Sen. A.A. Sargent of California, introduced a woman suffrage measure which, without any change in wording, was used until it finally passed the Congress 41 years later.

77. *Hoosier Women*, *supra* note 48.

78. It is estimated that by 1917, two million women belonged to the national suffrage organization. KRADITOR, *supra* note 7, at 7.

79. *Id.* at x.

II. THE LIFE OF ANTOINETTE DAKIN LEACH

Antoinette Dakin Leach was born April 3, 1859, in Wooster, Ohio, to Lydia and Henry Dakin.⁸⁰ The Dakins were of Scotch and English-American heritage,⁸¹ and Lydia Dakin was twenty-three years old when Antoinette was born.⁸² Antoinette's maternal grandparents were born in Pennsylvania, her mother was born in Ohio, and her father was born in New York.⁸³ Henry Dakin died when Antoinette was only a few months old,⁸⁴ and Lydia later married Mr. Brighton, a carpenter from Owen County, Indiana.⁸⁵ Mr. Brighton adopted Antoinette, who was known as Nettie Brighton until her marriage.⁸⁶ Mr. Brighton moved the family to Gosport, Indiana; however, he died when Nettie was still in school, and the child was reared and educated by her mother.⁸⁷

What we know about Lydia Dakin Brighton comes from an 1880 census report. At that time, Mrs. Brighton was living with Antoinette and her husband, George Leach, and she was counted as part of the Leach household.⁸⁸ At a time when most women listed their occupation as "keeping house" or "at home," Lydia listed her occupation as book agent.⁸⁹ Thus, we may infer that

80. *Writes Facts Concerning Late Mother*, SULLIVAN UNION (Sullivan, Ind.), June 17, 1937, at 1 [hereinafter *Writes Facts*]. *Dignitaries of Law*, *supra* note 1, at 1. This article contains the text of an address delivered by M. Vashti Burr on October 2, 1937, when a memorial tablet commemorating Mrs. Leach was unveiled at the Sullivan County Courthouse. It is the most complete account of Mrs. Leach's life, and although the authors' research had called some of the facts contained therein into question, it has been an invaluable source of information.

81. WOMAN'S WHO'S WHO OF AMERICA (1914-1915) 480 (John W. Leonard ed., 1914) [hereinafter WHO'S WHO].

82. 1880 CENSUS, SULLIVAN COUNTY, INDIANA 173 (Janice Roseberry & Jennifer Roseberry comps., n.d.) (available at the Sullivan County Library, Sullivan, Indiana) [hereinafter 1880 CENSUS].

83. *Id.*

84. *Dignitaries of Law*, *supra* note 1, at 1.

85. SULLIVAN OF TODAY: SUPPLEMENT TO THE SULLIVAN DEMOCRAT, Sept. 7, 1899, at 24 (Special Souvenir ed., 1899) (available at the Indiana State Library, Indianapolis) [hereinafter SULLIVAN OF TODAY].

86. INDIANA STATE BAR ASSOCIATION, PROCEEDINGS OF THE TWENTY-SIXTH ANNUAL MEETING OF THE INDIANA STATE BAR ASSOCIATION 171 (Harrington & Folger, Indianapolis pub. 1922) [hereinafter PROCEEDINGS OF THE INDIANA STATE BAR]; *Dignitaries of Law*, *supra* note 1, at 1. These references state that she was known as Antoinette Dakin Brighton; however, she was known at school as Nettie Brighton and in the marriage record of Sullivan County as Nettie D. Brighton. *Higher Still Higher*, 1 ASCENSION SCHOOL J., No. 11, at 4 (April 17, 1875) (available at the Sullivan County Library, Sullivan, Ind.) [hereinafter *Higher Still Higher*]; MARRIAGE RECORDS SULLIVAN COUNTY, INDIANA 1850-1902, at 57 (1925) (available at the Sullivan County Library, Sullivan, Ind.) [hereinafter MARRIAGE RECORDS].

87. *Dignitaries of Law*, *supra* note 1, at 1.

88. 1880 CENSUS, *supra* note 82, at 173.

89. *Id.*

Antoinette had in her mother a powerful example which she would later emulate.

In 1871, the Brightons moved to Sullivan, Indiana,⁹⁰ where Nettie first attended a common school and later enrolled in Ascension Seminary, which was run by Professor William T. Crawford.⁹¹

Ascension Seminary was a "pioneer normal school," and Professor Crawford's work inspired the formation of the state normal school at Terre Haute.⁹² Years earlier, when he was a young man of twenty, Crawford's grammar school teaching method gained local renown when a newspaper editor recommended that all the teachers in the county close their schools for a day and visit Crawford's class.⁹³ Crawford seized the opportunity and established a small normal school in Farmersburg, Indiana, to train young people for teaching.⁹⁴ His work was interrupted during the Civil War; however, at the War's end, Captain Crawford operated his normal school in Farmersburg until 1872, when he was recruited to be superintendent of Sullivan's schools.⁹⁵

In Sullivan, Ascension Seminary enrolled one hundred and fifty "young men and ladies" in the normal department and roughly the same number in the rest of the school.⁹⁶ Professor Crawford claimed his was the largest school in

90. SULLIVAN OF TODAY, *supra* note 85, at 24.

91. *Writes Facts*, *supra* note 80, at 1.

92. 1 A HISTORY OF SULLIVAN COUNTY INDIANA 132 (Thomas J. Wolfe ed., 1909) (citing a newspaper article by Murray Briggs which appeared in the *Sullivan Democrat* on July 2, 1903).

93. *Id.* According to one writer, Crawford's popularity lay in his ability to impart his wonderful enthusiasm to others.

94. *Id.* Students who completed grammar school attended a normal school course lasting two to three years in order to prepare themselves to teach grammar school. An advertisement for the seminary in 1869, while it was still at Farmersburg, stated:

The schools will open the fall and winter terms on Monday, Aug. 16th, 1869. Young men and ladies desirous of obtaining a good Practical education or of taking a Scientific course will do well to attend this institution, as the aim of the instructors is to elevate the standard of teaching. Lectures will be given each term by the Principal William T. Crawford on the "Theory and Practice of Teaching," also lectures on Moral Science by Drs. J. Barbre, C.W. Finney and D.L. Shoemaker. . . . Also instrumental music on Piano or Melodeon if a class of 10 desire to take lessons. Tuition \$10. Miss Alice S. Hawkins, teachers.

Id. at 134; see also 1 ASCENSION SCHOOL J., No. 9 (March 20, 1875) (available at the Vigo County Library in 37 Dr. Maples Scrapbook 37).

95. 1 A HISTORY OF SULLIVAN COUNTY INDIANA, *supra* note 92, at 133. When he moved his normal school to Sullivan, he consolidated it with Sullivan's high school.

96. *Higher Still Higher*, *supra* note 86, at 1.

the county.⁹⁷ A term at Ascension Seminary lasted twelve weeks, and tuition in the normal department was nine dollars a term.⁹⁸

Nettie Brighton attended Ascension Seminary at least through the spring term of 1875,⁹⁹ at which time one of her teachers, John T. Hays, commissioned her to teach in Sullivan.¹⁰⁰ After two years of teaching in Sullivan, Nettie enrolled at Ohio Wesleyan University in Delaware, Ohio, in 1877.¹⁰¹ However, she cut short her university training to marry George W. Leach.¹⁰²

Prior to her marriage, Antoinette made an agreement with George that "being possessed of a literary mind," she could follow any literary pursuit or profession of her choice.¹⁰³ Anti-nuptial agreements were almost unheard of

97. *Id.* In the same publication, Crawford claimed,

This institution has been more successful in educating teachers, and preparing students for actual business in life than any other in the West. The many who have been educated in this Institution have been universally successful. Ascension Seminary affords advantages to all in moderate circumstances, and all others who desire a practical education in a scientific course.

Id.

98. *Id.* The spring term in 1875 commenced on February 22, 1875 and continued for twelve weeks. Tuition for the primary grades was \$3.00 and \$4.50 for the term; for intermediate grades it was \$6.00.

99. The available documentation is contradictory on this fact. According to *Dignitaries of Law*, *supra* note 1, at 1, Nettie graduated from Ascension Seminary in 1873 when she was 14 years old and was commissioned to teach at "a school out by the Fair Grounds, at that time not included in the town of Sullivan." *Id.* However the Ascension School Journal of April 17, 1875, reported the grades over 80% of the "last monthly examination" at the Seminary and listed Nettie Brighton as receiving an 85 in Latin, a 90 in trigonometry, a 92 in mental philosophy and a 100 in advanced algebra. This may have been her third, or Senior, year at the Seminary because algebra was part of the Seminary's senior year program. *Higher Still Higher*, *supra* note 86, at 4. This fact is confirmed in an entry about Nettie in THE BUSINESS DIRECTORY OF THE ART SOUVENIR OF LEADING CITIZENS AND FARMERS' DIRECTOR OF SULLIVAN COUNTY, INDIANA (1896) (available at the Sullivan Historical Society, Sullivan, Indiana) [hereinafter ART SOUVENIR]. It is interesting to note that the report also contained the elocution grade of Esom Leach. Esom Leach was the younger brother of George W. Leach, whom Nettie would later marry. *Higher Still Higher*, *supra* note 86, at 4.

100. *Dignitaries of Law*, *supra* note 1, at 1.

101. *Id.*

102. MARRIAGE RECORDS, *supra* note 86, at 57.

103. *Dignitaries of Law*, *supra* note 1, at 1. Antoinette may have been inspired by other early women's rights pioneers. One of the first marriage contracts known in the United States was drawn up by Robert Dale Owen, son of the Utopian humanist Robert Owen, and Mary Jane Robinson in 1832. In 1855, at the wedding of Lucy Stone and Henry Blackwell, they read aloud:

While we acknowledge our mutual affection by publicly assuming the relationship of husband and wife . . . we deem it a duty to declare that this act on our part implies no sanction of, nor promise of voluntary obedience to such of the present laws of marriage as refuse to recognize the wife as an independent, rational being, while they confer upon

at that time, and even by our standards, Antoinette's agreement shows great presence of mind and ambition for a twenty-year-old middle-class woman who had lived most of her life in small midwest towns.

