

*First Women: The Contribution of American Women to the Law*

### Symbols, Leaders, Practitioners: The First Women Professionals

JoEllen Lind

Follow this and additional works at: <https://scholar.valpo.edu/vulr>



Part of the [Law Commons](#)

---

#### Recommended Citation

JoEllen Lind, *Symbols, Leaders, Practitioners: The First Women Professionals*, 28 Val. U. L. Rev. 1327 (1994).

Available at: <https://scholar.valpo.edu/vulr/vol28/iss4/7>

This Article is brought to you for free and open access by the Valparaiso University Law School at ValpoScholar. It has been accepted for inclusion in Valparaiso University Law Review by an authorized administrator of ValpoScholar. For more information, please contact a ValpoScholar staff member at [scholar@valpo.edu](mailto:scholar@valpo.edu).



# **SYMBOLS, LEADERS, PRACTITIONERS: THE FIRST WOMEN PROFESSIONALS**

**JOELLEN LIND\***

## **I. INTRODUCTION**

America's first female lawyers, personalities such as Myra Bradwell, Clara Foltz, Antoinette Dakin Leach, and Crystal Eastman, were part of a larger phenomenon that occurred after the Civil War—the emergence of the first group of professional women to grace the social and political life of our nation. They were both a product of and participants in the general movement to change women's condition that resulted in the passage of the Nineteenth Amendment in 1920 and women acquiring the right to vote.<sup>1</sup> The purpose of this Article is to explain why this group emerged in the United States and to describe its relationship to the crusade to transform women's status from social inferior to social equal that began in the last century and is still ongoing. Women lawyers had a unique role to play in this process, because their calling implicated pursuits that were considered to be especially "male," involving public appearances in court to resolve conflicts. As did their sister professionals, America's pioneer women attorneys symbolized what females were capable of being and doing, provided leadership to the crusade for their emancipation, and paved the way for women to take their rightful places as distinguished practitioners in various fields of endeavor. Their efforts foreshadowed and made possible the success of today's female lawyers.

This analysis of America's first professional women has three parts. Section II describes the demographic and political changes that occurred in the United States before the Civil War, prompting the first organized demands for an improvement in women's situation and the first appearance of women seeking entry to expert occupations. Central causes for these phenomena were the female education movement, reforms in married women's property rights, and the fight for abolition. The female education movement provided the essential predicate for women to obtain advanced training leading to professional

---

\* Professor of Law, Valparaiso University School of Law; A.B., Stanford University, 1972; J.D., U.C.L.A., 1975. I wish to dedicate this article to my mother, Jane Timmermans, R.N., the first professional woman of my acquaintance.

1. Barbara Harris argues that the fortunes of professional women were so closely tied to the existence and success of the women's rights movement, that its decline after 1920 can be causally linked to the declining percentages of professional women that also occurred. BARBARA J. HARRIS, *BEYOND HER SPHERE, WOMEN AND THE PROFESSIONS IN AMERICAN HISTORY* 117-19 (1978).

competency;<sup>2</sup> the reforms in married women's property rights eroded the doctrine of coverture, and the fight for abolition served as a catalyst for the organization of a crusade dedicated to *female* emancipation.<sup>3</sup> In this antebellum era, teaching constituted the first profession open to women, who flocked to it in large numbers.

Section III analyzes the impact of the Civil War and its aftermath on women's condition. This era ushered in an age in which women engaged in activities outside the home as never before. The first female colleges were established, and women earnestly demanded to be included in the ranks of theologians, physicians, attorneys, and other professionals. In this period, the notion of the woman professional emerged as a symbol of feminist claims to a status and a role other than wife and mother. This notion competed in uneasy relation with domestic sphere ideology for acceptance. While post-Civil War America saw profound changes in the general society affecting women's access to public pursuits, it was also the most troublesome time for the female emancipation movement, whose rhetoric and strategy were negatively affected by a country coming to grips with Reconstruction, a huge influx of immigrants, and the unsettling effects of urbanization. Nonetheless, the contradictions and conflicts of the post-War era bore fruit in the twentieth century with the dawn of the Progressive Age.

Section IV depicts the situation of female professionals in this progressive moment in American politics, which also saw the final stages of the suffrage battle. Before 1890, women in professions typically reserved for men could be counted only in the hundreds; by 1920, when the Nineteenth Amendment was enacted, women engaging in such learned crafts were numbered in the thousands.<sup>4</sup> In this era, female professionals acted to provide leadership to the movement for women's emancipation, contributed to a militant turn in the suffrage effort, advanced the creation of whole new callings such as social work and public health nursing, and opened the way for females to gain individual acceptance as practitioners of the professional arts. Finally, the Article closes with a brief summary connecting the varying roles of the first women professionals as symbols, leaders, and practitioners to the efforts of today's women to achieve acceptance in the mainstream of the expert occupations.

---

2. See 2 THOMAS WOODY, A HISTORY OF WOMEN'S EDUCATION IN THE UNITED STATES 321-81 (Octagon Books 1974) (1929).

3. See ELLEN CAROL DUBOIS, FEMINISM AND SUFFRAGE: THE EMERGENCE OF AN INDEPENDENT WOMEN'S MOVEMENT IN AMERICA, 1848-1869, at 21-52 (1978) [hereinafter DUBOIS, FEMINISM].

4. See 2 WOODY, *supra* note 2, at 381.

## II. WOMEN IN ANTEBELLUM AMERICA

There were four specific phenomena that arose in the general social upheaval of the Jacksonian Era<sup>5</sup> to create the conditions causing the emergence of women professionals after the Civil War: (1) the female education movement; (2) the appearance of public school teaching as a calling open to women; (3) the beginning of changes in the legal status of wives; and (4) the development of an organized women's rights movement out of the effort to abolish slavery. From the Jacksonian Age came the great nineteenth century social reforms—abolition, temperance, religious revivalism, and organized labor.<sup>6</sup> As women were drawn up in the zeal for moral improvement that characterized the period, they questioned their limited role, applied developing doctrines of human rights to their own situation, and pursued reform in their own interest.<sup>7</sup> Most importantly, changes in women's access to education made it possible for a significant number of them to comprehend and apply the ideas of the times to women's condition. More and better female education was the first step in the rise of women professionals, because it supplied the basic training required before advanced study could be undertaken. Finally, by increasing the demand for teachers, the general clamor for public schools in the Jacksonian Age created the first profession actually willing to admit women to its ranks.

A. *The Female Education Movement and the Teaching Profession*

A general push for public education took place at the beginning of the nineteenth century, fostered by a variety of causes. The most important of these was that the electorate was being broadened.<sup>8</sup> With the advent of the new

---

5. It was an age of rapid economic growth, resulting class dislocation, and unrest that reflected the transformation of feudal forms of social relations into ones based on the market. With these changes came the emergence of a significant middle class with its taste for industrialism and its ethic of individualism. See, e.g., ELIZABETH GRIFFITH, *IN HER OWN RIGHT, THE LIFE OF ELIZABETH CADY STANTON* 14-15 (1984).

6. See *THE CONCISE HISTORY OF WOMEN SUFFRAGE: SELECTIONS FROM THE CLASSIC WORK OF STANTON, ANTHONY, GAGE AND HARPER* 1 (Mari Jo Buhle & Paul Buhle eds., 1978) [hereinafter *CONCISE HISTORY OF WOMEN SUFFRAGE*]. For the original chronicle of the history of the women's rights movement that the Buhle work is based on, see 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) [hereinafter *HISTORY OF WOMAN SUFFRAGE*].

7. See, e.g., ELEANOR FLEXNER, *CENTURY OF STRUGGLE, THE WOMAN'S RIGHTS MOVEMENT IN THE UNITED STATES* 71 (Atheneum 1973) (1959).

8. Both Jefferson and Washington understood the connection between adequate schooling and the success of representative forms of government. See DAVID L. MADSEN, *EARLY NATIONAL EDUCATION, 1776-1830*, at 65-66 (1974).

republic, property limitations on suffrage prevented many white males from being allowed to vote,<sup>9</sup> but by the early decades of the nineteenth century, these requirements were discarded in many jurisdictions, and significant numbers of new voters were qualified.<sup>10</sup> Greater access to education, particularly publicly financed education, was demanded by these new voters; moreover, public schools helped create a literate electorate.<sup>11</sup> Moreover, the availability of cheap land in the new territories increased the demand for education and helped to provide a means to fund it.<sup>12</sup> Thus, in this era, the American system of public education was initiated.<sup>13</sup> Ironically, the tremendous demand for teachers to work in the new elementary schools created the first profession open to women and produced a need to provide them with better education so that they could become minimally adequate instructors of young children.<sup>14</sup>

The early drive for public education often excluded women on the theory that they were destined for family life and did not need the skills education could provide.<sup>15</sup> Although most elementary schools that were started in this era were open to both sexes, education beyond the earliest grades was not.<sup>16</sup> With the passage of time and further changes in the American society, however, conditions came to promote an increase in women's training. First, industrialization created some limited opportunity for women to work outside the home, particularly in the textile industry of the Northeast.<sup>17</sup> In addition, the migration of many young men to the Western territories created the possibility of "surplus" females who would not find occupation in the domestic sphere, but might be enlisted to teach youngsters in the new public schools.<sup>18</sup> Most importantly, traditional views about the proper role of women could be exploited

---

9. See Robert J. Steinfeld, *Property and Suffrage in the Early American Republic*, 41 STAN. L. REV. 335 (1989).

10. See PAUL MONROE, *FOUNDING OF THE AMERICAN PUBLIC SCHOOL SYSTEM: A HISTORY OF EDUCATION IN THE UNITED STATES* 228 (1940).

11. See FLEXNER, *supra* note 7, at 28. For an analysis of the growth of public education in the early nineteenth century, see MICHAEL B. KATZ, *RECONSTRUCTING AMERICAN EDUCATION* 6-7 (1987) (treating the growth of public education at this time as the result of the growing political power of new voters, not the benevolence of the American elite).

12. See MONROE, *supra* note 10, at 219. The watershed year for the notion of the public school seems to have been 1830. *Id.* at 230.

13. See ROBERT V. REMINI, *THE JACKSONIAN ERA* 78-80 (1989).

14. Unqualified teachers were a recurrent problem in the early stages of public school education. See MONROE, *supra* note 10, at 243.

15. See 1 WOODY, *supra* note 2, at 451-52.

16. See FLEXNER, *supra* note 7, at 28.

17. See Joan W. Scott, *The Woman Worker*, in 4 *A HISTORY OF WOMEN IN THE WEST: EMERGING FEMINISM FROM REVOLUTION TO WORLD WAR* 399, 404-05 (Genevieve Fraisse & Michelle Perot eds., 1993) [hereinafter *A HISTORY OF WOMEN*].

18. This was a pet theory of Catharine Beecher's. See Catharine Beecher, *The Evils Suffered by American Women and Children* 12, in FLEXNER, *supra* note 7, at 30-31. See also 2 WOODY, *supra* note 2, at 1-2.

to justify their further education.

Even in the earliest days of the nation, arguments were advanced that educated women made better wives and mothers.<sup>19</sup> After all, if females were the primary tutors of the future male orators, philosophers, and politicians of the country in their guise as mothers, they themselves ought to have at least a rudimentary fund of knowledge to draw upon to perform this task. Similarly, women who had a better understanding of child care, sanitation, and home economy presumably had healthier children and more efficient households. Many middle- and upper-class families privately provided for the education of their daughters in response to these notions or to make them more marriageable, and by the second decade of the new century,<sup>20</sup> several visionaries worked to create educational opportunity for young women outside the home. In this way, the female seminary movement began.

The female seminary program appropriated rather than challenged the woman's sphere ideology that permeated the American culture by purporting to produce better homemakers.<sup>21</sup> But, while separate sphere rhetoric was wielded to justify their existence, many of these new institutions taught women subjects to which they had never before been exposed. One of the first and most innovative of these was Emma Willard's Troy Female Seminary, established in 1821.<sup>22</sup> Like many of the educated women of the period, Willard was trained at home under the tutelage of a father who believed that females ought to have an opportunity to study a variety of topics. She became the wife of the headmaster of an academy for boys and a teacher of young girls in a local school.<sup>23</sup> Wanting to learn more about different subjects and also about general teaching methods, she applied to the University of Middlebury,<sup>24</sup> but was denied admission due to her gender.<sup>25</sup> Instead of giving up, Willard proceeded to teach herself and, in so doing, developed a creative educational philosophy and a resolution that institutions ought to be started to provide women with some

---

19. This idea was asserted by Benjamin Rush in the Revolutionary period. See BENJAMIN RUSH, *ESSAYS, MORAL, POLITICAL, PHILOSOPHICAL* 89 (1787).

20. See BARBARA MILLER SOLOMON, *IN THE COMPANY OF EDUCATED WOMEN, A HISTORY OF WOMEN AND HIGHER EDUCATION IN AMERICA* 15-17 (1985).

21. See BARBARA WELTER, *DIMITY CONVICTIONS: THE AMERICAN WOMAN IN THE NINETEENTH CENTURY* 21-41 (1976).

22. See Anne Firor Scott, *The Ever Widening Circle: The Diffusion of Feminist Values from the Troy Female Seminary, 1822-1877*, 19 *HIST. ED. Q.* 5-9 (1979).

23. See GERDA LERNER, *THE CREATION OF FEMINIST CONSCIOUSNESS, FROM THE MIDDLE-AGES TO 1870*, at 42-43 (1993).

24. See FLEXNER, *supra* note 7, at 125.

25. See CATHERINE CLINTON, *THE OTHER CIVIL WAR: AMERICAN WOMEN IN THE NINETEENTH CENTURY* 45 (1984). See also FLEXNER, *supra* note 7, at 25.

advanced training.<sup>26</sup> Her seminary at Troy offered courses within the traditional purview of womanhood, but also gave classes in mathematics, natural science, geography, and history.<sup>27</sup> Elizabeth Cady Stanton, who was to become the primary theorist of the early female emancipation crusade, attended Willard's school; in fact, many of the women who later entered the professions were beneficiaries of the seminary movement.<sup>28</sup>

Emma Willard was not the only one working for women's education. Catharine Beecher<sup>29</sup> also opened a female seminary, but more importantly, she wrote extensively on the topic of women's need for training and study, by emphasizing the uses of such study for the home. Beecher was not a feminist;<sup>30</sup> yet she contributed to the advancement of women nonetheless by claiming that they needed technical knowledge to adequately run a household.<sup>31</sup> In some sense, Beecher was the first home economist and her extensive tracts on domestic science helped to make women's higher education palatable to the public at large.<sup>32</sup> Social attitudes were also affected by the public lecture tours of Frances Wright in 1828-1829.<sup>33</sup> Wright was a notorious figure whose radical ideas were often discredited by attempts to brand her a socialist and advocate of free love.<sup>34</sup> Nonetheless, she spoke in front of large audiences of working people and advocated an increase in public education for all, including women.<sup>35</sup> Her activities helped to link the issues of social justice, women's

---

26. See 1 WOODY, *supra* note 2, at 306-12.

27. See FLEXNER, *supra* note 7, at 26.

28. Myra Bradwell was one. She attended the Elgin Female Seminary in the 1860s and, like many of her contemporaries, became a teacher before seeking entry to the bar. See JANE FRIEDMAN, *AMERICA'S FIRST WOMAN LAWYER: A BIOGRAPHY OF MYRA BRADWELL* 36 (1993).