George W. Leach was born in Grant County, Indiana, on December 6, 1848, and came to Sullivan County with his family at the close of the Civil War in 1865.¹⁰⁴ Unlike Antoinette, George grew up in a large family.¹⁰⁵ When he died at the age of seventy-one, he was survived by four brothers, one sister, five half-brothers, and two half-sisters.¹⁰⁶ George was a businessman with an interest in horses; he pursued various occupations: farmer, stock raiser, fish monger,¹⁰⁷ and stable owner.¹⁰⁸ He owned a department store¹⁰⁹ and engaged in the saloon business in Sullivan.¹¹⁰ During the last twenty years of the 1800s, George owned a substantial amount of land in Hamilton Township and in the town of Sullivan, and also had an interest in a race track outside of Sullivan.¹¹¹

the husband an injurious and unnatural superiority.

The agreement between Miss Stone and Mr. Blackwell was widely publicized. FLEXNER, *supra* note 7, at 64.

104. One source records George's birth in 1846 and his family's move to Sullivan County in 1863, AN ILLUSTRATED STANDARD ATLAS OF SULLIVAN COUNTY . . . EVANSVILLE, INDIANA 6 (Wilson, Fuller & Co. 1899) [hereinafter ATLAS OF SULLIVAN COUNTY]. However, ART SOUVENIR, *supra* note 99, at 11, lists his birth in 1848 with his family's move to Sullivan in 1867. In 1919, *The Sullivan Union*, another local newspaper, carried George's obituary noting his birth date and the date his family moved to Sullivan County. THE SULLIVAN UNION, SPECIAL COLLECTION, Dec. 31, 1919, at 392 (available at the Sullivan County Library, Sullivan, Ind.) [hereinafter SPECIAL COLLECTION].

105. There is no documentation regarding Dakin or Brighton siblings or the extended family of Lydia Brighton, Antoinette's natural father, or her adopted father. We infer from this that Antoinette was an only child. In Sullivan, Antoinette is connected exclusively with the Leaches.

106. SPECIAL COLLECTION, *supra* note 104, at 392. George's obituary listed his surviving brothers as Esom and Steve, of Sullivan, and Ed and Jasper, of Nebraska. George's sister was Mrs. William Lucas, of Culver, Indiana. George's half-brother's were Levi of Sullivan, Mart of Terre Haute, and Jesse, John, and C.L., of Nebraska. His half-sisters were Mrs. Will Reid, of Nebraska, and Mrs. Ed Rusher, of near Sullivan. *Id.*

107. Mrs. Springer remembered her mother telling stories about George peddling fish from a cart in Sullivan. Springer Interview, *supra* note 3.

108. ATLAS OF SULLIVAN COUNTY, *supra* note 104, at 6. George kept a "large and well kept livery stable. He has large farm interests and is largely interested in fruit cultivation and in the breeding of fine stock, especially horses of which he has a number of the best blood to be found." *Id.*

109. SULLIVAN UNION, Feb. 23, 1910, at 1.

110. *Leach Begins Term of 90 Days*, SULLIVAN DEMOCRAT, Mar. 28, 1912, at 1.

111. "George Leach owned 160 acres in Hamilton and an acre and a half in Sullivan which was close to the railroad." ATLAS OF SULLIVAN COUNTY, *supra* note 104, at 24, 32. "George Leach [had] a business in Sullivan since 1872 and owns 500 acres in Hamilton Township which is the Blue Ball Stock Farm where he keeps race horses." ART SOUVENIR, *supra* note 99, at 11.

At the time of her marriage, Antoinette began the study of stenography and became the court reporter of the Sullivan-Green County Circuit Court, introducing stenography and short hand to Sullivan.¹¹² She also taught both subjects in her own school, located on the southwest corner of the town square by the courthouse.¹¹³ She continued to teach during her successful legal practice.¹¹⁴

On February 1, 1880, the Leaches had a daughter, Hortense Euginia Leach, known as Emelie,¹¹⁵ and a son, George W. Leach, Jr., was born on December 22, 1882.¹¹⁶ According to the 1880 census, Antoinette's mother Lydia lived with the Leaches. Although we do not know how long Lydia resided with them, her presence may have facilitated Antoinette's enrollment in a law school in Knoxville, Tennessee, in 1884,¹¹⁷ just two years after George, Jr., was born. Antoinette's interest in the law began as a result of genealogical studies, during which she traced her lineage to Anneke Jans-Bogardus.¹¹⁸

Antoinette received a law degree in 1884 and continued her legal studies in

112. *Writes Facts*, *supra* note 80, at 1.

113. Interview with Mrs. Edith Hamm, President of the Sullivan Historical Society, in Sullivan, Ind. (Dec. 15, 1993) [hereinafter Hamm Interview]. The Sullivan Historical Society also has a diploma issued in 1902 from the Antoinette D. Leach School of Stenography. Mrs. Springer recalled that both her mother and her aunt learned stenography from Antoinette and both later worked for the Sullivan County Court. Springer Interview, *supra* note 3.

114. *Dignitaries of Law*, *supra* note 1, at 1. In 1937, Miss Burr noted that two of Antoinette's students testified to her teaching expertise—Elizabeth Hull, a teacher at Sullivan High School, and Helen Hinkle Mahly, who was the court reporter in Terre Haute, Indiana, in 1937. *Id.* at 4.

115. *Id.* at 1. Emelie H. is noted on the 1880 census which was taken in June of that year. 1880 CENSUS, *supra* note 82, at 173.

116. 1 INDEX TO BIRTH RECORDS SULLIVAN COUNTY 1882-1920 INCLUSIVE, SULLIVAN COUNTY LIBRARY 6 (Sullivan County Historical Society 1988) (available at the Sullivan County Library, Sullivan, Ind.).

117. *Complete Plans to Honor First Woman Lawyer*, SULLIVAN DAILY TIMES, Sept. 28, 1937, at 1; James E. Farmer, *Women in the Law: A Centennial Legacy of Antoinette Dakin Leach*, RES GESTAE, Sept. 1993, at 109.

118. *Dignitaries of Law*, *supra* note 1, at 1. Anneke Jans-Bogardus was an early New Amsterdam settler of Norwegian ancestry. According to early American folklore, she was an illegitimate descendant of William "the Silent," Prince of Orange, who later became William I of Holland. Anneke Jans-Bogardus inherited 62 acres of land in New Amsterdam at the death of her first husband, Roelof Jans. After her death in 1663, the land was questionably conveyed by the colonial governor to the Trinity Church Corporation. At various times, from her death until the 1920s, her descendants have attempted to get a court settlement for the land's value. The land is located in what now is the SoHo neighborhood of Manhattan, and even in the 1920s, it was said to be worth billions of dollars. Nationwide "Anneke Jans-Bogardus Association" chapters were formed to help finance the legal costs involved and "questionable lawyers obtained millions of dollars from gullible, presumed descendants" based on questionable genealogical evidence. None of the lawsuits had a favorable result for the heirs. ANNEKE JANS-BOGARDUS & ADAM BROUWER: RESEARCH AID BIBLIOGRAPHY 1-4 (William B. Bogardus comp., 1989).

Detroit.¹¹⁹ In 1887, Mrs. Leach returned to Sullivan, where she worked in the law office of John S. Bays.¹²⁰ From the time of her return until 1893, she also served as court reporter for the Greene-Sullivan Circuit Court, where she introduced typewriters to the court.¹²¹

We do not know when Antoinette became active in the women's rights movement; however, in 1889, two years after her return from her legal studies, we have the first documentation of Mrs. Leach's political work. According to the handwritten minutes of the National Woman Suffrage Association for the State of Indiana: "In the 8th district, besides our secretary's work in Terre Haute papers, the Sullivan Union, through the agency of Mrs. A.D. Leach, has given space regularly for more than a year past to suffrage matters furnished to it."¹²² Antoinette established the first effective suffrage club in Sullivan, and in later years was a close friend of Mrs. O.H.P. Belmont¹²³ of New York and Catherine Waugh McCullough of Chicago.¹²⁴

On February 14, 1893, Antoinette Dakin Leach applied for admission to the Greene County Bar.¹²⁵ Her petition was submitted to the court by John Bays¹²⁶ and supported by six members of the local bar, all of whom attested to Mrs. Leach's fine character and thorough knowledge of the law.¹²⁷ The Honorable John L. Briggs, for whom Mrs. Leach had served as court reporter for six years, in a carefully worded decision denied her admission on the basis that, not being a voter, she was not entitled to be admitted to the practice of law.¹²⁸ Antoinette and John Bays appealed the decision to the Indiana Supreme Court.

119. *Dignitaries of Law*, *supra* 1, at 1.

120. *Id.* John S. Bays was born in Green County in 1850, attended Indiana State University from 1867 until 1869, and studied law from 1871 until 1872. He was admitted to the bar in 1870 and came to Sullivan in 1874 to set up a practice. *ATLAS OF SULLIVAN COUNTY*, *supra* note 104, at 5. The Bays and the Leaches were related through marriage. Springer Interview, *supra* note 3.

121. *Dignitaries of Law*, *supra* note 1, at 1; *First Woman Lawyer*, *SULLIVAN DEMOCRAT*, June 20, 1893, at 2.

122. Minutes of National Woman Suffrage Association for the State of Indiana (1889) (handwritten manuscript in the collection of the Indiana Historical Society, Indianapolis). Unfortunately, except for a few editions from 1892, copies of the Sullivan Union from 1885 until 1899 no longer exist.

123. Mrs. Belmont, one-time president of the National American Suffrage Association in Indiana, said that "Antoinette Leach is the most capable advocate of the Equal Suffrage movement since Susan B. Anthony." *Dignitaries of Law*, *supra* note 1, at 4.

124. *Id.*

125. Petition to be Admitted, Supreme Court Transcript at 1, *In re Leach*, 134 Ind. 665, 34 N.E. 641 (1893) (Supreme Court Docket No. 16071).

126. *Id.*

127. *Id.* at 1-4.

128. Conclusions of Law, Supreme Court Transcript, at 5, *In re Leach*, 134 Ind. 665, 34 N.E. 641 (1893) (No. 16072).

Antoinette's petition, decision, and appeal were not by chance. Other women in Indiana had already been admitted to their local bars and practiced law in their counties.¹²⁹ People in Sullivan today believe that Mrs. Leach engaged in legal practice, excluding court appearances, while working in John Bays's office.¹³⁰ She was well known to the local bar, to Judge Briggs, and probably to the community at large for her work in the suffrage movement. These facts suggest that her petition and appeal was meant to serve as a test case to further the cause of women's rights in Indiana.¹³¹

An article written by Helen M. Gougar for the *Woman's Journal* confirms this supposition.¹³² Mrs. Gougar wrote that the decision in Mrs. Leach's case "may be far reaching in its ultimate results."¹³³ Her hope was that the Leach decision would serve as precedent for a test case she planned to institute regarding woman suffrage.¹³⁴ She concluded: "[I]f this decision shall hold good in Indiana, it must throughout the nation, and in this single Supreme Court decision may rest the key that will unlock the bar to National woman suffrage."¹³⁵ Thus, although Antoinette took a risk when she brought her case to the Indiana Supreme Court, it was a calculated risk, with possible rewards that could reach far beyond her own ability to practice law.

On June 14, 1893, the Indiana Supreme Court, in an opinion written by Judge Leonard J. Hackney, held that women could practice law in Indiana.¹³⁶ On October 10, 1893, Antoinette Dakin Leach was admitted to the Sullivan County Bar on motion of John S. Bays,¹³⁷ and on June 21, 1894, she was admitted to practice before the Indiana Supreme Court.¹³⁸

After her swearing in, Antoinette continued to practice in the law office of

129. Elizabeth (Bessie) Eaglesfield took the oath of an attorney before Judge Chambers Y. Paterson on September 8, 1875. Henrietta Trisch Willkie, mother of Wendell L. Willkie, was admitted to the Madison County Bar on July 11, 1897. *Dignitaries of Law*, *supra* note 1, at 1.

130. See also *Petition to Advance, In re Leach*, 134 Ind. 665, 34 N.E. 641 (1893) (No. 16072).

131. See *State Bar Celebrates Legacy of Groundbreaking Sullivan Lawyer*, SULLIVAN DAILY TIMES, Oct. 8, 1993, at 1. "Even the judge that denied her admission is said to have done so so she could fight the fight, which allowed women statewide the right to practice," said Julia Johnson Seffler, the fourth female attorney and only current practitioner in Sullivan County." *Id.*

132. Helen M. Gougar, *Important Decision in Indiana*, WOMAN'S J., July 15, 1893, at 224 [hereinafter Gougar, *Important Decision*].

133. *Id.*

134. *Id.* Mrs. Gougar was a party in *Gougar v. Timberlake*, 148 Ind. 381, 46 N.E. 339 (1897), discussed in *infra* section IV.

135. Gougar, *Important Decision*, *supra* note 132, at 224.

136. *In re Leach*, 134 Ind. 665, 34 N.E. 641 (1893).

137. *Dignitaries of Law*, *supra* note 1, at 4. The order of the court is recorded in the Sullivan Circuit Court Order Book N. 36, at 352.

138. *Id.*

John S. Bays.¹³⁹ However, by 1898, Mrs. Leach had her own office in her home on West Washington Street in Sullivan.¹⁴⁰ “She gathered together one of the finest working law libraries in Sullivan, and she knew how to find therein the decisions which supported her theory of a case.”¹⁴¹

As a lawyer, Antoinette had a general practice and earned the respect and esteem of the local bar “by her certain ability and dignity with which she has deported herself. . . . Being a woman, she is in a position to render advice and handle cases in which women are concerned and in which they would feel much reticence in placing their affairs in the hands of men.”¹⁴²

Mrs. Leach did not, however, limit her practice to women’s affairs.¹⁴³ In 1894, she was one of four lawyers representing the estate of a train engineer who was killed in a collision of two freight trains.¹⁴⁴ In 1912, she defended Henry Cushman of Dugger, Indiana, who was charged with the murder of a Mr. Pipes.¹⁴⁵ On March 25, 1914, Antoinette appealed to the State Board of Pardon on behalf of Frank Trombley, who was sixty-eight at the time and had been convicted of murder.¹⁴⁶ She was the first woman to come before this

139. *Id.*

140. SULLIVAN OF TODAY, *supra* note 85, at 24; *Dignitaries of Law*, *supra* note 1, at 4.

141. PROCEEDINGS OF THE INDIANA STATE BAR, *supra* note 86, at 172. The *Sullivan of Today* noted that “One of the most unique personages of the local bar is Mrs. Antoinette D. Leach, especially for the reason that she is a woman. We frequently hear nowadays of adventuresses who, for the sake of cheap notoriety, enter the law, but it is not frequent that we learn of a woman who becomes so thorough a master of the subject and who practices with such unmitigated success as has Mrs. Leach.” SULLIVAN OF TODAY, *supra* note 85, at 24. Our research has not uncovered any of the “adventuresses” of which this article speaks, either in Indiana or elsewhere.

142. SULLIVAN OF TODAY, *supra* note 85, at 24. This article also describes Antoinette as having two interesting children, a feature left out of the descriptions of the other members of the Bar.

143. This brief sampling of Mrs. Leach’s practice may not be representative of her practice, as we have not done systematic research through the record of the Indiana Supreme Court or the Sullivan County Court.

144. *Evansville & Terre Haute Railroad Co. v. Tohill*, 143 Ind. 49, 41 N.E. 709 (1895). Our Supreme Court, in a decision written by Justice Hackney, held that there could be no recovery for injuries to a railroad employee from the failure of other employees to observe the rules for operating trains adopted and promulgated by the company. The appellees’ petition for rehearing was denied. Court documents do not indicate that Mrs. Leach wrote the Brief or appeared at an oral argument. Court documents available at the State Archives, Indianapolis, Case No. 17208, filed on Jan. 25, 1894.

145. *Murder Trial Date is Fixed*, SULLIVAN DEMOCRAT, Jan. 2, 1913, at 2. The shooting, which was reportedly the result of Mr. Cushman’s jealousy, was witnessed by a large number of people and the case was venued to Clay County due to prejudice.

146. INDIANAPOLIS STAR, Mar. 25, 1914, at 1. The paper described her as a lawyer, political orator, and social worker who had been practicing law for twenty years. It also related the story that Leach signed her name as “A.D. Leach” in any correspondence, and responses were usually addressed “Dear Sir:.”

panel.¹⁴⁷ Mrs. Leach also served as both president and vice-president of the Sullivan County Bar Association.¹⁴⁸

Throughout her professional life, Mrs. Leach divided her time between her legal practice, business affairs,¹⁴⁹ and politics. Her political activity included work for the Republican party, the Progressive party, and the Equal Rights party. She was an avid supporter of the women's rights movement who "always displayed the American flag" on Miss Anthony's birthday.¹⁵⁰ Antoinette organized, spoke, and wrote for local, statewide, and national woman suffrage organizations.¹⁵¹

Antoinette was active in the Republican party in Sullivan County.¹⁵² In 1896, three years after her bar admission, she was sent as a delegate from Sullivan County to the Republican State Convention. Reports about whether Antoinette was permitted to vote at the convention differ;¹⁵³ however, by all accounts, she was the first woman in the state to hold this position.¹⁵⁴ She remained a loyal Republican until the Progressive Party made a commitment to support woman suffrage.

In 1906 or 1907, George Leach opened the Golden Rule Department Store in Sullivan.¹⁵⁵ The store was managed by Mrs. Leach; however, the policies of the store were such that after a year's operation the owners found "themselves involved to the extent of \$60,000, and creditors demanding an

147. *Id.*

148. *Dignitaries of Law*, *supra* note 1, at 4. One source stated that she served several years as the secretary of the Sullivan Bar Association. PROCEEDINGS OF THE INDIANA STATE BAR, *supra* note 86, at 172.

149. Antoinette also owned a small amount of land, twenty or so acres, in Gill, which was registered in her own name. ATLAS OF SULLIVAN COUNTY, *supra* note 104, at 24.

150. *Id.*

151. *Dignitaries of Law*, *supra* note 1, at 1. She was a "brilliant speaker, [and] lectured extensively in Ohio, Indiana, [and] Illinois bravely advocating justice for her sex at a time when it was popular to laugh at woman[] suffrage."

152. *Writes Facts*, *supra* note 80, at 1.

153. According to *Writes Facts*, *supra* note 80, at 1, Antoinette did not vote at the convention; however, according to *Dignitaries of Law*, *supra* note 80, at 1, Leach was allowed to vote at the State convention.

154. SULLIVAN OF TODAY, *supra* note 85, at 24. This publication states that she went to the State Democratic convention as a delegate. The confusion regarding her political party affiliation dates back to early, short accounts of Mrs. Leach's life in Sullivan.

155. *Court Ends Long Bankrupt Action—Approves Agreement Which Finally Settles the Failure of Golden Rule Store Here*, SULLIVAN UNION, Feb. 23, 1910, at 1 [hereinafter *Court Ends Long Bankrupt Action*]. The Golden Rule stocked dry goods, groceries, meats, clothing, and notions. Account Book from the Golden Rule Department Store (available at the Sullivan Historical Society, Sullivan, Ind.).

immediate settlement of the several claims.¹⁵⁶ This was due, at least in part, to the Leaches extending too much credit to their customers.¹⁵⁷ Eventually the creditors jointly sued the Leaches and the store was closed.¹⁵⁸ The case extended over three years and was the largest bankruptcy proceeding ever heard in Sullivan County to that date.¹⁵⁹

Despite their reversals of fortune, Antoinette did not curtail her political activity or her work for the suffrage movement.¹⁶⁰ In 1910, she disassociated herself from the Republican Party and joined the Progressive, or "Bull Moose," Party because Theodore Roosevelt supported equal suffrage.¹⁶¹ She wore a red bandanna around her neck to show her support for Roosevelt,¹⁶² and served as the Sullivan County Chairman for the Progressive Party for three years.¹⁶³ Antoinette also campaigned vigorously for the election of Albert J. Beveridge as United States Senator.¹⁶⁴

In the same year, Mrs. Leach was made State Organizer for the National

156. *Id.*

157. Hamm Interview, *supra* note 113.

158. *Court Ends Long Bankrupt Action*, *supra* note 155, at 1.

159. *Id.* The Leaches jointly executed a trust deed to the Sullivan County Loan & Trust to hold as a surety 963 acres of farm land in Sullivan County and property in Sullivan, including a one-fourth block on the public square, fifteen rental properties, and the Leach block.

In 1908, by motion of the Trust Company, the court ordered the contents of the department store sold at private and public sales which netted \$30,000. In 1910, the Trust Company applied to the court to sell the remaining property to satisfy the remaining debt; the parties worked out a settlement. The Trust Company was deeded the farm land, the Leach block, and three store rooms, valued at \$45,000. The Leaches retained sixteen pieces of property, the one-fourth block on the public square, and other properties that together were valued at \$40,000.