29. See 1 NOTABLE AMERICAN WOMEN, 1607-1950: A BIOGRAPHICAL DICTIONARY 121-24 (Edward T. James ed., 1971) [hereinafter NOTABLE AMERICAN WOMEN].

30. See JEANNE BOYDSTON ET AL., *THE LIMITS OF SISTERHOOD, THE BEECHER SISTERS ON WOMEN'S RIGHTS AND WOMAN'S SPHERE* 4 (1988).

31. For a discussion of Beecher that asserts that the concept of professionalism was essential to her work, see JANE ROLAND MARTIN, *RECLAIMING A CONVERSATION, THE IDEAL OF THE EDUCATED WOMAN* 116 (1985). Beecher was so steadfast in her belief that women should remain in their separate domestic sphere that she criticized the public appearances of abolitionist Angelina Grimké. See ELIZABETH FROST & KATHRYN CULLEN-DUPONT, *WOMEN'S SUFFRAGE IN AMERICA: AN EYEWITNESS HISTORY* 29 (1992).

32. ANDREW SINCLAIR, *THE BETTER HALF: THE EMANCIPATION OF THE AMERICAN WOMEN* 96-97 (1965); see also BOYDSTON ET AL., *supra* note 30, at 130-37 (describing Beecher's conception of domesticity).

33. It is cited as one of the main "preceding causes" of the women's rights movement. See 1 *HISTORY OF WOMAN SUFFRAGE*, *supra* note 6, at 14-19.

34. See CLINTON, *supra* note 25, at 65-67.

35. See SINCLAIR, *supra* note 32, at 36.

education, and women's rights.<sup>36</sup> As a result of these and other factors, public perception changed. By the middle of the century, female seminaries were firmly established across the country, and many middle- and upper-class women were able to get an education beyond the rudimentary training that had been available earlier.<sup>37</sup> However, while female seminaries dramatically improved women's opportunities over what they had been at the birth of the nation, they still did not provide anything close to university training.<sup>38</sup> Prior to the Civil War, only two institutions offered women something similar to a college education. These were Oberlin College, opened to females on limited terms in 1833,<sup>39</sup> and Mt. Holyoke,<sup>40</sup> founded by Mary Lyon in 1837.<sup>41</sup>

Oberlin broke ground in a number of ways. Heavily influenced by abolitionist sentiment, it opened its doors to African-Americans, as well as women.<sup>42</sup> But, while it did permit females to matriculate, Oberlin did not at first allow them to pursue the course of study open to males, bowing to popular notions that women did not have the same intellectual capacity as men.<sup>43</sup> Even with its limitations, Oberlin provided the closest thing to a real university education for women and paved the way for the coeducational institutions that emerged after the Civil War. Moreover, by 1841 women *were* allowed to take the full course of study; two who benefitted from this became activists in the female emancipation movement—Lucy Stone and Antoinette Brown.<sup>44</sup> Moreover, Brown was to become one of the very few women professionals before the Civil War, being ordained as a minister in 1853.<sup>45</sup> Unlike Oberlin, Mount Holyoke offered a rigorous curriculum. Women were required to pass entrance examinations, and intellectual promise was the prime criterion for admittance.<sup>46</sup> Its revolutionary three-year course of study, intentionally modelled on what was available to men, contributed to the emergence of women's colleges after the Civil War.<sup>47</sup>

---

36. For an essay expressing Wright's ideas about the importance of public education, see Frances Wright, *Lecture on Existing Evils and their Remedy*, in 1 *SOCIAL HISTORY OF AMERICAN EDUCATION, COLONIAL TIMES TO 1860*, at 237 (1965).

37. See 1 WOODY, *supra* note 2, at 363.

38. See FLEXNER, *supra* note 7, at 29.

39. See 2 WOODY, *supra* note 2, at 231.

40. See MADSEN, *supra* note 8, at 114.

41. Madsen also lists Wesleyan Female College of Macon, Georgia and North Rockford College for Women. See *id.*

42. See 1 ROBERT A. FLETCHER, *A HISTORY OF OBERLIN COLLEGE FROM ITS FOUNDATION THROUGH THE CIVIL WAR* 167-78 (1943).

43. See 2 WOODY, *supra* note 2, at 231.

44. See FLEXNER, *supra* note 7, at 30.

45. *Id.* at 30, 81.

46. See MONROE, *supra* note 10, at 459-62.

47. See FLEXNER, *supra* note 7, at 35.



As a result of the female education movement, in the years before secession and the War, many women were well educated enough to understand and apply the new political and social ideas gaining strength in antebellum America to their own situation and to become discontented with being consigned to the domestic sphere.<sup>48</sup> Moreover, woman's sphere ideology had little application to those who came from lower-class backgrounds or for other reasons had to earn their own livings.<sup>49</sup> The opportunity to enter some sort of profession was especially important to those who fell through the cracks of the marriage system.<sup>50</sup> Elementary school teaching became the first "professional" calling open to these women, although one of low status and little pay.<sup>51</sup> From its ranks came women whose political activism for female emancipation changed the social landscape in America and provided the breeding ground for the first women to enter other professions, such as medicine and law.<sup>52</sup>

Females were able to move into elementary school teaching because there were not enough men to supply the demand in the heyday of the creation of America's public schools.<sup>53</sup> In addition, the nurturing of young children seemed consistent with social norms about women's proper role and appropriate function in the society.<sup>54</sup> Soon after the move for more public schools got off the ground, young women began to flock to teaching as an alternative to factory or domestic work.<sup>55</sup> Teaching provided an especially attractive option to genteel women unable or unwilling to marry, because it did not portend a lowering of their social status as a laboring job would.<sup>56</sup> Perhaps most importantly, the need for public school teachers with decent training created a demand for better-educated instructors. Thus, this need provided a public incentive for women to be given access to advanced study that promoted the later opening of colleges

---

48. If nothing else, education "prolonged the period of youth" and gave many women experience with independence and autonomy that was not available without it. See SOLOMON, *supra* note 20, at 31.

49. See Scott, *supra* note 17, at 399-401.

50. See Cecile Dauphin, *Single Women*, in 4 A HISTORY OF WOMEN, *supra* note 17, at 427.

51. See LOIS W. BANNER, WOMEN IN MODERN AMERICA: A BRIEF HISTORY 10-11 (John Morton Blum ed., 1974).

52. Susan B. Anthony was an elementary school teacher, as was Carrie Chapman Catt, Myra Bradwell, Elizabeth Blackwell, and Antoinette Brown. See *infra* text accompanying notes 241-48. Clara Barton and Dorothea Dix, the founders of American nursing, were also teachers. See MARY ELIZABETH MASSEY, BONNET BRIGADES 11 (1966). Solomon's analysis of the women listed in *Notable American Women from 1790-1830* shows that almost half of the highest achievers were first trained as teachers. See SOLOMON, *supra* note 20, at 34.

53. See BANNER, *supra* note 51, at 11-12; see also 1 WOODY, *supra* note 2, at 481.

54. See MARTIN, *supra* note 31, at 123-30.

55. See FLEXNER, *supra* note 7, at 24; see also Ray Marshall & Beth Paulin, *Employment and Earnings of Women: Historical Perspective*, in WORKING WOMEN: PAST, PRESENT, FUTURE 7-10 (Karen Shallcross Koziara et al. eds., 1987).

56. See CLINTON, *supra* note 25, at 121-27.

and universities to females.<sup>57</sup> This connection was perceived by women like Willard and Lyons in the days of the female seminary movement and contributed to the development of normal schools for teacher training.<sup>58</sup>

While teaching provided many women with employment and acted as an impetus for their greater educational opportunity in general, it also radicalized its practitioners, due to the conditions under which female teachers were required to work. Women were discriminated against in pay, general working situations, and in their personal freedom.<sup>59</sup> Under the thumb of local school masters, their personal habits, life-styles, and comings and goings were subject to the close scrutiny of townspeople.<sup>60</sup> Forced to work long hours in often primitive circumstances, women educators were also paid less than their male counterparts.<sup>61</sup> Perhaps most importantly, they were dismissed if they married.<sup>62</sup> Women like Susan B. Anthony, who had to contend with these galling conditions, developed a feminist sensibility. Many became actively involved in the woman's rights movement and other social reforms such as abolition and temperance that arose before the Civil War.<sup>63</sup> Some, like Myra Bradwell, sought additional training to gain entry into professions that were previously open only to men.<sup>64</sup>

#### *B. The Property Rights of Wives and the Rise of the Women's Rights Movement*

Aside from the impact of the female education movement, two more phenomena of antebellum America promoted the rise of a professional group of women. These were the changes in the property rights of wives and the rise of an organized social movement for female emancipation. Both promoted women's pursuit of learned careers, because each challenged the dominance of separate sphere ideology in the American culture. In addition, women's involvement in these phenomena would "raise their consciousness," bringing many to a greater feminist sensibility they could draw on to understand their desires for personal achievement.

As a by-product of the Field Code movement, in American law, states

57. See MONROE, *supra* note 10, at 486-87.

58. See FLEXNER, *supra* note 7, at 31.

59. See 1 WOODY, *supra* note 2, at 488-93.

60. Teachers were expected to be of the highest moral character. See MONROE, *supra* note 10, at 79-80.

61. *Id.* at 488-90.

62. See BANNER, *supra* note 51, at 11; see also 1 WOODY, *supra* note 2, at 509.

63. See *infra* text accompanying notes 86-115.

64. See 1 WOODY, *supra* note 2, at 483; see also FRIEDMAN, *supra* note 28, at 17, 36.

slowly began making changes in the property rights of married women.<sup>65</sup> The original impetus to this law reform stemmed not from a sympathy with women's plight, but from the desire of wealthy fathers to protect family property from sons-in-law.<sup>66</sup> But the law changes proposed and adopted had unintended incidental effects on women's situation in the American society.<sup>67</sup> They helped to erode the legal principle of a woman's civil death upon marriage,<sup>68</sup> and they actually gave some wives some control over certain forms of property for the first time.<sup>69</sup> Further, the attempts of women to lobby for these reforms brought home to them the importance of economic independence and political rights in a concrete fashion.<sup>70</sup>

The primary impact of the legal doctrine of a woman's "civil death"<sup>71</sup>

65. See KEITH E. MELDER, *BEGINNINGS OF SISTERHOOD: THE AMERICAN WOMAN'S RIGHTS MOVEMENT 1800-1850*, at 143-44 (1977). For an in-depth study of the property rights of married women in the colonial period, see Marylynn Salmon, *The Property Rights of Married Women in Early America* (1980) (unpublished Ph.D. dissertation, Bryn Mawr College). See also Richard H. Chused, *Married Women's Property Law: 1800-1850*, 71 GEO. L.J. 1359 *passim* (1983).

66. See ELIZABETH BOWLES WARBASSE, *THE CHANGING LEGAL RIGHTS OF MARRIED WOMEN 1800-1861*, at 57 (1987).

67. See PEGGY A. RABKIN, *FATHERS TO DAUGHTERS: THE LEGAL FOUNDATIONS OF FEMALE EMANCIPATION passim* (1980).

68. This doctrine was also known as "coverture" and became a part of American common law through the influence of Blackstone. As he expressed it:

By marriage, the husband and wife are but one person in law, that is, the legal existence of the women is suspended during marriage, or at least is incorporated into that of the husband, under whose protection and cover, she performs everything, and is therefor called by French law, a *feme covert*, or under the protection of the husband, her baron or lord, and her condition during marriage is one of coverture.

See 1 WILLIAM BLACKSTONE, *COMMENTARIES* \*442.

69. The first significant reform occurred in New York State in 1848. There the legislature codified trust principles which many had resorted to in order to get around the common law restrictions on married women's ability to own certain forms of property. For an in-depth discussion of the New York reforms of 1848 and the attempt to backtrack from them in 1860, see generally NORMA BASCH, *IN THE EYES OF THE LAW: WOMEN, MARRIAGE, AND PROPERTY IN NINETEENTH CENTURY NEW YORK* (1982). See also 1 *HISTORY OF WOMAN SUFFRAGE*, *supra* note 6, at 16, 63-64; WARBASSE *supra* note 66, at 224-27.

70. See *infra* text accompanying notes 77-85.

71. According to its tenets, a married woman was unable to own her own property, even her wages or her personal effects, to inherit from her husband on his death, to enter into contracts without his consent, to sue or be sued, to obtain a divorce, or to have a right of custody over her children. Elizabeth Cady Stanton, Address to the Legislature of New York on Women's Rights (Feb. 14, 1854), in ELIZABETH CADY STANTON, SUSAN B. ANTHONY, *CORRESPONDENCE, WRITING, SPEECHES* 47-48 (Ellen Carol DuBois ed., 1981) [hereinafter DuBois, *CORRESPONDENCE*]. See also FLEXNER, *supra* note 7, at 7. For an illustration of the status of a woman after marriage, see L.P. BROCKETT, *WOMAN: HER RIGHTS, WRONGS, PRIVILEGES AND RESPONSIBILITIES* 67-72 (Books for Libraries Press 1970) (1869); BANNER, *supra* note 51, at 2; WARBASSE, *supra* note 66, at 7-8. Even before these changes, women did have more control over their real estate than their personality. *Id.* at 9. Ironically, when married women like Myra Bradwell were to apply for professional

upon marriage was to promote the idea of the separate sphere by making it almost impossible for wives to have economic independence from their spouses.<sup>72</sup> According to the received wisdom of the day, women should be financially dependent on men. Although in the period from 1800 to 1840, more females began to work outside the home, and factories were an alternative to domestic service,<sup>73</sup> there were almost no decent jobs open to women. The small numbers who were employed outside the home<sup>74</sup> earned just a fraction of the wages of men.<sup>75</sup> Given these facts, it is not surprising that teaching was so appealing.<sup>76</sup>

In any event, the early moves toward giving women autonomy over property started a process in motion that began to erode some of the material basis of the gender system.<sup>77</sup> Perhaps even more importantly than this, the experience of trying to convince state legislators to change legal rules to promote women's interests politicized many women by making them realize how important political rights were and how hampered women remained without the benefit of professional expertise. This expertise, they realized, would help them understand the impact of laws on their status.<sup>78</sup> One woman who was galvanized in this way was Elizabeth Cady Stanton. In the years before the

licenses after the Civil War, these legal impediments were used as reasons why they were not fit to practice law. See *In re Bradwell*, 55 Ill 535, 535-37 (1869).