160. *See, e.g., Equal Suffrage*, SULLIVAN UNION (Sullivan, Ind.), Jan. 26, 1910, at 8; *Woman Suffrage Petition*, SULLIVAN UNION, Apr. 6, 1910, at 8. The last article reported on a meeting held at Mrs. Leach's home.

The principal action taken was the appointment of a committee to petition the mayor for the selection of a woman on the school board to fill a vacancy this spring. The following were elected: president, Mrs. Leach; vice president, Mrs. O.B. Harris; secretary, Mrs. Herbert Steele; treasurer, Mrs. Chas. Gilmore.

Id.

161. *Dignitaries of Law*, *supra* note 1, at 1; *Mrs. A.D. Leach Joins The Bull Moose Party*, SULLIVAN DEMOCRAT, Aug. 15, 1912, at 2.

162. "The woman's suffrage plank in the new Progressive Party's platform stands unequivocally for equal franchise rights. In his 'Confession of Faith,' Col. Roosevelt said . . . Working women have the same need of combination for protection that working men have. The ballot is as necessary for one class as for the other." WOMAN'S J., Aug. 10, 1912, at 255.

163. WHO'S WHO, *supra* note 81, at 480.

164. *Id.*; *Women's Ingenuity Won Right to Practice Law* (source unknown, dated 1916 by librarian) (available in the Indiana Files, Indiana—Women at the Central Library of the Indianapolis-Marion County Public Library). Senator Beveridge was a well-known supporter of woman suffrage. 4 HISTORY OF WOMAN SUFFRAGE, *supra* note 4, at 617.

American Woman Suffrage Association in Indiana at the March meeting in Logansport.¹⁶⁵ She also ran for State Representative for the Equal Suffrage Party.¹⁶⁶ When her name was placed on the ballot, Antoinette promised an aggressive campaign.¹⁶⁷

The speech she delivered to open her campaign is the only surviving text of Antoinette's writing¹⁶⁸ and it reflects her power and skill as a writer and orator:

Men may travel up and down and from one end of the country to the other along the great public highways and paint word pictures of our marvelous prosperity, of our freedom and our independence, but they will merely blind those who are willing to be blinded, and postpone the explosion that is sure to come unless conditions are made to change along radically different lines—an eruption which these mercenaries hope to put off until such time as they shall have gained title to everything worth owning, until they have bound the people hand and foot and made serfs and bondmen of them. Then the Constitution will be to them the most sacred document ever written, and they will hide behind it and cry out in defense of their “vested right” in the greater part of that which was created by the people for the use and benefit of all mankind, but which the “interests” have wrongfully appropriated. Astute students of political economy and of Government know full well what the future has in store for this nation; they note the quickening of the public to the wrongs which are being perpetrated and they dread the awakening of the people.¹⁶⁹

Regarding woman suffrage, Antoinette challenged her listeners:

165. 6 THE HISTORY OF WOMAN SUFFRAGE, *supra* note 4, at 166. After the March meeting, the Sullivan club became an auxiliary of the National American.

166. *Woman Becomes a Candidate*, SULLIVAN UNION, Sept. 21, 1910, at 1. The platform of the Equal Suffrage Party included support for woman suffrage, conservation and preservation of natural resources, tariff tax and the adoption of income taxes, pensions for disabled veterans, enactment and enforcement of laws to control both labor and capital organizations, a strong military, a stable financial system, the direct election of all representatives, the adoption of uniform marriage and divorce laws, the adoption of laws limiting the sale of all liquor, regulation of railroads and common carriers, public schools and free industrial education, adoption of laws to protect the health and safety of working people in mines, mills and factories, and legislation to end child employment and limit the number of hours women were allowed to work. *Platform of Equal Suffrage Principles and Speech of Antoinette D. Leach in Support of Same*, SULLIVAN UNION, Sept. 21, 1910, at 2 [hereinafter *Platform of Equal Suffrage*].

167. *Woman Becomes a Candidate*, *supra* note 166, at 1.

168. *Platform of Equal Suffrage*, *supra* note 166, at 2.

169. *Id.*

Men cannot point to a single instance of the failure of women to perform their full duty in matters of great public concern. There is no instance on record where women have ever polluted a nation, a state or a municipality in which they have been given the privilege of exercising the right they have to the franchise, while innumerable cases can be cited to show that the greatest possible benefit has come from their efforts in behalf of clean, honest and efficient government. That such is a fact is not mere conjecture; it is written in the history of the world.¹⁷⁰

Mrs. Leach closed her speech by stating:

Having set forth my views upon many of the important questions now before the people, and from which I ask that I be judged by them, I desire to call attention to the fact that I have been a life-long resident of the State of Indiana, and of Sullivan County, and have been identified with the interests of the people of the State for as many years. I have been actively engaged in business affairs within the City of Sullivan during the past twenty-five years, both as a practicing attorney and in other lines. My history in that respect is written, and is open for examination by any person who desires to inquire. Whether or not my conduct while residing among you has been such as to warrant you in entrusting to me the right to represent you in the legislature is a matter to be decided each for himself. I can only say that, if you elect me, to represent you, I will give to the performance of my duty in that respect the best there is in me and endeavor to close my career striving for the interests and welfare of the State of Indiana and every person residing within her borders.¹⁷¹

On November 9, when the votes were counted, Mrs. Leach received ten votes.¹⁷²

In 1911, Antoinette began practicing law in Indianapolis as a partner in the firm of Enslow & Leach.¹⁷³ In the early part of February, 1911, Mrs. Leach spoke before the Indiana General Assembly.¹⁷⁴ The Indianapolis News

170. *Id.*

171. *Id.* at 3.

172. SULLIVAN UNION, Nov. 9, 1910, at 1. In the seventh precinct, Hamilton County, Mrs. Leach received six votes; and in the fifth precinct she received four. The average amount received by candidates were from 50 to 90 votes overall.

173. *Dignitaries of Law*, *supra* note 1, at 4.

174. WOMAN'S J., Feb. 18, 1911, at 51. This item originally appeared in *The Indianapolis News*.

reported that:

One of the largest gatherings of the legislative session thus far at a public hearing before a committee was the one last night when the House Election Committee had under consideration the Keegan bill to grant women the right to vote at municipal elections, and the Hendrick bill, calling for an amendment of the State constitution to grant universal suffrage to women. Several hundred women were there and many men.

The floor of the House was filled almost to capacity, chairs being used in the aisles.

Mrs. Antoinette D. Leach of Sullivan, spoke on behalf of the constitutional amendment for full suffrage. She held that in Indiana municipal suffrage could not constitutionally be granted by the Legislature. . . . [There were also speakers in favor of the municipal franchise.]

The next day the Committee on Elections reported unanimously in favor of both measures.¹⁷⁵

The resolution to amend the state constitution, which was written by Mrs. Leach, proposed striking out the word "male" from voting qualifications.¹⁷⁶ This resolution passed the House unanimously, and went to a third reading in the Senate before it was shelved because of a proposed plan for a new

175. *Id.*

176. See JOURNAL OF THE HOUSE OF REPRESENTATIVES OF THE STATE OF INDIANA DURING THE SIXTY-SEVENTH SESSION OF THE GENERAL ASSEMBLY, Commencing Thursday, Jan. 5, 1911, Regular Session, 1911, Ed. W.M.B. Burford, Contractor for State Printing and Binding 1911 (available at the State Archive, Indianapolis). Antoinette authored the proposed amendment, which read in part:

Section 2: In all elections not otherwise provided for by this Constitution, every citizen of the United States, of the age of twenty-one years, and upwards, who shall have resided in the State during six months, and in the township sixty days, in the ward or precinct thirty days immediately preceding such election; and every person of foreign birth, of the age of twenty-one years and upwards, and who shall have become a citizen of the United States in accordance with the laws of the United States governing the naturalization of aliens, shall be entitled to vote in the township or precinct where the residence of such citizen may be, if such citizen shall have been duly registered therein, according to law; Provided, that this amendment shall not affect the rights of franchise of any person who is a qualified elector of this State at the time of the adoption of this amendment; And Provided Further, That there shall be no denial of the elective franchise at any election on account of sex.

The amendment was introduced to the legislature by Representative Hendrick; the Journal notes that it was introduced "by request." On the same day, Representative Keegan introduced a municipal franchise bill to extend suffrage to women in municipal elections.

constitution announced by Governor Thomas R. Marshall.¹⁷⁷

Continuing to support a constitutional amendment as the vehicle to extend the vote to women, Antoinette delivered a paper, *Should Women be Allowed to Vote in Municipal Affairs*, at the Municipal League in Crawfordsville for the Equal Suffrage Association.¹⁷⁸ Mrs. Leach believed that legislation granting women the right to vote in municipal elections would not stand in a legal challenge given the current state constitution which conferred the power to vote only on men.¹⁷⁹ She advocated that the only remedy was an amendment to the present constitution or a new constitution which specifically gave the franchise to women.¹⁸⁰

In 1911, the Leaches continued to suffer business reversals. George Leach was prosecuted and convicted of “running blind tiger”—selling liquor in a dry county.¹⁸¹ After an appeal, George was jailed for ninety days and ordered to pay a fine of \$500.¹⁸²

In February of 1911, Catherine Waugh McCollough requested information on the legal status of women in all of the states, making note that the information from Indiana was being compiled and sent.¹⁸³ Around the same time Mrs. Leach wrote a treatise entitled: *The Legal Status of Women in*

177. 6 *History of Woman Suffrage*, *supra* note 4, at 166. The municipal bill before the legislation lost by a narrow margin of 5 votes; the actual vote was 49-41, which was surprising because Indiana was regarded as particularly conservative. Before the vote, the bill was amended to allow women the vote only on “any moral question that comes up in a city or town.” WOMAN’S J., Mar. 11, 1911, at 79. The *Woman’s Journal* referred to this change as the “obnoxious amendment.”

178. *Urges Right to Cast Vote*, SULLIVAN DAILY TIMES, June 22, 1911, at 1.

The proposed Constitution was planned to continue to decline to give women the right to vote and to confer this privilege upon men. But this question will continue before the people until it is solved right. And, if put to the vote of the people, they will vote favorably to conferring the right to suffrage upon women.

Id.

179. *Id.*

180. *Id.*

181. *Leach Gets a Long Term*, SULLIVAN DEMOCRAT, May 18, 1911, at 1. Sullivan was a dry county. George was apprehended buying whiskey from Hulman and Company with the intention of selling it in Sullivan County. His trial attracted wide attention; his sentence was reported to be the most severe ever pronounced in Sullivan County for the offense.

182. *Leach Begins His Term of 90 Days*, SULLIVAN DEMOCRAT, Mar. 28, 1912, at 1; *Leach is Given Christmas Present*, SULLIVAN DEMOCRAT, Jan. 2, 1913, at 2.

183. WOMAN’S J., Feb. 18, 1911, at 53. Mrs. Catherine McCollough was vice-president of the National American Woman Suffrage Association, headquartered at 505 Fifth Avenue, New York.

Indiana.¹⁸⁴

On August 20, 1911, Mrs. Leach founded the *Woman Citizen*, a monthly journal of the Equal Suffrage Association in Indiana. Published in Indianapolis,¹⁸⁵ it proclaimed "its columns open to all suffrage organizations."¹⁸⁶ Antoinette served as its editor for two years.¹⁸⁷

Early in the election year of 1912, *The Indianapolis Star* offered its women readers a chance to cast a straw vote for President of the United States.¹⁸⁸ Mrs. Leach wrote in the *Woman's Journal* that the "presidential preference primary . . . is proving [to be] a great state wide education."¹⁸⁹ "[M]ore than 15,000 women have manifested their preferences, most of them being for Roosevelt. . . . [W]omen are voting who thought they did not want to vote, and whose husbands were sure they never would vote, and great enthusiasm is being manifested all around."¹⁹⁰

Antoinette concluded her article, commenting about the atmosphere in Indiana and her hopes for the future:

We had a great celebration of Susan B. Anthony Day here, and a large crowd of very interested women. I feel very much encouraged about Indiana. Not only that, but at a recent meeting of the Indianapolis Bar Association, Hon. William Dudley Foulke of Richmond, Indiana, was the chief speaker, and he spoke on the revision of the present constitution. He advocated a change—but in the regular way, not in the Marshall type—and said that there were many changes needed, viz.: in the criminal code, in corporate law, and last, but not least, we must have votes for women. When Bar Associations take the matter up, there will be something worth while.¹⁹¹

184. *Dignitaries of Law*, *supra* note 1, at 1. It is not known whether Leach's writing related to Mrs. McCollough's request. Leach also authored a treatise entitled *Future Woman*. *Id.* Sadly, it seems that neither writing has survived.

185. *Dignitaries of Law*, *supra* note 1, at 4.

186. 6 HISTORY OF WOMAN SUFFRAGE, *supra* note 4, at 168. However, this source notes that the publication was established by the National Woman's Suffrage Association with Leach as editor.

187. *Dignitaries of Law*, *supra* note 1, at 4. Unfortunately, there are no surviving copies of this publication.

188. *Indiana Women Cast a Large Straw Vote, Equal Suffrage Is Also Advocated Before the Bar Association—A New Spirit Stirring*, WOMAN'S J., Mar. 2, 1912, at 67 [hereinafter *Straw Vote*]; see also *Predicts Early Vote for Women*, SULLIVAN DEMOCRAT, Apr. 18, 1912, at 4.

189. *Straw Vote*, *supra* note 188, at 67.

190. *Id.*

191. *Id.*

On March 13, 1915, Antoinette spoke at the fourth annual meeting of suffragists of the Mississippi Valley which was held at the Murat Theatre and the Claypool Hotel in Indianapolis.¹⁹² In the fall of that year, at the Equal Suffrage Association's convention, she was appointed to serve on a committee of three whose task was to interview candidates for the spring election of Governor, Congressmen, and state legislators.¹⁹³ During that year, Leach also spent some time in the New York office of a suffrage organization and lectured.¹⁹⁴

In 1915, George's health began to fail.¹⁹⁵ He became ill with Bright's Disease in 1917,¹⁹⁶ the same year that Antoinette retired from legal practice due to ill health.¹⁹⁷ Sometime before she retired, the Leach's home on West Washington Street, including Antoinette's extensive law library, was destroyed by fire.¹⁹⁸ Two years later in the fall, George was confined to bed, and on December 27, 1919, at seven o'clock in the morning, he died at his home on North Broad Street.¹⁹⁹ He was seventy-one years old.²⁰⁰

After George's death, Antoinette moved to Binghamton, New York, to be with her grandchildren.²⁰¹ Until her last illness, she owned a farm with her granddaughter, Georgia S. Mathias, who accompanied Antoinette on many of her suffrage campaigns.²⁰²

On June 11, 1922, Antoinette D. Leach died in Oxford, New York, and was buried in the family plot in Sullivan.²⁰³ This was two years after women had been granted suffrage by amendment to the U.S. Constitution.

192. WOMAN'S J., Mar. 13, 1915, at 24.

193. *Dignitaries of Law*, *supra* note 1, at 4. In 1915, the Indiana Legislature refused to bring a limited suffrage bill out of committee. WOMAN'S J., March 13, 1915, at 86.

194. *Dignitaries of Law*, *supra* note 1, at 4. Antoinette probably worked at the National American Women Suffrage Association, located at 505 5th Avenue, New York City, New York.

195. SPECIAL COLLECTION, *supra* note 104, at 392.

196. Bright's Disease is a serious kidney disease that forces an afflicted person to live as a semi-invalid. It was first described by Dr. Richard Bright in 1827, and is known today as glomerulonephritis. BLACK'S MEDICAL DICTIONARY 144, 402 (34th ed. 1984).

197. *Dignitaries of Law*, *supra* note 1, at 4.

198. PROCEEDINGS OF THE INDIANA STATE BAR, *supra* note 86, at 172. "[T]hereafter she devoted more attention to certain business ventures than to the law, and finally retired from the profession, partly due to ill-health." *Id.*

199. SPECIAL COLLECTION, *supra* note 104, at 392.

200. INDEX TO DEATH RECORDS SULLIVAN COUNTY 1882-1920 INCLUSIVE, SULLIVAN COUNTY PUBLIC LIBRARY 58 (Indiana Works Progress Administration 1939) (available at the Sullivan County Public Library, Sullivan, Ind.).

201. *Dignitaries of Law*, *supra* note 1, at 4.

202. *Id.* Mrs. Mathias still lives in Oxford, New York. Letter from Mrs. Milton Shepler to Suzanne Buchko (Nov. 1, 1993).

203. *Dignitaries of Law*, *supra* note 1, at 4.

After her death, the Indiana Bar paid tribute to Antoinette Dakin Leach, writing:

Mrs. Leach was a woman of fine personality. Her contact with serious things did not detract from her womanly virtues. She was useful to society, and particularly so in the work of the enfranchisement of women, of which she was an early advocate. She was an officer of the National Woman's Suffrage Association. Mrs. Leach was a credit to the legal profession and was esteemed to be a woman worthy of emulation.²⁰⁴

Her obituary in *The Indianapolis Star* included among her achievements her work as a pioneer suffragist and a past president of the Sullivan County Bar Association.²⁰⁵

Mrs. Leach's life and work were honored in Sullivan in 1937 by the erection of a memorial tablet.²⁰⁶ The tablet was placed in the rotunda of the Sullivan County Court House.²⁰⁷ In 1993, another tablet was placed in the rotunda commemorating "The Centennial Year Of Her Securing The Right To Practice Law For Women In Indiana."²⁰⁸

Antoinette Dakin Leach spent her professional life clearing the ground for those who would follow her. The simplest measure of her success is the number of women who have entered the legal profession since her supreme court challenge. In 1937, when the first tribute was presented, M. Vashti Burr stated that since Antoinette Dakin Leach was admitted to the Indiana Bar, 134 women had been admitted by the Indiana Supreme Court.²⁰⁹ The plaque erected last year honored Leach's memory "on behalf of Indiana's 2,498 women lawyers."²¹⁰ The place in the profession for which Antoinette fought has been secured.

III. *IN RE LEACH*: TESTING EQUALITY

*In re Leach*²¹¹ gave women in Indiana the right to seek admission to their county bars. In addition, *Leach* was a test case intended to provide precedent

204. PROCEEDINGS OF THE INDIANA STATE BAR, *supra* note 86, at 172.

205. INDIANAPOLIS STAR, June 13, 1922, at 7.

206. *Dignitaries of Law*, *supra* note 1, at 4.

207. *Id.*

208. Plaque in the Sullivan County Court House, presented to the Sullivan County Bar Association on Oct. 7, 1993 [hereinafter Plaque].

209. *Dignitaries of Law*, *supra* note 1, at 4.

210. Plaque, *supra* note 208.

211. 134 Ind. 665, 34 N.E. 641 (1893).

for a legal challenge which, if successful, would give the franchise right to Hoosier women. Although ultimately the suffrage challenge failed, a willingness to jeopardize her own interests to further her larger political goals separated Antoinette from her contemporaries who gained admission to their local bars and then quietly entered academia or practiced in the law offices of their husbands or fathers.

In order to practice law in the courts of most states, it was necessary to obtain a license from a state court.²¹² Thus, the dates on which women first were admitted to practice law varies widely from state to state.²¹³ Myra Bradwell of Illinois was among the first women to challenge an adverse state court decision. The United States Supreme Court affirmed the 1870 Illinois decision,²¹⁴ holding that citizenship, either state or federal, did not confer on a person the right to practice law, and that states alone held the power to grant licenses to practice law.²¹⁵ A year later the Illinois legislature passed legislation that forbade any person to be "precluded or debarred from any

212. FLEXNER, *supra* note 7, at 120.

213. *Id.* In 1648, Maryland permitted Margaret Brent to appear specially in its courts. *Dignitaries of Law*, *supra* note 1, at 4. The first woman regularly admitted to a state bar who later engaged in the practice of law was Mrs. L.M. Barkalow from Brooklyn, New York, admitted to practice in Iowa in 1870. Belle Babb Mansfield was admitted to the Iowa bar in 1869, a year before Mrs. Barkalow; however, Mrs. Mansfield pursued an academic career. Farmer, *supra* note 117, at 111.

214. However, the decision recognized that the position of women in society was in a state of flux. *In re Bradwell*, 55 Ill. 535 (1869).