72. Other significant factors keeping women from pursuing professional training were the disproportionate child bearing burden they bore and the propaganda designed to support domestic sphere ideology that women were subjected to. The unavailability of modern birth control, low marriage age in most states, and the inability of women to legally refuse marital sex resulted in large families. For instance, white women had an *average* of seven pregnancies in their lifetimes. See Daniel Scott Smith, *Family Limitation, Sexual Control and Domestic Feminism in Victorian America*, in *A HERITAGE OF HER OWN: TOWARD A NEW SOCIAL HISTORY OF AMERICAN WOMAN* 226 (Nancy F. Cott & Elizabeth H. Peck eds., 1979). See also MARY P. RYAN, *WOMANHOOD IN AMERICA, FROM COLONIAL TIMES TO THE PRESENT* 163 (New Viewpoints 1975) (1963). Backbreaking physical labor was also involved in running a household. See *ARGUMENTS IN FAVOR OF WOMAN SUFFRAGE* 5 (Mary McB. Schlesinger et al. comps., n.d.). Apart from these material limitations, women were exposed to ceaseless brainwashing designed to convince them that their primary job should be marriage and childrearing. See SINCLAIR, *supra* note 32, *passim* (1965).

73. See generally LUCY MAYNARD SALMON, *DOMESTIC SERVICE* (Arno Press 1972) (1897).

74. They worked primarily as farm laborers, servants, and in textile mills. See David Montgomery, *The Working Classes of the Pre-Industrial American City, 1780-1830*, 9 LAB. HIST. 3 (1968). Analysis of census data indicate that women made up only 4.6% of the paid work force in 1800. This figure rose to 9.6% in 1840. W. ELLIOT BROWNLEE & MARY M. BROWNLEE, *WOMAN IN THE AMERICAN ECONOMY, A DOCUMENTARY HISTORY, 1675 TO 1929*, at 3 (1976).

75. See CATHERINE G. WAUGH, *WOMEN'S WAGES* *passim* (Rockford, Ill., Daily Gazette Book and Job Office 1888). See also BROWNLEE & BROWNLEE, *supra* note 74, at 35-36. Even these jobs were lost to immigrants. *Id.* at 17, 144.

76. It was the *only* job that was a "profession" open to them before the Civil War. See 2 WOODY, *supra* note 2, at 321.

77. See RABKIN, *supra* note 67.

78. See SOLOMON, *supra* note 20, at 130.

Civil War, she became the premier theorist of the women's rights crusade.<sup>79</sup> It is not inaccurate here to describe her as one of America's first women professionals—and one with a particular sensitivity to legal issues. While experiences with abolition were critical to her realization of the need for a reform devoted to women's condition, exposure to the laws discriminating against wives planted the original seeds of her feminist sensibility.

Stanton was the middle daughter of a successful jurist and an upper-class mother, who grew to young adulthood in upstate New York.<sup>80</sup> She was born in 1815 and matured in the heyday of the Jacksonian period.<sup>81</sup> Stanton's father was progressive in his actions toward his daughter, if not in his attitude, and secured for her the best education available to women at the time by sending her to Willard's female seminary.<sup>82</sup> Aside from these general influences on her intellectual growth, Stanton had the free run of her parents' home and spent a great deal of time in her father's law office, where she began to study legal rules and principles.<sup>83</sup> According to Stanton, when she stumbled upon the legal authorities providing for coverture, she was so incensed that she cut them from her father's law books.<sup>84</sup> In this way, Stanton appreciated early on the effect of legal rules on women's situation and the desirability that women have legal knowledge of their own to understand that effect. She later became one of the principal lobbyists for change in the laws affecting married women with the New York legislature. There she learned first hand the intricate and negative connection between laws depriving women of civil and political rights and the inability of women to achieve legislative change. These experiences convinced her that voting was the key to all other efforts to change the social condition of women. But because of her informal law training, Stanton always demonstrated an understanding of the importance of legal institutions and principles to the emancipation effort, including even the potentiality of test litigation for bringing about social change.<sup>85</sup> After the Civil War, a number of women joined her and made the study of law their chief endeavor.

---

79. See DuBois, CORRESPONDENCE, *supra* note 71, at 12-15.

80. See 3 NOTABLE AMERICAN WOMEN, *supra* note 29, at 342.

81. See GRIFFITH, *supra* note 5, at 5. See also DuBois, CORRESPONDENCE, *supra* note 71, at 9.

82. Stanton, however, still found the traditional attitudes toward women there confining. See MELDER, *supra* note 65, at 23.

83. See GRIFFITH, *supra* note 5, at 11.

84. *Id.* See also ELIZABETH CADY STANTON, EIGHTY YEARS AND MORE 32 (Schocken Books 1971) (1898).

85. The test litigation was *Minor v. Happersett*, 88 U.S. (21 Wall.) 627 (1874), a case that attempted to secure the right to vote for women by using the new Fourteenth Amendment that was produced by the Reconstruction Congress. See JoEllen Lind, *Dominance and Democracy: The Legacy of Woman Suffrage for the Voting Right* 80-86 (forthcoming, manuscript on file with the *Valparaiso University Law Review*).

The beginning stages of reform in women's property rights took place at the same time that an organized social movement to gain equality for females emerged.<sup>86</sup> This phenomenon was itself caused by the same factors that generated the rise of women professionals—women's access to better education, the beginnings of some financial autonomy for females, the general effects of Jacksonian democratization, and the general consequences of greater industrialization and urbanization. The rise of female emancipation, however, was also catalyzed by women's involvement in abolition.<sup>87</sup> Today it is difficult to understand the effect of the anti-slavery crusade on women of the nineteenth century, because it is almost impossible to comprehend the nature and extent of the customs against the public activity of females that obtained in that era. As a result of traditional notions about feminine nature, women did not enjoy the civil rights of freedom of speech or association in antebellum America.<sup>88</sup>

According to the dominant view of the times, women were "naturally" fragile, gentle, nurturing, maternal, emotional, weak, passive, spiritual, and unintelligent.<sup>89</sup> As a consequence, they were best suited for the private sphere of the family and needed to be sheltered from the conflict and strife of the public world by their husbands and fathers, who it was assumed had their best interests at heart.<sup>90</sup> Not surprisingly, it was supposed that truly feminine women were unconcerned with the political struggles of the age. It was also believed that, concerned or not, women lacked the mental capacity to either understand or participate in events taking place in the public sphere. Standing behind these notions was the presupposition that men and women did not have a conflict of interest and the correlative view that women did not suffer hardship at the hands

---

86. That is, in the Jacksonian period. See MELDER, *supra* note 65, at 143.

87. The connection between abolition and the female emancipation movement is disputed. Some believe that abolition sparked the development of a feminist consciousness in women activists who believed the human rights philosophy being used to justify the emancipation of slaves had equal applicability to women's situation. Others argue that women had a well-developed understanding of their inferior caste status by the 1820s. See, e.g., Ellen DuBois, *Women's Rights and Abolition: The Nature of the Connection*, in ANTISLAVERY RECONSIDERED, NEW PERSPECTIVES ON THE ABOLITIONISTS 238 (Lewis Perry & Michael Fellman eds., 1971) [hereinafter DuBois, *Connection*]. Still, others attribute the rise of the nineteenth century women's movement to urbanization and industrialization as much or more than abolition. This is Berg's main thesis. BARBARA J. BERG, *THE REMEMBERED GATE: ORIGINS OF AMERICAN FEMINISM passim* (1978).

88. See 1 KATHRYN KOHRS CAMPBELL, *MAN CANNOT SPEAK FOR HER, A CRITICAL STUDY OF EARLY FEMINIST RHETORIC* 10-11 (1989).

89. See BERG, *supra* note 87, at 70-72.

90. For an analysis of the notions of femininity and domesticity that dominated in the nineteenth century, see generally Barbara Welter, *The Cult of True Womanhood*, 18 AMERICAN Q. 151 (1966). See also NANCY F. COTT, *THE BONDS OF WOMANHOOD: "WOMAN'S SPHERE" IN NEW ENGLAND, 1780-1835* (1977). As Berg points out, antebellum Americans seemed obsessed with women's "nature." See BERG, *supra* note 87, at 75-94.

of men.<sup>91</sup> All of these ideas were particularly influential with the emerging middle class, which often took the principle of feminine gentility to absurd extremes.<sup>92</sup>

Following these notions, "decent" women were not to appear in public without appropriate escort and were not personally to participate in public affairs, even when those affairs involved them directly.<sup>93</sup> For instance, in conformity with these mores, Mary Lyon was not able to appear at the trustees meeting involved in the founding of Mt. Holyoke,<sup>94</sup> Lucy Stone was asked to have a man read her valedictory address at her graduation at Oberlin,<sup>95</sup> and women were not to appear on public platforms to speak on the social issues of the day. Imagine then the revolutionary effect of Frances Wright's speaking tour and the activities of the early female abolitionists, who ventured forth to orate against slavery. Without their efforts, how would it ever have become possible for women to pursue professional careers that called for public activity and freedom of movement and speech? Abolition was essentially important then to women's early steps toward autonomy because it forced the issue of their participation in the public forum, and in so doing, planted the spark of a feminist consciousness in many women of the era.

When women like the Grimké sisters<sup>96</sup> and Abbey Kelly Foster<sup>97</sup> began to appear in public to speak in front of mixed audiences against slavery, it caused a sensation that brought the issue of women's confinement to the

---

91. The cult of true womanhood and the naive belief in natural virtue that supported it had no real place for the unprotective, dangerous man. See WELTER, *supra* note 21, at 21.

92. These absurdities were most clearly expressed in the clothing that women were required to wear, which gave them an abnormal physiognomy, seriously harmed their health, and made it very difficult for them to exercise or move normally. In response to the problems that female dress caused, dress reform was one of the goals of the early women's rights movement. See 1 HISTORY OF WOMAN SUFFRAGE, *supra* note 6, at 469-72.

93. See 1 CAMPBELL, *supra* note 88, at 10-12.

94. See FLEXNER, *supra* note 7, at 33-34.

95. See ALICE STONE BLACKWELL, LUCY STONE, PIONEER OF WOMEN'S RIGHTS 67-70 (1930).

96. For the definitive biography of the Grimké sisters, see GERDA LERNER, THE GRIMKÉ SISTERS FROM SOUTH CAROLINA: PIONEERS FOR WOMAN'S RIGHTS AND ABOLITION 283-84 (Schocken Books 1971) (1967) [hereinafter LERNER, THE GRIMKÉ SISTERS].

97. Abby Kelley, an Irish Quaker, was born in Providence, Rhode Island, on January 15, 1811. After resigning from teaching school at the age of twenty-six, she became actively involved in the abolition movement. While traveling for the cause in Pennsylvania, she met reformer Stephen S. Foster, who later became her husband. The Society of Friends provided her with the opportunity to speak against the evils of slavery. She was one of the first women to address both women and men in a public setting. See LILLIAN O'CONNOR, PIONEER WOMEN ORATORS: RHETORIC IN THE ANTE-BELLUM REFORM MOVEMENT 59-64 (1954).

domestic sphere into the open.<sup>98</sup> These women found that many would try to prevent them from publicly expressing their ideas by verbal intimidation and even physical violence.<sup>99</sup> They were also to be confronted with the fact that many abolition men refused to accord them the basic rights of freedom of speech and association.<sup>100</sup> This repudiation of women's entitlement to participate in public affairs goaded a small group of them to form their own movement organized around the issue of *female* emancipation. Once again, Elizabeth Cady Stanton was to be involved. In 1848, she, Lucretia Mott,<sup>101</sup> and a handful of others published a small notice asking women to come to a women's rights "convention" to be held in the New York town where Stanton lived.<sup>102</sup> The Seneca Falls meeting and the "Declaration of Sentiments"<sup>103</sup> it produced launched an emancipation crusade that developed into the woman suffrage movement and produced the Nineteenth Amendment almost seventy-five years later.

It is beyond the scope of this Article to give a detailed account of the

98. The powerful Congregationalist Ministers of Massachusetts took a public position against women's abolition activities in their famous *Pastoral Letter of the General Association of Massachusetts to the Congregational Churches Under Their Care* that was promulgated in 1837. See *Pastoral Letter*, in 1 HISTORY OF WOMAN SUFFRAGE, *supra* note 6, at 81.

99. When Angelina Grimké spoke before the national convention of American Antislavery Women, a mob threw stones and attempted to drown out the speakers. Later that night, they burned the building down. See WILLIAM SEVERN, *FREE BUT NOT EQUAL: HOW WOMEN WON THE RIGHT TO VOTE* 33-34 (1967). Violence was to be a problem even as late as 1860. See Letter from Susan B. Anthony to Martha Coffin Wright (Jan. 7, 1861) (available in Sophia Smith Collection, Garrison Family Papers, Smith College, Box 43, Folder 1068.31) (describing her escape from "the mob" at a riot in Buffalo in 1861).

100. See BLANCHE GLASSMAN HERSCH, *THE SLAVERY OF SEX, FEMINISTS-ABOLITIONISTS IN AMERICA* 269-70 (1978).

101. Lucretia Coffin was born on January 3, 1793, on the Island of Nantucket. At the age of eighteen, she married James Mott in a Quaker ceremony and moved to Philadelphia where the two lived until her death on November 11, 1880. A member of the Society of Friends, she labored for the abolition of slavery, the promotion of universal peace, and the elevation of women. In 1840, while traveling to England with her husband as a delegate to the World's Anti-Slavery Convention, she met Elizabeth Cady Stanton. After women were refused the right to take seats, the two began discussing plans for calling the first Woman's Rights Convention. Lucretia Mott was one of the most significant influences on Elizabeth Cady Stanton's emerging feminism. Subsequent to the success of Seneca Falls in 1848, Mott continued to commit her energies to the furtherance of women's rights, utilizing her gift of eloquence to persistently influence an ever widening audience. 1 HISTORY OF WOMAN SUFFRAGE, *supra* note 6, at 407-31.

102. Melder argues that the location of the meeting contributed to its significance in ways that have not been appreciated, because Seneca Falls was in the heart of a geographic area taken up with the reform spirit. See MELDER, *supra* note 65, at 146.

103. The full text of the Declaration is found in *The History of Woman Suffrage*, the multi-volume compilation of suffrage documents and related items that was compiled at the instigation of Elizabeth Cady Stanton. See 1 HISTORY OF WOMAN SUFFRAGE, *supra* note 6, at 67-74.



fascinating story of the woman suffrage crusade.<sup>104</sup> In the years before the Civil War, it constituted a broad-based effort for general female emancipation, involving a very few pioneering women and premised in the human rights philosophy that also spawned the radical strand of abolition.<sup>105</sup> By the start of the conflagration between the states, the voting right became the center of its focus, and latent disputes over women's nature, marriage, and the family began to surface among its adherents.<sup>106</sup> The Civil War and the social changes it created brought many more women to the suffrage cause than ever before, but the bitter experience of being excluded from the franchise when the Reconstruction Amendments were enacted<sup>107</sup> placed pressure on the movement that interacted with doctrinal disputes and led to a schism of the crusade's forces into two factions—one more radical, the other more traditional.<sup>108</sup> Little obvious progress toward the political rights for women was made in the period from 1875 to the turn of the century.<sup>109</sup> Nonetheless, from the inception of the women's rights crusade to the passage of the Nineteenth Amendment in 1920, the fortunes of America's professional women were inextricably bound up in the suffrage movement's goals, philosophies, activities, and achievements. There were many reasons for the close connection between suffragism and professionalism.

First, the women who wanted to pursue independent careers outside the home were confronted with forms of discrimination that the female emancipation

---

104. For a detailed description of the woman suffrage movement that connects it with contemporary constitutional theory on the voting right, see generally Lind, *supra* note 85. The first modern historical account written of the movement is Flexner's work, *Century of Struggle*, originally published in 1959. With the interest in women's history that modern feminism created, came new interest in the suffrage movement. General works describing it have been written by Mari Jo and Paul Buhle, Ellen DuBois, and others. See CONCISE HISTORY OF WOMEN SUFFRAGE, *supra* note 6; DuBois, *Feminism*, *supra* note 3.

105. There were practical and theoretical problems that this anti-slavery connection generated, however. See MELDER, *supra* note 65, at 153-56.

106. See CONCISE HISTORY OF WOMEN SUFFRAGE, *supra* note 6, at 89-90.

107. These were the Thirteenth, Fourteenth, and Fifteenth amendments. See U.S. CONST. amend. XIII (1865); amend. XIV (1868); amend. XV (1870). For a description of congressional policy during the Reconstruction period, see ERIC FONER, RECONSTRUCTION: AMERICA'S UNFINISHED REVOLUTION, 1863-1877, at 228-80 (1988). For analyses of how that policy affected the Reconstruction Amendments, see generally DAVID DONALD, THE POLITICS OF RECONSTRUCTION, 1863-1867 (1965); JOSEPH B. JAMES, THE FRAMING OF THE FOURTEENTH AMENDMENT (1956); WILLIAM GILLETTE, THE RIGHT TO VOTE, POLITICS AND THE PASSAGE OF THE FIFTEENTH AMENDMENT (1965).

108. See ISRAEL KUGLER, FROM LADIES TO WOMEN, THE ORGANIZED STRUGGLE FOR WOMAN'S RIGHTS IN THE RECONSTRUCTION ERA 69-78 (1987). See also CONCISE HISTORY OF WOMEN SUFFRAGE, *supra* note 6, at 19-20; see also Lind, *supra* note 85, at 77-80.

109. See Maud Wood Park, *Campaigning State by State, in VICTORY, HOW WOMEN WON IT, 1840-1940*, at 69-80 (1940).

movement was dedicated to ending.<sup>110</sup> Moreover, the motives and feelings causing women to become professionals were often the same motives and feelings generating the mass desire for women's rights.<sup>111</sup> In this way, the emancipation cause became a focal point around which people of similar interests could rally. It provided them with a network of friends, supporters, resources, and information that was invaluable to women seeking to escape the confines of a traditional existence by pursuing a career outside the home. In addition to generating a community of individuals determined to better the condition of females in the American society, the emancipation cause also gave its adherents practice with and exposure to political organization, mass communication, and legal and financial institutions. These experiences contributed to their increasing sophistication and knowledge.<sup>112</sup> Perhaps most importantly, it supplied them with a fund of ideas, an array of political philosophies to use to make sense of their own desires for professional achievement and recognition. From the abolition movement, women were exposed to the view that all persons, slave or free, were endowed with a right to human dignity, respect, and autonomy.<sup>113</sup> They took these ideas and applied them to their own situation to argue that women were more than wives and mothers—that they were individuals with a right to follow their own goals and dreams.<sup>114</sup> While this "individual rights" philosophy was challenged by an approach to female emancipation after the Civil War that premised claims to women's equality on more traditional grounds, the focus on personal accomplishment must have particularly resonated with the women who yearned to become doctors, academics, engineers, theologians, and attorneys.<sup>115</sup> In fact, even before the War, the new ideas of the times had propelled some very rare women to seek professional status in the face of almost overwhelming resistance.

### C. Pre-War Professionals

Almost from time immemorial, women had been midwives, but in the

---

110. This was especially motivating for professional women in the Progressive Era. See CHRISTINE A. LUNARDINI, *FROM EQUAL SUFFRAGE TO EQUAL RIGHTS, ALICE PAUL AND THE NATIONAL WOMEN'S PARTY, 1910-1928*, at 1-2, 17 (1986).

111. This was the yearning for autonomy. For a discussion of the role of the desire for autonomy in Stanton's thinking, see BETH M. WAGGENSPACK, *THE SEARCH FOR SELF SOVEREIGNTY, THE ORATORY OF ELIZABETH CADY STANTON* 81-87 (1989).

112. See *infra* text accompanying notes 201-15.

113. See SINCLAIR, *supra* note 32, at 43, 45, 47. But see DuBois, *Connection*, *supra* note 87, at 238.

114. See LUNARDINI, *supra* note 110, at 1-3, 17.

115. Kraditor dubbed the later, more conservative rhetoric of the movement as arguments from "expediency." See AILEEN S. KRADITOR, *THE IDEAS OF THE WOMAN SUFFRAGE MOVEMENT, 1890-1920* 51 (1965).

nineteenth century midwifery was "professionalized" and taken over by male doctors.<sup>116</sup> Perhaps because this natural outlet was closed to them, females demanded entry into the medical profession as early as the 1840s. The first woman who challenged the medical establishment and forced her way into medical school was Elizabeth Blackwell, a member of the famous family that produced social reformists in abundance.<sup>117</sup> Elizabeth Blackwell started her adult life as a teacher.<sup>118</sup> She hit upon the idea of pursuing medicine when a sick friend suggested that she might have avoided her terminal illness if she had been treated by a woman doctor.<sup>119</sup> Blackwell began to inquire about the possibility of admission to medical school in the middle 1840s, but she was turned down by all of the major urban teaching establishments. Finally, she was accepted by a rural medical college in Geneva, New York after the male students agreed that she could be admitted.<sup>120</sup> She used money saved from teaching to support herself in medical school.<sup>121</sup> After finishing her training in 1849, she left the United States to enter the *La Maternité* hospital in Paris for advanced study.<sup>122</sup> In 1852, her sister Emily followed her into medicine and eventually, after Elizabeth's return to America, they worked together.<sup>123</sup> Elizabeth Blackwell was also instrumental in the creation of the Sanitary Commission, which was very active during the Civil War.

In pursuing her medical degree, Elizabeth Blackwell faced formidable obstacles, intense prejudice, and severe hostility from male physicians.<sup>124</sup> She was driven out of the Sanitary by their bias and eventually had to set up her own

---

116. See Margaret Sery Young, *Quaker Women and Medical Practice in the Nineteenth Century*, in *THE INFLUENCE OF QUAKER WOMEN ON AMERICAN HISTORY, BIOGRAPHICAL STUDIES* 292-297 (1986) [hereinafter *INFLUENCE OF QUAKER WOMEN*].

117. This family moved to America from England. Elizabeth Blackwell became the first woman doctor in the United States. Her sister Emily became a physician as well. Her brother Henry Blackwell married Lucy Stone. Antoinette Brown became the wife of another brother, Sam. For biography of the remarkable Blackwell family, see generally ELINOR RICE HAYS, *THOSE EXTRAORDINARY BLACKWELLS* (1967).

118. See 2 WOODY, *supra* note 2, at 348.

119. See RACHEL BAKER, *THE FIRST WOMAN DOCTOR: THE STORY OF ELIZABETH BLACKWELL, M.D.* 33-35 (1944) (this is a charming children's book that contains a great deal of information about Blackwell). See also 1 NOTABLE AMERICAN WOMEN, *supra* note 29, at 161-64.

120. See Young, *supra* note 116, at 297. See also *THE WOMEN'S BOOK OF WORLD RECORDS AND ACHIEVEMENTS* 198 (Lois Decker O'Neill ed., 1979).

121. See 2 WOODY, *supra* note 2, at 349.

122. *Id.* at 350.

123. See 1 NOTABLE AMERICAN WOMEN, *supra* note 29, at 166.

124. See MARY ROTH WALSH, "DOCTORS WANTED: NO WOMEN NEED APPLY": SEXUAL BARRIERS IN THE MEDICAL PROFESSION 213 (1977).

clinic and teaching establishment to achieve any real professional success.<sup>125</sup> Other women who pursued medical degrees against these odds were Sarah Adamson, Ann Preston, Maria Zakrewska, Emily Blackwell, Lucy Sewall, Helen Morgan, and Helen Putnam Jacobi.<sup>126</sup> But, if only a handful of women went into medicine in the years surrounding the War, an even smaller number became theologians.

Women had particular difficulty being admitted to seminaries and becoming ordained, given the attitude toward females of most organized religions.<sup>127</sup> According to orthodox views, Eve's creation from Adam's rib and her participation in the Fall ordained that women take a subordinate position to men and militated against their entitlement to preach the gospel.<sup>128</sup> Not surprisingly, when women began to seek access to seminary training or to ordination, they were rejected, often with church officials citing Scripture to justify their treatment.<sup>129</sup> Nonetheless, a very few hardy souls, such as Antoinette Brown, persevered and sought out the more "liberal" faiths to support their activities. Like Elizabeth Blackwell, Brown was originally a teacher. Always interested in religion, she attended Oberlin, finishing her course of study in 1851<sup>130</sup> and being ordained thereafter in 1853. Brown was a women's rights activist, abolitionist, proponent of temperance, and just about the only woman ordained before the War.<sup>131</sup> Prior to her appearance, however, women had achieved some religious authority in the Quaker faith<sup>132</sup> and women's attempts to challenge the hierarchy of organized religion goes all the way back to the colonial period when Anne Hutchinson was expelled from the

---

125. See 1 NOTABLE AMERICAN WOMEN, *supra* note 29, at 166. Women faced such difficulty in being admitted into mainstream medical schools that they started their own. See VIRGINIA DRACHMAN, *HOSPITAL WITH A HEART: WOMEN DOCTORS AND THE PARADOX OF SEPARATISM AT THE NEW ENGLAND HOSPITAL FOR WOMEN AND CHILDREN, 1862-1969* (1984). See also Estelle Freedman, *Separatism as a Strategy: Female Institution Building and American Feminism, 1870-1930*, 5 FEMINIST STUD. 512 (1979).

126. See 2 WOODY, *supra* note 2, at 351-52.

127. See generally BETTY A. DEBERG, *UNGODLY WOMEN: GENDER AND THE FIRST WAVE OF AMERICAN FUNDAMENTALISM* (1990).

128. See Phyllis Bird, *Images of Women in the Old Testament*, in RELIGION AND SEXISM 41 (Rosemary Radford Reuther ed., 1974). See also GEORGIA ELMA HARKNESS, *WOMEN IN CHURCH AND SOCIETY: A HISTORICAL AND THEOLOGICAL INQUIRY* 143-50 (1971).

129. See HARKNESS, *supra* note 128, at 127-32.

130. Authorities at Oberlin were so reluctant for women to become ministers that when Brown finished her theological studies, she was not allowed to graduate and only received her formal degree when Oberlin changed its attitude almost 20 years later. See HERSCH, *supra* note 100, at 53.

131. For a biography of Brown, one of the most overlooked early feminists, see generally ELIZABETH CAZDEN, *ANTOINETTE BROWN BLACKWELL: A BIOGRAPHY* (1983). See also 1 NOTABLE AMERICAN WOMEN, *supra* note 29, at 158-61.

132. For a treatment of the religious base of Lucretia Mott's feminism, see Margaret H. Bacon, *Lucretia Mott, Holy Obedience and Human Liberation*, in INFLUENCE OF QUAKER WOMEN, *supra* note 116, at 203. Susan Anthony was a Quaker, as was Alice Paul. *Id.* at 223, 379.

Massachusetts Colony for preaching.<sup>133</sup> Feminists like Elizabeth Cady Stanton also believed that it was especially important for women to study theology, because the doctrines of patriarchal religion were so instrumental in molding public opinion against female emancipation.<sup>134</sup> In the later years of her life, Stanton wrote a major work on the Bible that proved extremely controversial.<sup>135</sup>

If women were almost non-existent among the ranks of doctors and theologians before the War, they were invisible in the legal profession.<sup>136</sup> One of the reasons for this was the decentralization of legal training at the time. Most attorneys were not graduates of law schools. Rather, they learned their skills by "reading" law in an office and then sitting for the bar examination or otherwise being admitted to practice by the courts of a state.<sup>137</sup> Even before the War, a number of women learned the law by studying it in their fathers', brothers', or husbands' law offices.<sup>138</sup> Some even "practiced" by rendering legal advice in the confines of private settings, pleading their own cases, or appearing in lower level courts that did not require licensure.<sup>139</sup> However, being formally admitted to the bar, independently taking paying clients, and advocating in the higher courts of a jurisdiction were unheard of things for women to do<sup>140</sup> because these functions were especially imbued with "male" characteristics,<sup>141</sup> and they were also closely associated with politics.<sup>142</sup> It seemed particularly unnatural and unfeminine for women to engage in legal combat in public.<sup>143</sup> More importantly, it was feared that if women were

133. See SEVERN, *supra* note 99, at 18-20.

134. See DuBois, CORRESPONDENCE, *supra* note 71, at 184. Stanton's opinion is shared by modern historians. See 1 CAMPBELL, *supra* note 88, at 37.

135. It was *The Woman's Bible*. It caused Stanton to be ousted from the Presidency of NAWSA. See 4 HISTORY OF WOMAN SUFFRAGE, *supra* note 6, at 75-77. See also DuBois, CORRESPONDENCE, *supra* note 71, at 188-90.

136. See KAREN BERGER MORELLO, *THE INVISIBLE BAR: THE WOMAN LAWYER IN AMERICA FROM 1638 TO THE PRESENT* 3-12 (1986).

137. See ROBERT STEVENS, *LAW SCHOOL: LEGAL EDUCATION IN AMERICA FROM THE 1850S TO THE 1980S*, at 24 (1983).

138. See Friedman, *supra* note 28, at 17-18. See also Virginia G. Drachman, *My "Partner" in Law and Life: Marriage in the Lives of Women Lawyers in the Late 19th- and Early 20th-Century America*, 14 LAW & SOC. INQUIRY 221 (1989).

139. See MORELLO, *supra* note 136, at 8-9.

140. See Virginia G. Drachman, *Entering the Male Domain: Women Lawyers in the Courtroom in Modern American History*, 77 MASS. L. REV. 44 (1992). See also MORELLO, *supra* note 136, at 173-81.

141. See Michael Grossberg, *Institutionalizing Masculinity: The Law as a Masculine Profession*, in MEANINGS FOR MANHOOD, CONSTRUCTIONS OF MASCULINITY IN VICTORIAN AMERICA 134 (Mark C. Carnes & Clyde Griffen eds., 1990).