[W]e are certainly warranted in saying that when the Legislature gave to this court the power of granting licenses to practice law, it was not with the slightest expectation that this privilege would be extended equally to men and women. . . . It is not merely an immense innovation in our own usages as a court that we are asked to make. This step, if taken by us, would mean that in the opinion of this tribunal, every civil office in this State may be filled by women—that it is in harmony with the spirit of our Constitution and laws that women should be made governors, judges and sheriffs. This we are not yet prepared to hold.

Id. at 539-40.

215. *In re Bradwell*, 83 U.S. 130 (1872). Three years later, a decision of a similar nature prompted Belva Lockwood to organize an aggressive lobbying effort for federal legislation to allow women to practice in the federal courts. See *Ex parte Lockwood*, 154 U.S. 116 (1894). On February 15, 1879, Congress enacted An Act to relieve certain legal disabilities of women, 20 STAT. 292, ch. 81 (Feb. 15, 1879), which provided:

Any woman who shall have been a member of the highest bar of a State or Territory, or of the Supreme Court of the District of Columbia for the space of three years, and shall have maintained a good standing before such court, and who shall be a person of good moral character shall, on motion, and on the production of such record, be admitted to practice before the Supreme Court of the United States.

This legislation, as well as energetic agitation within many states, prompted other states to adopt statutes permitting women to practice law. *Dignitaries of Law*, *supra* note 1, at 4.

occupation, profession or employment (except military) on account of sex."²¹⁶ This process of an unsuccessful court challenge followed by legislative action was repeated in a number of states and was noted by Judge Hackney in *In re Leach* as additional support for his decision.²¹⁷

In Indiana, at least two women gained admission to their local bars well before Antoinette's supreme court challenge.²¹⁸ However, it was Mrs. Leach's challenge that provided the women of Indiana with the right to be admitted to the bar notwithstanding their inability to vote.

On February 14, 1893, John S. Bays petitioned the Honorable John C. Briggs of the Greene Circuit Court for Leach's admission to the practice of law before that court.²¹⁹ The petition asserted that Mrs. Leach was a woman over the age of twenty-one, a resident of Sullivan for more than fifteen years, and that she possessed good moral character and a thorough knowledge of the law.²²⁰ It further stated that she was willing to be examined by the judge or any committee of the bar selected by the judge.²²¹ The petition was supported by affidavits from four members of the Sullivan County bar: Orion B. Harris,

216. PUBLIC LAWS OF THE STATE OF ILLINOIS 578 (1871-72). The statute continued by stating: "Provided that this act shall not be construed to affect the eligibility of any person to an elective office." *Id.* Alta Hulett, the first woman to benefit from this statutes, was admitted into the Bar on May 23, 1874. *Dignitaries of Law*, *supra* note 1, at 4.

217. After Lavinia Goodwell was refused admission by the Wisconsin Supreme Court, *In re Goodwell*, 34 Wis. 232 (1875), she was admitted pursuant to a state law in 1878. After Lelia I. Robinson was refused admission by the Massachusetts Supreme Court interpreting an 1876 law, *In re Robinson*, 131 Mass. 376 (1881), she was admitted pursuant to an 1882 state law. After Kate Stoneman had been refused admission in *In re Stoneman*, 47 N.Y. Sup. Ct. (Hun. 40) 638 (1886), the New York legislature passed a law in 1886, providing that race or gender should be no cause for refusing permission to practice law. *Dignitaries of Law*, *supra* note 1, at 4. In *Leach*, Judge Hackney stated:

We are not unmindful that other States, notably Illinois, Wisconsin, Oregon, Maryland, and Massachusetts, have held that in the absence of an express grant of the privilege it may not be conferred upon women. In some instances the holding has been upon constitutional provisions unlike that of this State, and in others upon what we are constrained to believe an erroneous recognition of a supposed common law inhibition. However, each of the States named made haste to create, by legislation, the right which it was supposed was forbidden by the common law, and thereby recognized the progress of American women beyond the narrow limits prescribed in Westminster Hall.

134 Ind. at 668, 34 N.E. at 642.

218. Bessie Eaglesfield of Terre Haute was admitted by the Vigo Circuit Court in 1875, and CeDora Lieuellen of Danville was admitted by the Hendricks Circuit Court in 1886. Farmer, *supra* note 117, at 110.

219. Petition to be Admitted, Supreme Court Transcript, at 1, *In re Leach*, 134 Ind. 665, 34 N.E. 641 (1893).

220. *Id.*

221. *Id.*

John S. Bays, Milton A. Haddon, and John T. Hays.²²² Each affidavit attested to Antoinette's qualifications to practice law in Indiana and her good moral character.²²³

Leach requested a hearing, special findings of facts, and conclusions of law.²²⁴ Neither the petition nor the trial court's findings and conclusions refer to the constitutional provision and the statute that governed the admission of attorneys in Indiana.

Section 21 of Article 7 of the 1851 Indiana Constitution provided that "Every person of good moral character, being a voter, shall be entitled to admission to practice law in all Courts of Justice."²²⁵ The Indiana legislature had also adopted a statute which provided:

Every person of good moral character, being a voter, on application, shall be admitted to practice law in all the Courts of Justice; but a jury may be demanded upon the question of character by any citizen of the county. Moral character may be proved by any evidence satisfactory to the Court or jury trying the question; and any person desiring admission to the bar may, upon motion, be examined touching his learning in the law, by the Judge or a committee of the bar whom the Judge may select for that purpose. If he shall be found, by reason of his learning, qualified to practice law, as well as otherwise qualified, he shall be admitted to the practice which shall be entered of record. A roll of attorneys shall be kept in every Court, and no name shall be placed thereon except such as are thus shown to be qualified to practice law by reason of their learning therein.²²⁶

In deciding Mrs. Leach's petition, Judge Briggs found that she possessed good moral character and was learned in the law. However, he concluded that "Antoinette D. Leach, not being a voter, is not entitled to be admitted to

222. *Id.* at 2.

223. Affidavit of O.B. Harris, Supreme Court Transcript, at 2-3, *In re Leach*, 134 Ind. 665, 34 N.E. 641 (1893); Affidavit of John S. Bays, Supreme Court Transcript at 3, *In re Leach*, 134 Ind. 665, 34 N.E. 641 (1893); Affidavit of M.A. Haddon, Supreme Court Transcript at 3, *In re Leach*, 134 Ind. 665, 34 N.E. 641 (1893); Affidavit of J.T. Hays, Supreme Court Transcript at 4, *In re Leach*, 134 Ind. 665, 34 N.E. 641 (1893).

224. Hearing on Petition, Supreme Court Transcript, at 4, *In re Leach*, 134 Ind. 665, 34 N.E. 641 (1893).

225. Petitioner's Brief at 5, *In re Leach*, 134 Ind. 665, 34 N.E. 641 (1893) [hereinafter Brief].

226. IND. REV. STAT. § 962 (1881), cited in Brief, *supra* note 225, at 9-10.

practice law at the Bar of the Circuit Court."²²⁷ Thus, the court set the stage for an appeal to decide the issue of whether, according to the Indiana Constitution or statutory law, an applicant's gender was sufficient to bar her from the legal profession.

Mrs. Leach appealed Judge Briggs's decision to the Supreme Court, with John S. Bays as her attorney. Her brief was typewritten, and it is said to be among the very first typewritten briefs submitted to the Court.²²⁸ She argued that Section 21, Article 7, of the Indiana Constitution should not be so narrowly construed as to deny her petition to practice law merely because she was not a voter.²²⁹ She wrote that

[a] Constitution is an instrument of government made and adopted by the people for the practical purposes connected with the *common business wants of human life*.²³⁰ It is established by the people in their original sovereign capacity, to promote their own happiness and permanently to secure their *rights, property, independence and common welfare*.²³¹

As such, it should be construed as broadly as possible in light of the common law in favor of equality of rights of all citizens, and the precept that "[a]ll restrictions upon human liberty, all claims for special privileges, are to be regarded as having the presumption of law against them, and as standing upon their defense and can be sustained, if at all, by valid legislation, only by the clear expression or clear implication of the law."²³²

Antoinette noted that under British law the only qualification for the practice of law was that, upon examination, the applicant be found virtuous, learned, and sworn to do his duty.²³³ She observed that the Indiana Constitution mirrored this law, except that it omitted the requirement that an applicant had to be learned in the law and substituted the requirement that an

227. Conclusions of Law, Supreme Court Transcript, at 5, *In re Leach*, 134 Ind. 665, 34 N.E. 641 (1893). The Transcript was certified by the clerk of the Greene Circuit Court on April 13, 1893. *Id.*

228. Although Antoinette's Brief is typewritten, Justice Hackney's opinion was written in long hand.

229. Brief, *supra* note 225, at 5.

230. *Id.* (citing *People v. New York Cent. R.R.*, 24 N.Y. 486 (n.d.)) (italicized portion was underlined in the original).

231. *Id.* at 6 (citing *McKoan v. Devries*, 3 Barb (N.Y.) 196, 198 (1848)) (italicized portion was underlined in the original).

232. Brief, *supra* note 225, at 6.

233. *Id.* at 8.

applicant be a voter.²³⁴ With regard to these changes, Leach asked:

But, does this provision in any manner change the ancient rule, except that it permits another class not contemplated, before the adoption of the Constitution to practice law? There being no substantial difference in the requirements of the Common law and our Constitution, except that one requires the applicant to be "learned" and the other, that the applicant be a "voter," I will speak only of that distinction between the two.

Can it be said that a person who is "learned" in the law is prohibited by this Constitutional provision, and that being a "voter" has taken its place? This would seem strange indeed that the applicant, who is a person of culture and learning, who would bring into the profession knowledge, scholarship and enlightenment, is to be relegated to the rear, to make way for some clever clown, for the reason that he can exercise the right of elective franchise, though he be uneducated and untutored.²³⁵

Her position was that the constitution generously admitted this new class of voters into the profession; that the learned were able to stand on their original rights "and be ready to compete with the new class who come with their crude and novel qualifications into the legal arena."²³⁶ Thus, according to Mrs. Leach, the constitutional provision should be construed to enlarge the class of people eligible to practice law by adding voters, not to shrink the eligible class by excluding "the former and more desirable class."²³⁷

Mrs. Leach next addressed the legislative provision for admission to the bar. She argued that by enacting this statute, the legislature had attempted to raise the standard of fitness to practice law found in the constitution "by engrafting to it the necessity of being 'learned' in the law."²³⁸ She attributed to the legislature the intent to codify the admission requirements as they stood before the constitutional enactment, which did not include the requirement that the applicant be a voter.²³⁹ As laudable a goal as this was, Mrs. Leach acknowledged that the statute could not prevent the admission of any attorney who complied with only the constitutional provision, because a statute requiring

234. *Id.*

235. *Id.* at 8-9.