142. See LINDA K. KERBER, *WOMEN OF THE REPUBLIC, INTELLECT AND IDEOLOGY IN REPUBLICAN AMERICA* 153 (1980).

143. See Grossberg, *supra* note 141, at 145.

allowed to become attorneys and officers of the court, they would also demand full political rights, such as voting, the opportunity to serve on juries, and the like. It was also feared that their legal training would propel some to seek elective office, giving rise to women legislators, judges, and even peace officers. Worries of these sorts were effective impediments to women's visible legal practice before the War,<sup>144</sup> and they continued to function as barriers to their formal licensure until well into the 1890s.<sup>145</sup>

As the examples of medicine, theology, and law suggest, the aftermath of the Civil War was a more fruitful time for women professionals than the era before the conflict.<sup>146</sup> In the War years, many women worked tirelessly for victory and, in so doing, became sophisticated about organizing, raising money, lobbying, and performing a myriad of functions that took them far beyond the family and household; after the conflict, they proved unwilling to return to the old ways.<sup>147</sup> Some embarked on careers in the expert occupations with dogged determination; others founded and promoted the large women's groups that arose in this period; still others became involved in the politics of woman suffrage or temperance.<sup>148</sup> Many sought university educations.<sup>149</sup> All of their activities moved women toward a more equal status in the aftermath of the Civil War. In particular, by their very existence, the new professional women of the post-War era acted as counterexamples to refute the claims that females were incapable of or uninterested in equality and so symbolized what women could become if they were allowed to be free.

### III. THE CIVIL WAR AND ITS AFTERMATH

War destabilizes a society. Although it brings hardship, violence, and sometimes holocaust, it also mixes up entrenched social systems to the advantage of those who have been on the fringes of power, wealth, and opportunity. The

---

144. See Barbara Allen Babcock, *Clara Shortridge Foltz: "First Woman,"* 28 VAL. U. L. REV. 1231, 1251 (1994) [hereinafter Babcock, "First Woman"].

145. In 1869, Myra Bradwell was denied admission to the Illinois bar and fought her denial all the way to the United States Supreme Court, where the Justices used arguments premised both on the doctrine of coverture and the domestic sphere to deny her the right to practice her profession. This injustice was not rectified until 1893. See *Bradwell v. Illinois*, 83 U.S. (16 Wall.) 442, 446 (1873).

146. This was especially reflected in the intense increase in women's desire for college experience in the post-bellum period. See JOYCE ANTLE, *THE EDUCATED WOMAN AND PROFESSIONALIZATION: THE STRUGGLE FOR A NEW FEMININE IDENTITY 1890-1920*, at 23-26 (1987). See also 2 WOODY, *supra* note 2, at 351-58.

147. See CLINTON, *supra* note 25, at 80-92. See also CONCISE HISTORY OF WOMEN SUFFRAGE, *supra* note 6, at 193.

148. See FLEXNER, *supra* note 7, at 179-92.

149. See SOLOMON, *supra* note 20, at 43.

Civil War functioned in this way for women.<sup>150</sup> In the years before the conflict, only a few were involved in the female emancipation movement, pushing the boundaries of feminine existence.<sup>151</sup> But with the War, large numbers of women were drawn from the narrow confines of the family into public activity.<sup>152</sup> After the hostility was over, it was impossible to completely force them back into the old modes of the traditional gender system.<sup>153</sup> The changes wrought in American society by the Civil War enabled significant numbers of women to pursue professional status for the first time.<sup>154</sup>

#### A. War and American Gender Roles

Two factors operated during the Civil War to break down customary gender roles in a way that contributed to the rise of professional women. First, because women were needed to fill the void created by men's absence during the struggle, many experiences, opportunities, and forms of work closed to them in the past suddenly became open. Women plowed the family fields, worked in the family store, took positions in factories previously held only by men, and handled the family money.<sup>155</sup> Many became involved in organizing public activity to raise funds for the war effort. Some worked to establish logistical supplies of food, clothing, and medicine for the army.<sup>156</sup> Others went to the front and worked in the new nursing profession promoted by Dorothea Dix and Clara Barton.<sup>157</sup> The government even began hiring women to perform clerical duties.<sup>158</sup> Second, because it became patriotic for women to be involved in war work outside the home,<sup>159</sup> public perception of their proper role began to change, and it became commonplace for them to come and go to perform patriotic tasks, to appear at public gatherings, and even to speak in public.<sup>160</sup> Many states took steps to further liberalize the legal rights of

---

150. See generally JEAN BETHKE ELSHTAIN, *WOMEN AND WAR* (1987) (analyzing conceptions of manhood and womanhood invoked in the intricately intertwined notions of war and peace). Some argue that women's gains made during wartime have been more apparent than real. See generally LEILA J. RUPP, *MOBILIZING WOMEN* (1978) (arguing that women kept to traditional roles even as they took on new tasks in wartime).

151. See CONCISE HISTORY OF WOMEN SUFFRAGE, *supra* note 6, at 225.

152. See 2 HISTORY OF WOMAN SUFFRAGE, *supra* note 6, at 1-3.

153. See Mary Foulke Morrisson, "That Word Male," in VICTORY, HOW WOMEN WON IT, 1840-1940, at 49 (1940).

154. See 2 WOODY, *supra* note 2, at 8, 351.

155. For the definitive work chronicling the effect of the Civil War on women, see generally MASSEY, *supra* note 52. But see WILLIAM L. O'NEILL, *THE RISE AND FALL OF FEMINISM IN AMERICA 15-16* (1969) (arguing that the impact of the War on women's condition was overrated).

156. See MASSEY, *supra* note 52, at 32-35.

157. See 2 HISTORY OF WOMAN SUFFRAGE, *supra* note 6, at 12-13, 23-26.

158. See O'NEILL, *supra* note 155, at 15-16.

159. See CONCISE HISTORY OF WOMEN SUFFRAGE, *supra* note 6, at 195-97.

160. See FLEXNER, *supra* note 7, at 107-08.

women in this era, reflecting the changing views of women the War engendered.<sup>161</sup> The combination of these influences brought thousands of women into the public domain for the first time, and activists in the female emancipation movement resolved to capture their war fervor and reorient it to the women's rights cause.<sup>162</sup>

The two most important wartime organizations involving women were the Sanitary Commission (Sanitary) and the Women's National Loyal League (Loyal League).<sup>163</sup> The Sanitary became famous for limiting the casualties of the Northern Army.<sup>164</sup> The Loyal League was founded by Elizabeth Cady Stanton and Susan B. Anthony to harness the energies of newly active women, not just for war, but also for their own emancipation.<sup>165</sup> Many activists were involved in both, and the Loyal League made it its business to support the work of the Sanitary Commission.<sup>166</sup> The Sanitary came into existence as a result of women's spontaneous efforts to organize groups to support the war effort. According to *The History of Woman Suffrage*,<sup>167</sup> Dr. Elizabeth Blackwell returned from Europe infused with the nursing theories of Florence Nightingale.<sup>168</sup> She called an informal meeting that snowballed into the creation of local women's groups across the country dedicated to improving the health of the troops.<sup>169</sup> After receiving appeals for a formal association of these groups with the government, the Secretary of War established the Sanitary Commission in June of 1861.<sup>170</sup> Eventually, some fifty million dollars were raised to support its efforts, and out of its activities, modern nursing and military medical services were born.<sup>171</sup>

The Loyal League was more political. By 1860, it had become clear to the leaders of the women's rights movement that impending war was capturing public attention and directing it away from the question of women's rights and

---

161. The changes in the property laws affecting married women accelerated in this period. See WARBASSE, *supra* note 66, at 276.

162. See CONCISE HISTORY OF WOMEN SUFFRAGE, *supra* note 6, at 193.

163. *Id.*; 2 HISTORY OF WOMAN SUFFRAGE, *supra* note 6, at 13.

164. See MASSEY, *supra* note 52, at 48-50, 54. See also 2 HISTORY OF WOMAN SUFFRAGE, *supra* note 6, at 13-18.

165. See 2 HISTORY OF WOMAN SUFFRAGE, *supra* note 6, at 50-53. The League's association with abolition and women's rights was controversial and led to a debate over the organization's orientation at its first gathering. *Id.* at 53-66.

166. See FLEXNER, *supra* note 7, at 111-12.

167. See 2 HISTORY OF WOMAN SUFFRAGE, *supra* note 6, at 15.

168. *Id.*

169. *Id.*

170. *Id.* at 16.

171. See FLEXNER, *supra* note 7, at 107. For a detailed account of the work of the Sanitary, see generally MARJORIE LATTA BARSTOW GREENBIE, LINCOLN'S DAUGHTERS OF MERCY (1944).



status.<sup>172</sup> As a result, the leaders stopped the yearly women's rights conventions, but when the conflict broke out in earnest, Stanton and Anthony decided to organize a group ostensibly dedicated to supporting the war effort, but also designed to connect women's rights with their war work.<sup>173</sup> One of the most important functions of the Loyal League was to push for emancipation of the slaves and to work for the enactment of the Thirteenth Amendment, which would enshrine emancipation in the Constitution.<sup>174</sup> In this way, it brought women into political activity as never before and connected their efforts with those of the dominant Republican Party.<sup>175</sup> The League eventually had 5000 members and was the first "feminist" organization to which many women belonged.<sup>176</sup>

When the War was over, the thousands of women who had tasted freedom in the novel experiences opened to them by the social dislocation of the conflict were faced with the choice of returning to their traditional role and limiting their activities to the domestic sphere or pushing the boundaries of orthodox feminine existence. Many women chose the latter course, and the method they used was to seek to become professionals in callings previously reserved for men.

#### *B. Women's Activities in Post-Bellum America*

In 1860, when the conflict between the states began, there were only a handful of American females in traditionally "male" professions. In contrast, by 1890 and the dawn of the Progressive Age, there were some rare women who practiced every expert occupation.<sup>177</sup> By this later date, they also had access to advanced education through the many women's colleges and coeducational universities established in the period, and more women worked

---

172. See CONCISE HISTORY OF WOMEN SUFFRAGE, *supra* note 6, at 154, 193. See also 2 HISTORY OF WOMAN SUFFRAGE, *supra* note 6, at 50.

173. See Memoranda from Elizabeth Cady Stanton & Susan B. Anthony to Loyal Women of the Nation (May 14, 1863), in CONCISE HISTORY OF WOMEN SUFFRAGE, *supra* note 6, at 198; see also 2 HISTORY OF WOMAN SUFFRAGE, *supra* note 6, at 193-94 (describing the two principal events which lead to the creation of the League).

174. First women in the League lobbied for emancipation of the slaves, arguing that the bloodshed of the War was senseless if it was not expended for a higher moral goal than preventing secession. After Lincoln signed the Emancipation Proclamation, they pushed to have emancipation extended to all states in the Union, not just those of the Confederacy. In 1863 in the closing days of the War, it was they who were given the task, by leading Radical Republicans, of collecting hundreds of thousands of signatures to be presented to Congress to support the proposed Thirteenth Amendment. See CONCISE HISTORY OF WOMEN SUFFRAGE, *supra* note 6, at 15, 193-94. See also DuBois, *Feminism*, *supra* note 3, at 53-55.

175. See 2 HISTORY OF WOMAN SUFFRAGE, *supra* note 6, at 50-54.

176. See FLEXNER, *supra* note 7, at 110.

177. See 2 WOODY, *supra* note 2, at 16-17.

outside the home in teaching, nursing, or in non-professional occupations.<sup>178</sup> In addition, many females who did not work for pay were deeply involved in social reform or the many women's organizations that were founded during this epoch.<sup>179</sup> In this way, the post-Civil War era saw the fuller expression of the changes set in motion by the conflict that began in 1860. In this era, the symbolic meaning of women professionals became of greater importance and women with special expertise used their knowledge to move the female emancipation movement ahead. Of all of the changes in society that occurred from 1865 to 1890, rising opportunities to obtain college training and the emergence of significant women's organizations had the largest impact on American professional women.

Before the War, only two institutions gave women serious advanced training—Oberlin and Mount Holyoke.<sup>180</sup> After the cessation of hostilities, a number of private institutions arose, dedicated to higher education for women. In 1865, Vassar College was founded. With the appearance of Smith and Wellesley Colleges in 1875, women had entrée to two more institutions of higher education truly on par with men's colleges.<sup>181</sup> Bryn Mawr joined the ranks of women colleges in 1885.<sup>182</sup> In 1874, the "Harvard Annex" opened, in which Harvard professors gave separate courses to female students, eventually developing into Radcliffe College.<sup>183</sup> With the appearance of these schools, the advantages—personal, social, and professional—of higher education were secured to women as a group, or at least to middle- and upper-class women.<sup>184</sup> These institutions produced a disproportionate number of female academics, professionals, scientists, artists, politicians, and social activists who came to prominence in the Progressive Era.<sup>185</sup> By 1910, there were some 73,000

---

178. One of the most interesting features of this increase in working women is the dramatic shift in the women involved in white-collar jobs. In 1870, half of the females who worked outside the home were servants. By 1920, one-fifth of working women were in middle-class occupations such as teaching or clerical work. See Scott, *supra* note 17, at 399.

179. Women's charity work proved an important bridge to independence, in part because it was professionalized in the discipline of social work, allowing women to develop "a competence that legitimated their desire for managerial autonomy." See Michelle Perrot, *Stepping Out*, in 4 A HISTORY OF WOMEN, *supra* note 17, at 455. For a discussion connecting the phenomenon of women's clubs with the growth of feminism, see generally KAREN J. BLAIR, *THE CLUBWOMAN AS FEMINIST: TRUE WOMANHOOD REDEFINED, 1868-1914* (1980).

180. See *supra* text accompanying notes 42-46.

181. See CLINTON, *supra* note 25, at 132.

182. *Id.*

183. The "Seven Sisters" colleges were Radcliffe, Wellesley, Smith, Mount Holyoke, Vassar, Bryn Mawr, and Barnard. See CLINTON, *supra* note 25, at 132; see also 2 WOODY, *supra* note 2, at 305.

184. See SOLOMON, *supra* note 20, at 62-77.

185. *Id.*

women who had attended college in America.<sup>186</sup>

Educational opportunity did not come to women just through the auspices of private institutions started by personal fortunes. The aftermath of the Civil War saw the birth of America's state colleges and universities, and their presence vastly increased the opportunity of average people to obtain a university degree, both male and female.<sup>187</sup> Fortunately for women, most of these institutions were to be coeducational. Once again, teaching pointed the way, because normal schools were some of the first institutions of higher learning started by states and funded with public tax monies. Their enrollment of large numbers of women set the stage for females to move into the mainstream of publicly financed universities and colleges.<sup>188</sup> It was especially important for females to be included in the growth of state-supported higher education, because their presence as undergraduates in these institutions increased the possibility that they might find acceptance in state-funded professional schools of medicine, law, and the like.<sup>189</sup> While an elitist private institution such as the Harvard Law School could deny admission to women as late as 1950,<sup>190</sup> state schools such as the University of Michigan, the University of Wisconsin, and the University of Iowa admitted small numbers of exceptionally qualified women to their graduate and professional schools even before the turn of the century.<sup>191</sup>

As beneficial as higher education was, most women did not go to college in the decades after the War, choosing instead to direct their time and talents to the many new organizations and social movements that arose in the period. This was the era when the Young Women's Christian Association was started; the Women's Christian Temperance Union became successful;<sup>192</sup> the Federation of Women's Clubs was organized; and a myriad of other groups, large and small, local and national, arose to tap the skills and resources women had

---

186. See CLINTON, *supra* note 25, at 135.

187. See SOLOMON, *supra* note 20, at 62-77.

188. Woody credits the presence of women in normal schools, the need for adequately trained teachers, the need to save money, and the scarcity of men during the Civil War as factors jointly interacting to promote the cause of coeducation in state supported institutions. See 2 WOODY, *supra* note 2, at 239-40.