236. *Id.* at 9.

237. *Id.*

238. *Id.* at 10.

239. *Id.*

anything more is unconstitutional.²⁴⁰

Finally, Mrs. Leach asked of the court: "Will it be insisted that under the Common law, Acts of the British Parliament, it was contemplated that men only should be admitted to practice?"²⁴¹ She noted that the United States Supreme Court and other state courts had held that the term "person" included an Indian, persons of both sexes, and married as well as single women.²⁴² Thus, she insisted that the word persons "must be used in its general sense, . . . and not in a limited sense."²⁴³ She also asked the court to consider *In re Hall*,²⁴⁴ a Connecticut opinion, which noted instances where women were deemed eligible to be appointed to office.²⁴⁵

The Connecticut court referred to the 1825 federal statute, which conferred upon the postmaster-general the power to appoint postmasters.²⁴⁶ The court noted that, although there was not a specific reference to women in the statute, and the term postmaster implied only male persons, women commonly had served as postmasters upon appointment.²⁴⁷ That court found also that the regulations governing pension agents were similar. Thus, the Connecticut court concluded that the term postmaster and pension agent must be construed broadly, or inclusively, to include women.²⁴⁸ Antoinette added "[p]ublic opinion is everywhere approving of such appointments."²⁴⁹ Mrs. Leach was quick to point out that "at the last session of Congress a married woman in Chicago was appointed for a third term pension agent for the State of Illinois, and public papers stated that there was not a single vote against her confirmation in the senate."²⁵⁰

Finally, Mrs. Leach wrote:

[W]hy should a woman who is striving to enter pursuits wherein she may make an honest living be excluded therefrom by a strained

240. *Id.* "True he would not be entitled to have his name placed on the roll of attorneys, but nothing more." *Id.*

241. *Id.*

242. *Id.* at 11.

243. *Id.*

244. 50 Conn. 131 (1882).

245. Brief, *supra* note 225, at 11.

246. *Id.*

247. *Id.* at 12. "Some of the higher grades of postmasters are appointed by the president subject to confirmation by the senate, and such appointments and confirmation have repeatedly been made." *Id.*

248. *Id.*

249. *Id.* at 10.

250. *Id.*

construction of the Constitution of our state; when it was supposed to have been adopted for practical purposes connected with common business wants of human life? . . . We are living in an age of advancement. Bigotry and prejudice are giving way before the enlightened thought of better ages and less barbarous times, and many harsh and unreasonable rules have fallen before the spirit of enlightened reason and true progress.²⁵¹ . . . [Because] there is neither law, reason, nor excuse for holding that a person who is, in the language of the special findings, of "sufficient knowledge of the law to qualify her to be admitted to practice law in the Court" [she should not be disqualified from the profession merely because she is not a voter].²⁵²

Certainly Mrs. Leach had supporters, both in her hometown of Sullivan and throughout the state, who anxiously awaited the decision.²⁵³ The record contains a Petition for Immediate Decision by W. H. Latter.²⁵⁴ The petitioner asserted that

there are in the DePauw School of Law, located at Greencastle, Indiana, two young ladies, who will receive their diplomas from said school on the 14th day of June 1893. These young ladies very much desire to be admitted to practice before this Honorable Court, but your petitioner shows that unless the above entitled cause is decided by the above date it will be impossible for said applicants to present themselves before this Court for admission, as each of said applicants is expecting to remove to a distance.²⁵⁵

251. *Id.* at 13 (citing *Haynes v. Newlin*, 129 Ind. 582, 29 N.E. 389 (1891)).

252. Brief, *supra* note 225, at 14.

253. See Gougar, *Important Decision*, *supra* note 132, at 224.

254. Petition for Immediate Decision, *In re Leach*, 134 Ind. 665, 34 N.E. 641 (1893) (No. 16972).

255. *Id.* Mrs. Leach also submitted a Petition to Advance, *In re Leach*, 134 Ind. 665, 34 N.E. 641 (1893), which stated in part:

That said appellant further represents to this Honorable Court, that she is engaged in the practice of law, and has a lucrative business in her profession, and that she is unable to appear in cases in the Greene Circuit Court, for the reason, that the Court has rejected her application to be admitted and practice in said Court.

That her interests are now suffering, by reason of the fact, that she is so prohibited from practicing law in the Greene Circuit court and in the Courts of the State of Indiana.

That she will suffer great financial loss, in the event, that she is required to await the delay of this case, now pending, if it is taken up in its regular order, in this Honorable court.

Id.

Mrs. Leach's appeal was heard expeditiously by the Indiana Supreme Court²⁵⁶—Judges Olds, Coffey, Hackney, Howard, and McCabe. Of the members of this panel, two were Republicans and three were Democrats; three of the judges had served in the Civil War, and three had assumed their seats after the 1892 election. Only one member of the panel received a formal legal education; the others had worked in law firms before being admitted to the bar.²⁵⁷

256. Judge Briggs issued his decision on February 14, 1892. The Assignment of Error was filed on May 1, 1893; a Petition to Advance was filed on May 22, 1893, and the Petition for Immediate Decision was filed on May 27, 1893. The Petitioner's Brief was filed on June 5, 1893, and on June 14, 1893, the Supreme Court handed down a fourteen-page handwritten opinion. Supreme Court Transcript Cover, *In re Leach*, 134 Ind. 665, 34 N.E. 641 (1893). Thus, the Supreme Court's decision was issued in time to swear in the female graduates of DePauw Law School.

257. Justice Walter Olds was a Republican from the Fourth District. He was born in Ohio in 1846, the son of Indiana pioneers, and one of 11 children. He was educated in the public schools and the State University at Columbus, Ohio, and served in the Union army. At the close of the Civil War, he read law with his brother at Mt. Gilead, Ohio, was admitted to the bar in 1869, and located at Columbia City, Indiana, where he practiced with Senator A.Y. Hooper. He served in the State Senate, was Judge of the Circuit Court, and was elected Judge of the Supreme Court. He served on the Supreme Court from 1889 to 1893, after which he practiced law in Chicago. 1 COURTS AND LAWYERS OF INDIANA 274 (Leander J. Monks ed., 1916).

Silas D. Coffey was a Republican from the First District who was born on a farm in Owen County in 1839. He was educated in common schools and entered the State University when he was 21. When the Civil War was declared, he enlisted and served until ill health compelled him to return home. After the war, he studied law and opened an office in Bowling Green, at that time the county seat of Clay County. In 1881, Governor Porter appointed him Judge of the 13th Circuit, and in 1888 he was elected Judge of the Supreme Court of Indiana, serving from 1889 to 1895. *Id.* at 274-75.

Leonard J. Hackney, the writing judge of *In re Leach*, was a Democrat from the Second District. He was born in Johnson County in 1855. Justice Hackney received very little common school education. At 16, he left home and found employment in various law offices, and in 1876, he returned to Shelbyville and opened a law office. He served for a short time as prosecuting attorney and in 1888, at the age of 33, he became Judge on the 16th Circuit. In 1892, he was elected to the Supreme Court, serving until 1899. After his tenure on the court, he resumed private practice in Cincinnati, Ohio. *Id.* at 278.

Timothy E. Howard was a Democrat from the Fifth District who was born in Ann Arbor, Michigan, in 1837. He attended the country schools of Michigan and the University of Michigan, and after he was wounded in the Civil War, he attended Notre Dame University where he received a Master of Arts degree. He then studied law, and later taught law at Notre Dame. Judge Howard served as a member of the City Council of South Bend, Clerk of the St. Joseph Circuit Court, a State Senator, and in 1892, he was elected Judge of the Supreme Court. After serving his six year term, he returned to teaching at Notre Dame. *Id.*

The fifth member of the Court was James McCabe, a Democrat from the Third District. He was born in Dark County, Ohio, on July 4, 1844. He did not attend school until he was 17 years old, and then only at night while he worked on the Monon Railroad as a section hand. He became interested in the legal profession as the result of an accidental visit to the court room at Crawfordsville, Indiana, where he observed attorneys Voorhees and Hannegan argue a case. Once he decided to be lawyer, he divided his time between teaching school and studying law. He was

Writing for the Indiana Supreme Court, Judge Hackney examined the common law and found that it was by the "custom and usage of Westminster Hall," and not by explicit pronouncement, that women were excluded from the legal profession.²⁵⁸ Judge Hackney described this custom and usage as that "incident to the prevailing order of society, that to the domestic sphere only did the functions of womanhood belong."²⁵⁹ He found that "[s]uch of these fictions as became a part of the law of this country are rapidly disappearing, and few, if any, of them exist in Indiana."²⁶⁰ He continued that

[i]f nature has endowed woman with wisdom, if our colleges have given her education, if her energy and diligence have led her to a knowledge of the law, and if her ambition directs her to adopt the profession, shall it be said that forgotten fiction must bar the door against her? . . . [W]hatever the objections of the common law of England, there is a law higher in this country, and better suited to the rights and liberties of American citizens, that law which accords to every citizen the natural right to gain a livelihood by intelligence, honesty and industry in the arts, the sciences, the professions, or other vocations. This right may not, of course, be pursued in violation of laws, but must be held to exist as long as not forbidden by law.²⁶¹

Judge Hackney further determined that the existing law of Indiana did not deny women the right to practice law in the courts of Indiana.²⁶² He affirmed that the right of voters with good moral character to practice law was secure,²⁶³ and that both the state constitution and legislative enactment rightfully could prescribe the qualifications for entrance to the bar.²⁶⁴ But, in addition, Justice Hackney concluded that the right of women, and perhaps other non-voters, to practice law was not prohibited by the existing Indiana law.²⁶⁵ He agreed with Mrs. Leach that while Section 21 of the Indiana Constitution described one class of citizens which was entitled to practice law, it did not exclude another class, non-voters.²⁶⁶

admitted to the bar when he was 27. Judge McCabe became one of the leading lawyers of his region of the state, and was nominated twice for Congress. In 1892 he was elected to a seat on the Supreme Court and served for six years. He returned to Williamsport, where he practiced law until his death on March 23, 1911, one day before his 50th wedding anniversary. *Id.* at 279.