189. It is not an accident that the University of Michigan, one of the first state universities to admit women, was also one of the institutions of higher education that first allowed them in its law and medical schools. For a treatment of the impact of women on the University and vice versa, see generally DOROTHY DIES MCGUIGAN, *A DANGEROUS EXPERIMENT: 100 YEARS OF WOMEN AT THE UNIVERSITY OF MICHIGAN* (1970).

190. See STEVENS, *supra* note 137, at 84.

191. See SOLOMON, *supra* note 20, at 129-30.

192. On the significance of the temperance movement for women, see generally RUTH BORDIN, *WOMEN AND TEMPERANCE: THE QUEST FOR POWER AND LIBERTY, 1873-1900* (1990).

developed through their war experience.<sup>193</sup> The two most important women's organizations, ones which really reflected two major social movements, were those involved with temperance and woman suffrage. Both of these groups would have many professional women as members, and women's experience with each would contribute to a rising appreciation of the benefits of professional expertise.

In 1874, the Women's Christian Temperance Union (WCTU) was founded. Eventually, it boasted a membership of almost two million and became the largest and most respectable women's organization of the era.<sup>194</sup> When Frances Willard succeeded to the WCTU presidency in 1879, she enlisted the organization in the suffrage cause.<sup>195</sup> Willard knew that many women were put off by the radicalism of suffrage, but that they were also unwilling to devote themselves exclusively to home and family after their experiences with public participation during the Civil War. She believed they might become involved in the WCTU,<sup>196</sup> because the purposes of the temperance movement linked popular notions about women's nature and separate sphere to political goals in an especially concrete way.<sup>197</sup> Women could easily see the threat that a drunken husband posed to home and family.<sup>198</sup> Temperance women could tell themselves and others that their public activism against alcohol abuse was an extension of the desires to protect home and family and so was not in conflict

193. See BLAIR, *supra* note 179, at 7.

194. See Deborah P. Clifford, *The Women's War Against Rum*, 52 VT. HIST. 141, 146-48 (1984).

195. Much of the connection between the WCTU and suffrage organizations was a result of the special personality and contribution of Frances Willard. She was a visionary who saw the connection between temperance and many other social phenomena. Later in her life she became attracted to socialism and saw alcohol abuse more as a symptom than a cause of injustice. When she died at the turn of the century, more conservative women who had always been unhappy over the alliance between the WCTU and suffrage forces steered it away from official endorsement of the women's vote. This turn to orthodoxy occasioned by her death reflected a general conservative shift in the society of the 1890s. See generally 3 NOTABLE AMERICAN WOMEN, *supra* note 29, at 613-18.

196. Its founder, Annie Wittenmeyer, had been involved in the Civil War Sanitary Commission. See FLEXNER, *supra* note 7, at 182.

197. Women's special role as protector of home and hearth and women's activities in temperance as a moral crusade were intertwined themes in one of Wittenmeyer's early addresses:

We have been called by the spirit of the Lord to lead the women of the world in a great and difficult reform movement . . . . The drink system is the common enemy of women the world over and the plans we inaugurate, will be eagerly sought after by the women of all civilized nations . . . .

See President's Address, Minutes of the Woman's Christian Temperance Union, Annual Meeting (1877), in JUDITH PAPACHRISTOU, *WOMEN TOGETHER: A HISTORY IN DOCUMENTS OF THE WOMEN'S MOVEMENT IN THE UNITED STATES* 90 (1976).

198. Lucy Stone said that more women turned out for the WCTU than for suffrage, because "it is so much easier to see a drunkard than a principle." See WOMAN'S J., Nov. 21, 1891, reprinted in PAPACHRISTOU, *supra* note 197, at 96.

with common conceptions of what it meant to be womanly.<sup>199</sup> Probably due to these attributes, for the first time, a woman's organization made substantial headway in getting mainstream middle-class women to join.<sup>200</sup>

As described previously, the woman suffrage movement developed from the female emancipation effort that was initiated by the Seneca Falls Declaration in 1848. By the close of the War, women like Stanton, Anthony, Stone, and Brown had come to the conclusion that without political rights, and especially without the right to vote, women were hampered in their efforts to achieve real equality in the American society, because they did not have enough direct leverage over elected officials to force changes in the laws to end discrimination against them.<sup>201</sup> Reconstruction brought this lesson home in an exceptionally brutal fashion when the Republican Party intentionally omitted women from the landmark post-War constitutional amendments that gave political rights to freed black males.<sup>202</sup> The bitter experience of being excluded from the right to vote, while black males were given that privilege (at least nominally), underscored the importance of political clout to female activists. But although those who had been involved in the crusade to change women's condition before the War agreed that the franchise was key to their efforts, they could not agree on the strategy to be used to obtain it, nor on the ideology that should be employed to justify it. This disagreement was made more severe by a general turn toward reaction in the American society that began with the end of Reconstruction and intensified in the 1880s and 1890s.

The human rights philosophy premised on the moral equality of all human beings that had been so influential in the antebellum era, and so profoundly affected more radical activists like Stanton and Anthony, had always existed in uneasy relation with views that exaggerated the differences between men and

---

199. See *Woman's Relation to Drunkenness*, WOMAN'S J., Dec. 20, 1873, at 403.

200. See PAPACHRISTOU, *supra* note 197, at 90.

By 1879, the WCTU was actively supporting the ballot for women as a tool to control the negative social effects of liquor. The call for "Home Protection" stood for the proposition that women should have the vote in order to effectuate laws designed to control or prohibit alcohol in their communities. As Frances Willard stated in a manual on home protection:

[W]e are but *transferring the crusade from the saloon to the sources whence the saloon derives its guaranties and safeguards*. Surely this does not change our work from sacred to secular! Surely that is a short-sighted view which says: "It was womanly to plead with saloon-keepers not to sell, but it is unwomanly to plead with law-makers not to legalize the sale and give us power to prevent it."

PAPACHRISTOU, *supra* note 197, at 92. Home protection had been foreshadowed in 1877, when the WCTU officially backed the municipal ballot for women as a means to exploit the local option, whereby cities and counties could choose to go dry. See *Women's National Temperance Convention*, WOMAN'S J., Dec. 4, 1875, at 38.

201. See KRADITOR, *supra* note 115, at 219.

202. See DuBois, *Feminism*, *supra* note 3, at 59-63.

women and presented females as especially nurturing, altruistic, spiritual, and pure.<sup>203</sup> Both ideologies were variously appropriated by women seeking to improve their condition, even women attempting to gain professional status. After all, women teachers had been justified by claims that females were particularly suited to nurture the minds of young children,<sup>204</sup> women doctors and nurses by the notion that females were natural caregivers,<sup>205</sup> women theologians by the idea that females possessed a spiritual dimension unknown to men.<sup>206</sup> These rationales were as much at work in the thinking of those seeking to improve the status of women as was the idea that women had a moral claim to be treated as independent individuals.<sup>207</sup> Thus, the post-War era presented a kind of paradox. Although more women were involved in activities outside their homes than ever before, more of them had access to education and paid work, and more were sensitized to the need for women's rights, there was less unanimity in the organized movement as a whole, and a significant number of activists resorted to conservative and traditional arguments to justify giving women greater political rights.<sup>208</sup> This was reflected in a schism in the women's rights movement that occurred in 1869, immediately after the disappointment of Reconstruction, and continued until 1890.<sup>209</sup> This schism resulted in two national suffrage organizations, each with a different strategy and philosophy, but both having many adherents. The first was the National Woman Suffrage Association (NWSA) founded by Stanton and Anthony. The second was the American Women's Suffrage Association (AWSA), backed by Stone and Brown.

The NWSA was devoted to the total emancipation of women—in employment, in education, in religion, and in the family.<sup>210</sup> It focused its political strategy for achieving that emancipation on the vote and pursued a federal constitutional amendment to bring it about.<sup>211</sup> Its philosophical orientation was on human rights and individual liberty, but in the days after Reconstruction, it developed an opportunistic orientation as an expedient to appeal to the political interests of the ruling elite in an effort to enlist them in the suffrage cause.<sup>212</sup> The AWSA's members had always been ambivalent

203. See KRADITOR, *supra* note 115, at 44.

204. See CLINTON, *supra* note 25, at 122.

205. See DOROTHY SCHNEIDER & CARL J. SCHNEIDER, *AMERICAN WOMEN IN THE PROGRESSIVE ERA, 1900-1920*, at 80-85 (1993).

206. But, from the perspective of traditionalists, women's spirituality was to be confined to the family. See DEBERG, *supra* note 127, at 59-74.

207. See KRADITOR, *supra* note 115, at 43-52.

208. See FLEXNER, *supra* note 7, at 217.

209. See WAGGENSPACK, *supra* note 111, at 30. See also GRIFFITH, *supra* note 5, at 137.

210. See DuBois, *Feminism*, *supra* note 3, at 192.

211. See GRIFFITH, *supra* note 5, at 137.

212. See Lind, *supra* note 85.

about the credo of individual rights and attempted to premise their arguments for women's emancipation on traditional views of the moral superiority of women, thus justifying a role for the feminine in politics, industry, and the professions.<sup>213</sup> Moreover, the AWSA believed that the best strategy for achieving voting rights for women was to attempt to have them approved by state referenda.<sup>214</sup> Like the NWSA, the leaders of the AWSA also adopted conservative arguments, appealing to racial, class, and ethnic interests to move the suffrage cause ahead. But while the rift between both groups may have delayed the successful conclusion of the suffrage cause into the twentieth century, the efforts of both groups kept the issue of women's rights alive, attracted increasing numbers of adherents, educated an entire generation of young American women, and served as support for the professional women who emerged in the post-War era.<sup>215</sup> Many prominent professional women of this period were suffragists, and the achievements of America's learned and expert females were publicized and used by both of the suffrage organizations to symbolize the capacity of American women for a role in their government.<sup>216</sup> But who were these emerging professional women, active in the aftermath of the War in suffrage and a myriad of other causes? How were they achieving their professional training and experience? Once again, a look at law, medicine, and other expert occupations provides a clue.

The women who sought to become visible in the practice of law after the War were those who had been inspired by the freedom that the Civil War provided.<sup>217</sup> Many were actively involved in the women's rights and temperance movements, and a very significant number of them came from the ranks of teachers.<sup>218</sup> At the close of hostilities, they sought entry into the legal profession both by studying law in private offices and by seeking admission to the new law schools that were springing up to institutionalize legal training in the period.<sup>219</sup> In 1869, Belle A. Mansfield was admitted to the bar of Iowa

---

213. See GRIFFITH, *supra* note 5, at 140-41.

214. See CLINTON, *supra* note 25, at 94.

215. See FLEXNER, *supra* note 7, at 216-25.

216. This was certainly true of early women lawyers and doctors. See CLINTON, *supra* note 25, at 138-40.

217. See CLINTON, *supra* note 25, at 138-41.

218. Approximately 25% of the women pursuing legal careers after the War had first been teachers. See VIRGINIA G. DRACHMAN, *WOMAN LAWYERS AND THE ORIGINS OF PROFESSIONAL IDENTITY IN AMERICA* 21 (1993).

219. The rise of law schools can be associated with the increasing power of lawyers in the era of industrialization and the attempts to raise standards for admission to the practice as a way of bolstering consumer confidence and to limit the numbers of lawyers. Enrollment in law schools picked up when having a diploma gave one an easier route to bar admission. Tightened standards also had antidemocratic effects. See STEVENS, *supra* note 137, at 22-25, 92.

after studying in a home office.<sup>220</sup> That year was a watershed for women; some seven females either sought admission to the bar or attempted to gain admission to law schools.<sup>221</sup> That was the date when St. Louis Law School (now Washington University in St. Louis) began granting law degrees regardless of gender<sup>222</sup> and the year when Myra Bradwell took and passed the Illinois bar after having "read" the law in her husband's office.<sup>223</sup> In 1870, Ada Kepley was the first woman in the country to obtain a law degree, graduating from Union College of Law, which later became Northwestern's law school.<sup>224</sup> The University of Iowa began admitting women in 1869.<sup>225</sup> The University of Michigan followed suit in 1870, and Boston University opened its doors to women in 1872.<sup>226</sup> While these events indicated the beginning of women's entry into the practice of law, there was serious resistance to their inclusion in the profession.

While some schools began allowing very limited numbers of women to enroll in their law programs, most did not. In fact, the majority of elite graduate schools steadfastly refused to admit women until after the turn of the century.<sup>227</sup> The law faculties of Harvard and Georgetown rebelled at the suggestion of allowing women students,<sup>228</sup> and Clara Foltz had to sue Hastings for admission to its course of study.<sup>229</sup> The unwillingness of most universities

---

220. See *Introduction* to DOROTHY THOMAS, *WOMEN LAWYERS IN THE UNITED STATES* at vii (1957).

221. *Id.*

222. See SOLOMON, *supra* note 20, at 131.

223. See FRIEDMAN, *supra* note 28, at 18.

224. Like Bradwell, Kepley first studied law under the tutelage of her husband in his law office, but later enrolled in Union's program. When Kepley was denied admission to the Illinois bar after graduating and passing her examination, she drafted legislation to prohibit sex discrimination in the professions, which was passed. She was admitted to the bar in 1881 when she applied again. Sadly, after her husband's death, she was unable to support herself as an attorney and died a pauper in 1925. See DRACHMAN, *supra* note 218, at 235-39.

225. See STEVENS, *supra* note 137, at 82.

226. *Id.*

227. See SOLOMON, *supra* note 20, at 131. When Alice Ruth Jordan applied for admission to the Yale Law School, arguing that the school's catalogue did not limit enrollment to men, such a limit was quickly included. See STEVENS, *supra* note 137, at 131.

228. See STEVENS, *supra* note 137, at 83. See also Isabella Mary Petters, *The Legal Education of Women*, 38 J. SOC. SCI. 240 (1900).

229. Women who sued for admission to the Hastings Law School were able to successfully argue that since women were undergraduates of the University of California and since Hastings was a part of that system, they ought to be entitled to enroll as other undergraduates were. This graphically illustrates the connection between coeducation at the undergraduate level and entrée into professional schools. See MORELLO, *supra* note 136, at 59-64. For more information about the life of Clara Shortridge Foltz, see Babcock, "First Woman", *supra* note 144; Barbara Allen Babcock, *Reconstructing the Person: The Case of Clara Shortridge Foltz*, in *REVEALING LIVES: AUTOBIOGRAPHY, BIOGRAPHY AND GENDER* 131-40 (Susan Groag Bell & Marilyn Yalom eds., 1990); Barbara Allen Babcock, *Clara Shortridge Foltz: Constitution-Maker*, 66 IND. L.J. 849



to open their law programs to females led to the creation of the Portia Law School in Boston in 1915, an institution devoted exclusively to the training of female attorneys.<sup>230</sup> Even when women chose to go the route of apprenticeship and study law in a private office, they were frequently refused a license to practice by state authorities. This phenomenon led to Myra Bradwell's exclusion from entry to the Illinois bar,<sup>231</sup> and the Supreme Court upheld that exclusion as a prerogative of states untouched by the new Fourteenth Amendment.<sup>232</sup> When women did run this formidable gauntlet, it was difficult for them to find jobs with firms or the government. It was also difficult for them to attract clients.<sup>233</sup> Nonetheless, slow steady progress was made. The census reported less than ten women attorneys in 1870; this rose to seventy-five in 1890, and to slightly over 1000 in 1900.<sup>234</sup> By 1920, no state retained gender restrictions on admission to practice.<sup>235</sup> Consequently, in the early decades of the new century, women with access to sophisticated legal training—such as Crystal Eastman, Florence Kelley, Gail Laughlin, and Alice Paul—existed and provided critical leadership to the woman suffrage movement.

Perhaps because of the inroads made before the Civil War, women made real progress in becoming doctors in its aftermath. In effect, the post-War women doctors made up the second generation of women physicians. Moreover, the phenomenon of women's separate medical schools, fostered on the model of Elizabeth Blackwell's, provided significant opportunity for their medical education. By 1880, there were almost 2500 female physicians in the United States.<sup>236</sup> By 1910, women made up six percent of doctors nationwide.<sup>237</sup> But in the 1890s, when medical schools were subject to greater regulation and standards for professional licensure were raised, many of the alternative medical schools fell by the wayside.<sup>238</sup> Although women had theoretic access to the orthodox medical school classes of "regular" institutions, overall there were fewer slots for them, and the number of female physicians began to decline.<sup>239</sup> This decline was fueled by the further masculinization of medicine and the lack of internships and residencies that accepted women.<sup>240</sup>

---

(1991).

230. See SOLOMON, *supra* note 20, at 131.

231. See FRIEDMAN, *supra* note 28, at 18.

232. *Bradwell v. Illinois*, 83 U.S. (16 Wall.) 130 (1872).

233. See SOLOMON, *supra* note 20, at 131.

234. See U.S. DEPT. OF THE INTERIOR, BUREAU OF CENSUS, *WOMEN IN GAINFUL OCCUPATIONS 1870-1970*, at 42 (1979).

235. See SOLOMON, *supra* note 20, at 131.

236. See WALSH, *supra* note 124, at 186.

237. See SOLOMON, *supra* note 20, at 132.

238. See CLINTON, *supra* note 25, at 144-45.

239. See WALSH, *supra* note 124, at 191-92.

240. See 2 WOODY, *supra* note 2, at 361.

Women would not constitute a significant percentage of doctors again until the 1970s.

In the "male" professions of law and medicine, women encountered strenuous resistance to their inclusion. In contrast, callings where no such resistance existed enjoyed large increases in the number of females pursuing them. Thus, in 1890, the number of female educators in the country reached more than 240,000,<sup>241</sup> although women were confined to the lower-status and lower-paying positions of public school instructors, not being allowed to move into administration<sup>242</sup> and making slow progress in becoming university professors.<sup>243</sup> Nursing attracted almost 80,000 women to it as an occupation by 1910.<sup>244</sup> By the first decade of the new century, significant numbers of females were social workers and librarians.<sup>245</sup> These facts demonstrate a two-fold pattern—women with an interest in work outside the home were being funneled into callings that did not compete with men's desires for access to elite professions or conflict with women's sphere ideology. At the same time, women both changed and enlarged what counted as women's sphere in such a way as to give themselves access to professional training and expertise.<sup>246</sup> At the turn of the century, this phenomenon expressed itself in an innovative way—women would professionalize the myriad of charitable and volunteer activities so long thought to be their sole duty by creating the new expert occupations of social work and public health nursing.<sup>247</sup> When these patterns are related to the experience of women as teachers, it can be seen that women often used their first entrée into a "womanly" profession as a stepping stone to the masculine elite callings.<sup>248</sup>

The experience of women's attempts to break into law and medicine, seen against the backdrop of their success in teaching, nursing, social work, and similar callings, shows a number of additional interesting features. Each generation of women built upon the advances of their predecessors, but women's progress as a group in a profession could still be lost. Moreover, token entrée into professional coeducation, while symbolically important, did not necessarily mean professional success, especially when seen against the backdrop of other forms of discrimination against women. The difficulty that professional women faced in becoming successful in law and medicine and being mainstreamed into

---

241. *Id.* at 381.

242. See SOLOMON, *supra* note 20, at 32-33, 127-28.

243. *Id.* at 133-38.

244. See 2 WOODY, *supra* note 2, at 381.

245. See SCHNEIDER & SCHNEIDER, *supra* note 205, at 80-85.

246. See 2 WOODY, *supra* note 2, at 17.

247. SCHNEIDER & SCHNEIDER, *supra* note 205, at 79-83.

248. Drachman noticed this relation in the characteristics of women lawyers who founded the Equity Club. See DRACHMAN, *supra* note 218, at 21.

their disparate callings underlined the connection between gender discrimination against females in general and the situation of those with advanced education and expert training—all women were still second-class citizens in the American society, without full political rights, with limited civil rights, and an inferior social status that no amount of hard work, intelligence, and professional training could completely overcome. This realization galvanized the educated, professional women of the turn of the century into renewed activism for female emancipation. They joined with thousands of uneducated women involved in clubs, volunteer work, and suffrage and temperance organizations in a unique association to make possible the passage of the Nineteenth Amendment.<sup>249</sup> Many used their professional training and skill to become professional activists. They played a very special role in the Progressive Era, with its conflicting social forces and its emerging fascination with science and expertise. In the Progressive Era, professional women would not be confined to the role of symbol, but would be *both* leaders *and* practitioners.

#### IV. PROFESSIONAL WOMEN AND THE PROGRESSIVE ERA

The Progressive Era continued and intensified the social paradoxes of post-Civil War America, because it proved to be a period when *both* upper- and working-class segments of the society gained power.<sup>250</sup> In the beginning, reform was undertaken by privileged elites in order to wrest control from political machines in the large cities, whose clout depended on the loyalty of immigrants and workers.<sup>251</sup> Eventually, progressivism became more humanitarian, reflecting increasing concern for the growing working class.<sup>252</sup>

---

249. As Solomon puts it: "The last phase of the suffrage movement exemplifies how professionals and volunteers participated effectively to bring about the passage of the Nineteenth Amendment." See SOLOMON, *supra* note 20, at 125.

250. In the period from 1894 to 1909, there were simultaneous "gains for the masses and more power for the classes," which occurred as an influx of immigrants challenged the cultural and political hegemony of the white protestants who had dominated the American society since colonial times. Cheap land ceased to be readily available as the western territories were settled and the gap between rich and poor widened in the cities with increasing industrialization and mechanization. All of these forces created an era in which elitism and progressivism co-existed in an uneasy relation. See Ellen Carol DuBois, *Working Women, Class Relations, and Suffrage Militance: Harriot Stanton Blatch and the New York Woman Suffrage Movement, 1894-1909*, 74 J. AMER. HIST. 344 (1987) [hereinafter DuBois, *Working Women*].

251. See SCHNEIDER & SCHNEIDER, *supra* note 205, at 7. See also Alexander B. Callow, Jr. *The Immigrant and the Boss*, in THE BOSSES 16-24 (John D. Hagar & Michael P. Weber eds., 1974).

252. See ROBERT H. WIEBE, *THE SEARCH FOR ORDER 1877-1920*, at 169 (1967). The motives, agenda, and democratic commitment of Progressives are today disputed by historians, some of whom believe that the zeal for social justice was in truth a zeal for staving off social change and unrest. See Lewis L. Gould, *Introduction to THE PROGRESSIVE ERA* 8-9 (Lewis L. Gould ed., 1974) [hereinafter PROGRESSIVE ERA].

These forces impacted professional women intensely, because they co-existed in an age when Americans developed a fascination with expertise.<sup>253</sup> In the decades from 1890 to 1920, the new social sciences emerged, the idea that "scientific government" could bring prosperity took hold, and even human relations were subjected to the scientific method.<sup>254</sup> This was the dawn of the bureaucratic era when efficiency and empiricism reigned supreme<sup>255</sup> and almost no difficulty seemed insurmountable if sufficient professional competency were applied to solve it. The combination of all these influences—elements of conservatism, tendencies to democratization, and a fascination with expertise<sup>256</sup>—all affected the fortunes of professional women. One of its results was to produce two competing orientations among the females sympathetic to women's rights.<sup>257</sup> The first was a more "traditional" approach identified with the large women's organizations of the era. It was the mainstream suffrage movement that drew support from middle-class club women and from college-educated females who were supportive of an increase in women's status, but who did not necessarily work outside the home.<sup>258</sup> The second was a viewpoint that stressed the need for women's economic independence from men and for fundamental changes in the gender system, not just the desirability of women gaining the vote.<sup>259</sup> This way of thinking attracted the support of many working professional women and involved their alliance with wealthy females and women laborers.<sup>260</sup> It contributed to the

---

253. As Wiebe put it:

It was the expert who benefitted most directly from the new framework of politics, the more intricate such fields as the law and the sciences became, the greater the need for men with highly developed skills. The more complex the competition for power, the more organizational leaders relied on experts to decipher and to prescribe. Above all, the more elaborate men's aspirations grew, the greater their dependence upon specialists who could transcribe principles into policy . . . . Only the professional administrator, the doctor, the social worker, the architect, the economist, could show the way.

*Id.* at 174.

254. The Progressive Era was the heyday of the social sciences—sociology, psychology, and economics. See R. Laurence Moore, *Directions of Thought in the Progressive Era*, in PROGRESSIVE ERA, *supra* note 252, at 42-43.

255. For a discussion of how conceptions of business efficiency influenced the developing notion of civic efficiency, see Melvin G. Holli, *Urban Reform in the Progressive Era*, in PROGRESSIVE ERA, *supra* note 252, at 144-47.

256. See SCHNEIDER & SCHNEIDER, *supra* note 205, at 13.

257. See KRADITOR, *supra* note 115, at 8-9.

258. See Lind, *supra* note 85, at 86-95. See also LUNARDINI, *supra* note 110, at 2, 5.

259. DuBois particularly associates this with the work of Harriet Stanton Blatch and the Equality League of Self-Supporting Women. Blatch was Elizabeth Cady Stanton's daughter and became a leader of the New York militant suffragists. See DuBois, *Working Women*, *supra* note 250, at 42-43, 47-49. See also SUSAN D. BECKER, *THE ORIGINS OF THE EQUAL RIGHTS AMENDMENT: AMERICAN FEMINISM BETWEEN THE WARS* 48-49 (1981).

260. Blatch wanted to expose working women to professional women, not the more moderate club-women of NAWSA. DuBois, *Working Women*, *supra* note 250, at 49.

appearance of professional political activists for women's rights and encouraged the rise of militant suffragism.

#### A. *The Mainstream*

The period from 1890 to 1920 produced a huge increase in the number of women involved in female organizations and volunteer activities outside the home. As described previously, the latter period of the nineteenth century saw the birth of many of these groups, and the ensuing years witnessed their tremendous increase in membership.<sup>261</sup> The WCTU had almost two million members at its height.<sup>262</sup> By 1917, suffrage women numbered in the hundreds of thousands,<sup>263</sup> and countless American females joined the many organizations that prospered and grew at the turn of the century.<sup>264</sup> Most importantly, as the idea of voting rights for women gained acceptance, most of these organizations came to support woman suffrage.<sup>265</sup> Thus, wives and mothers who left the domestic sphere only to work for temperance, moral reform, or the local garden club were drawn into activities that centered around securing political rights for females. But this was not the only effect the interaction between suffrage women and club women produced. Aside from introducing some to the notion of woman suffrage for the first time, their experiences in these groups increased women's overall organizational capability as well.<sup>266</sup> Therefore, while most women of the mainstream did not focus on the issue of female professionals *per se*, their efforts nonetheless contributed to the rise of a general capacity for *professionalism* among average women who learned that well-organized, well-run, coordinated activities produced better results than haphazard, amateurish efforts.<sup>267</sup> This emerging sensibility of the benefits of expertise paved the way for a working relationship between professional and non-professional women that greatly helped the suffrage cause.

261. FLEXNER, *supra* note 7, at 164-78.

262. See *supra* text accompanying notes 192-215.

263. The actual number of women affiliated in some way with the suffrage movement is a subject of some controversy. What is clear is that NAWSA steadily increased its membership from the 1890s up to the passage of the Nineteenth Amendment. Some place the 1917 membership as high as 2,000,000. For a summary of these figures, see KRADITOR, *supra* note 115, at 7.

264. See *supra* text accompanying notes 192-215.

265. See FLEXNER, *supra* note 7, at 179-92. For an analysis of the connection between women's clubs and the development of feminist sensibility, see generally BLAIR, *supra* note 178.

266. See KRADITOR, *supra* note 115, at 5. See also SOLOMON, *supra* note 20, at 125. Woody also treats the women's clubs as highly influential in pushing for more educational opportunity for women. See 2 WOODY, *supra* note 2, at 461-68.

267. The benefits of streamlined organization and professionalism were brought to NAWSA by Carrie Catt—that was her genius. The pinnacle of her efforts was “the Winning Plan,” a tightly orchestrated step-by-step blueprint for getting a federal suffrage amendment passed using parallel pressures on the state and federal level. See JACQUELINE VAN VORIS, CARRIE CHAPMAN CATT, A PUBLIC LIFE 133-35 (1987).

The organizational sophistication of women was further fueled by the large increase in females with college training who appeared after 1910.<sup>268</sup> By that date, coeducation was gaining acceptance in American higher education,<sup>269</sup> and almost every state had established some sort of publicly funded college or university.<sup>270</sup> Moreover, even more institutions devoted to women's collegiate study had been opened.<sup>271</sup> The net result was a dramatic rise in the numbers of women who attended college. Although most did not work outside the home for pay or pursue a profession, their very existence further eroded the dominance of separate sphere ideology in the American society.<sup>272</sup> Among other reasons, this was the case because their activities and habits provoked discussion of whether advanced education for women negatively impacted the institution of marriage and the family.