258. *In re Leach*, 134 Ind. 665, 667, 34 N.E. 641, 641 (1893).

259. *Id.*

260. *Id.* at 667-68, 34 N.E. at 641.

261. *Id.* at 668, 34 N.E. at 642.

262. *In re Leach*, 134 Ind. 667, 667, 34 N.E. 641, 641 (1893).

263. *Id.* at 666, 34 N.E. at 641.

264. *Id.* at 667, 34 N.E. at 641.

265. *Id.*

266. *In re Leach*, 134 Ind. 665, 667, 34 N.E. 641, 641 (1893).

This construction of Section 21 adopted by the court disregarded a well-known canon of statutory construction, *expressio unius, exclusio alterius*, that is, if the law expressly mentions what is intended to be within its coverage, then the law excludes that which is not mentioned. Judge Hackney offered no rationale for his departure from the canon, at least not in this opinion.²⁶⁷ He did, however, focus on the intent of the framers, whom he found could not have possibly intended to deny women, who were citizens, with all the privileges and immunities of citizens, the right to choose a vocation.²⁶⁸

Instead of any such disregard for the rights of citizens, . . . the State constitution, article 1, Section 23, provides that "the General Assembly shall not grant to any citizen, or class of citizens, privileges or immunities which, upon the same terms, shall not equally belong to all citizens." Citizenship belongs to women, and it will not be denied that they are within the letter and the spirit of this provision. . . . The fact that the framers of the constitution, or the legislators in enacting our statute, did not anticipate a condition of society when women might desire to enter the profession of law for a livelihood, can not prevail as against their right to do so independently of either.²⁶⁹

Thus, he concluded not that the constitutional and legislative grants of power to practice law were adopted with a view toward including women, but that "such provisions simply affirmed the right of the voter without even an implied denial of it to women."²⁷⁰

267. In fact, Judge Hackney, boldly quoting from *Hall*, 50 Conn. 131, asserted:

[w]e are not to forget that all statutes are to be construed, as far as possible, in favor of equality of rights. All restrictions upon human liberty, all claims for special privileges, are to be regarded as having the presumption of law against them, and as standing upon their defense, and can be sustained, if at all by valid legislation, only by the clear expression of clear implication of the law.

In re Leach, 134 Ind. at 671, 34 N.E. at 642. However, in *Gougar v. Timberlake*, 148 Ind. 38, 46 N.E. 339 (1897), Judge Hackney explained that the maxim

was denied application [in the *Leach* decision], because, as it was believed, the right to practice law was not a political question, was governmental in no respect, but that it belonged to that class of rights inherent in every citizen, and pertained to the fundamental duty of every inhabitant to gain a livelihood; that this duty involved the privilege of choosing any honorable vocation or profession not forbidden by law, and recognizing the existing right of the people, in the constitution or by legislation, to regulate the manner of pursuing that vocation or profession.

Id. at 49, 46 N.E. at 642.

268. 134 Ind. at 669, 34 N.E. at 642.

269. *Id.* at 669-70, 34 N.E. at 642.

270. *Id.* at 670-71, 34 N.E. at 642.

Judge Hackney wrote a bold decision with far-reaching implications.²⁷¹ Those implications were fully appreciated by Helen M. Gougar, President of the Indiana Woman Suffrage Association, when she wrote to the *Woman's Journal*, in July of 1893:²⁷²

The Supreme Court of Indiana has recently made a decision that may be far-reaching in its ultimate results. . . . Taking the decision of the Supreme Court for our guide inasmuch as the constitution says a male may vote, but does not say that a female may not vote, it is plainly a violation of law in Indiana to deprive women of the privilege of voting. . . . I shall arrange a test case for the courts at the earliest election in the State.²⁷³

Helen Gougar gave the Indiana Supreme Court the opportunity to follow the rationale of *Leach* three years later in *Gougar v. Timberlake*.²⁷⁴ On November 6, 1894, Mrs. Gougar offered her vote in a state election in her home town of Lafayette.²⁷⁵ When it was refused, she instituted a suit against the election board in the Superior Court of Tippecanoe County challenging article 2, section 2, of the Indiana Constitution, which granted voting rights to male citizens over twenty-one years old.²⁷⁶ The petitioners, relying upon *Leach*, argued in part that because the constitutional language did not expressly deny women the right to vote, the supreme court could extend the right to them.²⁷⁷ However, Justice Hackney, again writing for the court, held that the constitutional language regulating the admission of lawyers was easily distinguishable from the language providing voting rights for males.²⁷⁸ The right to practice law fell into the category of natural rights which could not be abridged as to any citizen on account of sex. The constitutional language merely regulated the class of citizens it chose to specifically mention.²⁷⁹ However, the franchise right was a political privilege, which could only be held by those to whom it was specifically granted.²⁸⁰ Thus, *Leach* was not precedential authority on the

271. The reasoning in Judge Hackney's opinion was also influenced by *In re Thomas*, 27 P. 707 (Colo. 1891), which is cited in his opinion. The Colorado Supreme Court held that in the absence of any statutory or constitutional inhibition, women were entitled to practice law.

272. Gougar, *Important Decision*, *supra* note 132, at 224.

273. *Id.*

274. 148 Ind. 38, 46 N.E. 339 (1897).

275. 4 HISTORY OF WOMAN SUFFRAGE, *supra* note 4, at 621.

276. *Id.*

277. Gougar, 148 Ind. at 48, 46 N.E. at 339.

278. Gougar v. Timberlake, 148 Ind. 38, 48-49, 46 N.E. 339, 342 (1897).

279. *Id.* at 49, 46 N.E. at 342.

280. *Id.* The distinction between political and natural rights by which Judge Hackney distinguished the franchise right from the ability to practice law was tested the following year when a woman applied for a license to sell liquor. The relevant statute read: "Any male inhabitant having certain other specified qualifications may obtain a license." 4 HISTORY OF WOMAN SUFFRAGE,

suffrage question, although it may be inferred that members of the Indiana Supreme Court sympathized with Mrs. Gougar's cause. In the closing paragraph, Judge Hackney stated that "[w]hatever the personal views of the judges upon the advisability of extending the franchise to women, all are agreed that under the present constitution it cannot be extended to them."²⁸¹

It is no wonder that in later years when Antoinette spoke in support of the enfranchisement of women, she was insistent that the right be gained by constitutional amendment and not through state statute or municipal regulation. Her own experience and that of Mrs. Gougar was ample evidence that anything less than a constitutional amendment would be defeated in a court challenge under the Indiana Constitution.

IV. THE LEGACY OF ANTOINETTE DAKIN LEACH

Antoinette Dakin Leach was an outstanding advocate for her clients and the causes she championed. In her address honoring Mrs. Leach in 1937, Miss Burr said: "Mrs. Leach, a brilliant speaker, lectured extensively in Ohio, Indiana, and Illinois, bravely advocating justice for her sex at a time when it was popular to laugh at woman's suffrage."²⁸² However, the memorial prepared by the Indiana State Bar Association after her death noted, perhaps with some skepticism, that: "She took up the study of law when her children were not half grown," and suggested that it was difficult to believe that women in general could be interested in serious things, remarking: "Mrs. Leach was a woman of fine personality. Her contact with serious things did not detract from her womanly virtues."²⁸³

It is for all of the "serious things" that Antoinette did that we celebrate her life and look to her for inspiration and guidance. Clearly Leach loved the law, but she was interested in more than making a good living for her family or

supra note 4, at 626. Following *Leach* and *Gougar*, one could argue that selling liquor belonged to that class of rights inherent in every citizen, and pertained to the fundamental duty of every inhabitant to gain a livelihood[.] . . . To forbid to an individual or a class the right to the acquisition or enjoyment of property in such manner as should be permitted to the community at large, would be to deprive them of liberty in particulars of primary important to their "pursuit of happiness;" and those who should claim a right to do so ought to be able to show a specific authority therefor, instead of calling upon others to show how and where the authority is negated.

Gougar, 148 Ind. at 49, 46 N.E. at 342. However, the Indiana Supreme Court found that the use of the word "male" in the statute prohibited women from obtaining a license. 4 HISTORY OF WOMAN SUFFRAGE, *supra* note 4, at 626.

281. *Gougar*, 148 Ind. at 50, 46 N.E. at 342.

282. *Dignitaries of Law*, *supra* note 1, at 1.

283. PROCEEDINGS OF THE INDIANA STATE BAR, *supra* note 86, at 172.

doing fulfilling work; she cared deeply about her community. Leach's life is a study in passion and participation. She and the women of her time fought and won a battle for equality, and ultimately gained the vote.

In her article commenting on the 1991 Indiana Bar Report on Women in the Profession, Professor Ann Gellis concluded that "Lawyers and their institutions need to change fundamentally the way they do business so that women can participate as fully and equally as men in the legal profession."²⁸⁴ Antoinette Dakin Leach took it upon herself to do just that.

Mrs. Leach sought and brought about a fundamental change in the legal profession in her time. She participated in the movement that lasted more than seventy years to secure the enfranchisement of women. As Miss Burr said in her 1937 address:

Time and Time alone brings about a change in deep-rooted impressions and opinions, and then only by the undaunted efforts of the farseeing, thinking individuals who sow the seed and persistently attend the growth of the idea until it has become accepted, a process during which many generations may come and go.²⁸⁵

Antoinette Dakin Leach was a farseeing, thinking individual whose engagement in "serious things" shaped her life and opened the door to thousands of women in Indiana who have practiced law in the last 100 years. She "was a credit to the legal profession and . . . a woman worthy of emulation."²⁸⁶

284. Ann J. Gellis, *Great Expectations: Women in the Legal Profession, A Commentary on State Studies*, 66 IND. L.J. 941, 976 (1991). In 1988, the Indiana State Bar Association formed the Commission on Women in the Profession in response to concern and publicity that a "glass ceiling" existed for women lawyers. *Id.* at 941. When the report was issued, it was found to be consistent with reports issued from other states and with the findings of the ABA Commission of Women in the Profession. See ABA COMMISSION OF WOMEN IN THE PROFESSION, REPORT TO THE HOUSE OF DELEGATES (approved Aug. 10, 1988).

285. *Dignitaries of Law*, *supra* note 1, at 4.

286. PROCEEDINGS OF THE INDIANA STATE BAR, *supra* note 86, at 172.