The debate over college women that developed in the Progressive Era was prompted by the facts that women with an exposure to higher education married later (or not at all), had fewer children, and divorced more frequently than did other women.<sup>273</sup> These characteristics generated a heated controversy over whether educated women were contributing to a form of "race suicide"<sup>274</sup> and kept the question of women's appropriate role and status in the forefront of discussion. But, aside from the symbolic significance of college-educated females, these women also made up a reservoir of talent from which the professionals of the period would hail.<sup>275</sup> And those who did not work for pay outside the home were not idle, because they joined the women's organizations of the era, and many became involved in the suffrage movement or other causes.<sup>276</sup> Most of these women concentrated their efforts on the National American Woman Suffrage Association (NAWSA), the mainstream suffrage group that was formed from the reunification of the AWSA and NWSA factions in 1890.<sup>277</sup>

---

268. Flexner puts the number of women college *graduates* at 8437 in 1910. See FLEXNER, *supra* note 7, at 233. By 1920, women made up over 47% of all students attending an institution of higher education. SOLOMON, *supra* note 20, at 62.

269. Even the University of Mississippi was coeducational by the turn of the century. See 2 WOODY, *supra* note 2, at 258. By 1920, there were 354 coeducational institutions in the United States. *Id.* at 255.

270. See MONROE, *supra* note 10.

271. There were over 100 in 1926 when Woody wrote his study of women's education. See 2 WOODY, *supra* note 2, at 255.

272. See SOLOMON, *supra* note 20, at 116-17.

273. *Id.* at 118-22.

274. *Id.* See, e.g., Charles Franklin Emerick, *College Women and Race Suicide*, 24 POL. SCI. Q. 269 (1909).

275. See CLINTON, *supra* note 25, at 137-39.

276. See SOLOMON, *supra* note 20, at 111-14.

277. See CONCISE HISTORY OF WOMEN SUFFRAGE, *supra* note 6, at 311.

While NAWSA did have professional women among its members and even in its leadership,<sup>278</sup> the majority of its rank and file was made up of middle-class females who did not work outside the home.<sup>279</sup> Its political strategy was gradualist and focused on achieving the vote by sponsoring state referenda.<sup>280</sup> NAWSA's philosophical orientation was also quite different than that of either the American or the National from which it was created, because under the leadership of a new generation of women, it developed an antipathy toward ideology and a preference for pragmatism.<sup>281</sup> While this accent on practical results had the benefit of promoting unity, it also generated a tendency to opportunism. The perceived need to go slow and to become respectable in order to appeal to the ruling elite and the middle-class club women of the era, as well as NAWSA's amenability to tailoring its message to different regions in the country, contributed to an unfortunate penchant of leaders to adopt racist, nativist, and class-based arguments to move the cause ahead.<sup>282</sup> By the second decade of the new century, NAWSA's leadership of the suffrage movement would be challenged by an even younger group of women with even more

---

278. The two most important of these were Carrie Chapman Catt, a teacher and journalist, who was president of NAWSA at the turn of the century and returned in 1914 to lead it to victory and Dr. Anna Howard Shaw, a minister and a physician, who led NAWSA from 1904-1914. Catt's own mother had benefitted from the female education movement, having attended Oread Collegiate Institute and being exposed there to feminist influences. Catt herself attended state college, became a teacher, and then a journalist on her first husband's paper. She became actively involved in the woman suffrage and temperance movements in the 1890s and traveled around the country, organizing, speaking, and writing for these causes. After the death of her husband and eventual remarriage to a prominent engineer, she settled in the New York area, where she steadily moved up the NAWSA hierarchy. Catt became duly famous for the professional level of organization she imposed on NAWSA. For a comprehensive biography of Catt, see generally VAN VORIS, *supra* note 272; ROBERT BOOTH FOWLER, *CARRIE CATT: FEMINIST POLITICIAN* (1986).

Anna Howard Shaw was attracted at a young age to the ministry and attended Boston University's theological program in 1876. Not many years after being ordained, however, she sought a more practical way to help those in need and obtained medical training also from Boston University in 1883. Aside from being trained in two learned callings, Dr. Shaw was active in the women's rights movement throughout her life and became one of the most compelling public speakers of the era for the cause of woman suffrage. In 1904, she became president of NAWSA. Although she was a deeply caring person with an inclusionist attitude, she was proved a weak leader and a poor organizer. Her failures created the need to call Catt back to the presidency from private life and also contributed to the rise of militant suffragism. See 3 NOTABLE AMERICAN WOMEN, *supra* note 29, at 275.

279. However, before militant suffragism developed as a discernible strand in the suffrage movement and in an effort to prevent another schism, an Advisory Committee was created by Catt that involved many prominent and professional women—individuals like Phoebe Hearst, Charlotte Perkins Gilman, Florence Kelley, Olympia Brown, Abigail Scott Duniway, and Harriet Stanton Blatch. See LUNARDINI, *supra* note 110, at 52-53.

280. See Lind, *supra* note 85. See also KRADITOR, *supra* note 114, at 9, 230.

281. See Lind, *supra* note 85.

282. See KRADITOR, *supra* note 115, at 123-218 (analyzing the complex attitudes of mainstream suffragists to immigrants, workers, and African-Americans).

access to professional training who became discontented with its conservative approach.<sup>283</sup> Women lawyers were to play a central role in this group.

Aside from the activities of NAWSA, the effect of other women's groups, and the presence of college-educated women in the American society, additional trends promoted women's increased autonomy in the Progressive Era. As one would expect, the more "feminine" callings of teaching and nursing continued to gain more adherents, fostering economic independence for a significant group of women. But in addition, totally *new* occupations and callings also arose that gave women more choices, more money, and more professional status than before.<sup>284</sup> This was the period of the female secretary.<sup>285</sup> Although today we associate clerical work with the pink-collar ghetto, in the Progressive Age this occupation presented real advantages to the many women who pursued it—it brought them into the world of business and government as never before, it provided them with a type of job that did not require a college education, it had higher status than work in a factory, and it lent itself to career interruption caused by marriage and childbirth.<sup>286</sup> Some women even learned enough about the business of their employers to start their own enterprises.<sup>287</sup>

Another means by which women improved their status in the American society was to professionalize volunteer work.<sup>288</sup> Both modern social work and public health nursing developed from this phenomenon.<sup>289</sup> For centuries females had been the primary dispensers of charity, giving of their time and money to the poor, the sick, and the otherwise unfortunate.<sup>290</sup> This was a role women had been encouraged and expected to play. But in the Progressive Era, these tasks were put on a more organized and "scientific" basis, and the desire arose to systematically study how best to meet the needs of the poor, immigrants, and the sick.<sup>291</sup> No doubt, the general tendency to scientism that was rampant in the culture contributed to the professionalization of charity work,<sup>292</sup> but this trend was also a product of the social needs created by

283. See *infra* text accompanying notes 308-40.

284. See SCHNEIDER & SCHNEIDER, *supra* note 205, at 77-85.

285. See FLEXNER, *supra* note 7, at 230.

286. For a study of how these factors operated in the Pittsburgh job market, see Ileen A. DeVault, "Give the Boys a Trade": Gender and Job Choice in the 1890's, in WORK ENGENDERED: TOWARD A NEW HISTORY OF AMERICAN LABOR 191, 197-201 (1991).

287. See SCHNEIDER & SCHNEIDER, *supra* note 205, at 85-86.

288. See SOLOMON, *supra* note 20, at 124-27.

289. For a study of four women who made distinguished professional careers out of social work, see generally ELLEN F. FITZPATRICK, ENDLESS CRUSADE, WOMEN SOCIAL SCIENTISTS AND PROGRESSIVE REFORM (1990). See also SCHNEIDER & SCHNEIDER, *supra* note 205, at 77-84.

290. See Perrot, *supra* note 179, at 450-53.

291. *Id.* See also SOLOMON, *supra* note 20, at 124-27.

292. See *supra* text accompanying notes 250-60.



increasing urbanization and industrialization.<sup>293</sup> Many of the most politically active professional women were to hail from the ranks of social workers and public health nurses. In fact, the leader of the militant suffrage movement would be a young Quaker student of social work who eventually pursued a law degree.<sup>294</sup>

An account of the status and activities of mainstream women in the Progressive Era would not be complete without a description of the demographic and political backdrop against which they took place. The factors making up this backdrop had a tendency to increase the desire of the mainstream for results in the years before the First World War.<sup>295</sup> As the description of teaching, nursing, clerical work, and social work indicates, there were simply more women in general working for a living in this epoch.<sup>296</sup> This trend had an impact not only on middle-class females, who may have taught in public schools or worked as secretaries, but also on the thousands of women who labored in factories.<sup>297</sup> Their discontent with low pay and poor working conditions gave rise to a *women's* labor movement with emerging political power that both mainstream and militant activists sought to tap.<sup>298</sup> Lower-class women developed an appreciation of the need for organization, and some connected their low work status with women's status. But aside from the increases in the number of working lower- and middle-class women, more females obtained training in the "masculine" callings of medicine, law, and other professions in this era. In fact, enough women made their way to professional schools and practices that communities of learned women sprang up across the country in this era.

In 1890, there were slightly over 200 female attorneys in the United States. By 1920, there were over 1500.<sup>299</sup> In 1890, there were some 4550 women doctors, rising to some 8800 in 1920.<sup>300</sup> During this period, the number of

---

293. See WIEBE, *supra* note 252, at 166-67.

294. She was Alice Paul, future founder of the Congressional Union and Women's Party. See *infra* text accompanying notes 314-40.

295. See FLEXNER, *supra* note 7, at 271-72, 277-84.

296. At the turn of the century, there were approximately five million working women in the United States and over 350,000 women in all professions. See NANCY SCHROM DYE, *AS EQUALS AND AS SISTERS* 13 (1980); 2 WOODY, *supra* note 2, at 381.

297. Most of them were poor single, immigrant women working at low wages or on the piece rate system. See MARY P. RYAN, *WOMANHOOD IN AMERICA, FROM COLONIAL TIMES TO THE PRESENT* 200-05 (1975).

298. See DuBois, *Working Women*, *supra* note 250, at 43. For a description of the difficulty of organizing the latent labor power of working women, see WILLIAM HENRY CHAFE, *THE AMERICAN WOMAN, HER CHANGING SOCIAL, ECONOMIC AND POLITICAL ROLES, 1920-1970*, at 66-81.

299. See 2 WOODY, *supra* note 2, at 381.

300. *Id.*

female engineers rose in the same proportion, as did the amounts of women journalists, dentists, and architects.<sup>301</sup> In this era, the Equity Club, a group for female lawyers started by Michigan women, was founded, the Women Lawyers' Association was begun, and the *Women Lawyer's Journal* was published.<sup>302</sup> Similar professional organizations emerged for female doctors and other female experts.<sup>303</sup> Women also made some inroads into the higher echelons of academia, becoming university professors. A rare few even became university administrators.<sup>304</sup> As a result of all of these developments, the professional woman, though still unusual, had gone beyond the isolated individual to a group phenomenon—almost every urban area or major university had its community of learned women who more often than not also gathered together to work for women's rights.<sup>305</sup>

All of the factors described above—more women volunteering in organizations, more college-educated women, more laboring women, more women professionals, and an increased awareness of the importance of woman suffrage—produced a very large number of females seeking to improve their status in the Progressive Age. And, as the Civil War did for their grandmothers, the First World War dislocated American society and opened up a variety of work and professional opportunities for females from all walks of life.<sup>306</sup> But, unlike the Civil War, it produced a window of *political* opportunity that both mainstream and militant activists were determined to exploit to get the Nineteenth Amendment passed.<sup>307</sup> Professional women were especially important to this effort, and their impatience with the gradualist approach of the past led to massive acts of civil disobedience that impacted the

---

301. *Id.* Professions that did not show a steady progression were medicine and theology. The high point in the number of women doctors before the contemporary era was reached is 1910, when they made up some six percent of the profession. Women clergy increased to more than 3300 in 1900 to fall to only 685 in 1910. Their ranks increased from that level to over 1700 in 1920. *Id.* The reasons for these fluctuations are complex. See *supra* text accompanying notes 241-49. They show that women are not always able to consolidate their gains. The period that best demonstrates this disturbing fact is the post-World War II era, when the percentages of professional women, working women, and college women declined. See Patricia A. Graham, *Expansion and Exclusion: A History of American Women in Higher Education*, 3 *SIGNS* 764-65 (1978) (discussing the sharp decline of women in academia and in the professions that began in the Depression Era). For an analysis of how gender roles and work played themselves out in the context of the Second World War, see generally RUTH MILKMAN, *GENDER AT WORK: THE DYNAMICS OF JOB SEGREGATION BY SEX DURING WORLD WAR II* (1987).

302. See MORELLO, *supra* note 136, at 126.

303. See WALSH, *supra* note 124, at 216.

304. See 2 WOODY, *supra* note 2, at 326-28.

305. The best example for lawyers is the Equity Club, formed by female law students and attorneys associated with the University of Michigan. See generally DRACHMAN, *supra* note 218.

306. See FLEXNER, *supra* note 7, at 288.

307. See Lind, *supra* note 85.

American public and brought pressure to bear on President Wilson and Congress to allow the women's vote.

*B. The Militants—Elite, Professional, and Working-Class Women*

The activities of elite, professional, and working women from 1900 to 1920 present a fascinating phenomenon for social historians—the presence of political allegiances across class lines never before seen in American history.<sup>308</sup> What united all three groups was economic independence—for elite women, it came from control of wealth; for professional women, from their careers; and for working women, from their simple toil outside the home.<sup>309</sup> Professional women proved to be the key piece in this strange affiliation of females from different strata of the American society, because they shared an appreciation of education with their elite colleagues and an understanding of work with their laboring sisters. They included individuals like Mary Beard, Margaret Sanger,<sup>310</sup> Charlotte Perkins Gilman,<sup>311</sup> and Florence Kelley.<sup>312</sup> These professional women were particularly impatient with NAWSA's inability or unwillingness to tap the power of the growing number of laboring women across the country.<sup>313</sup> From their ranks rose the leaders of the militant suffrage movement who became the "radical" feminists of their day. Among them were persons like Crystal Eastman, Christabel Pankhurst, and Inez Milholland—all female lawyers. Moreover, the American leader of this new breed of women was Alice Paul, a young graduate student in sociology, who later also sought law training.<sup>314</sup>

Like many young professional women of the period, Paul initially joined

---

308. See DuBois, *Working Women*, *supra* note 250, *passim*.

309. *Id.*

310. She was the founder of the birth control movement. See generally DAVID M. KENNEDY, *BIRTH CONTROL IN AMERICA: THE CAREER OF MARGARET SANGER* (1970).

311. Gilman was an economist who wrote extensively on women's role and economics. See 1 *NOTABLE AMERICAN WOMEN*, *supra* note 29.

312. Kelley was a lawyer and social reformer from a patrician family. She followed the pattern many women did, being first involved in NAWSA activities and then becoming attracted by and active in militant suffragism. See, e.g., BECKER, *supra* note 259, at 18 (mentioning Florence Kelley).

313. Margaret Dreier Robbins, Harriet Stanton Blatch, and Mary Ritter Beard were all frustrated with NAWSA's inability to tap the growing power of working women and became leaders in the militant movement. See LUNARDINI, *supra* note 110, at 8, 23. See also DuBois, *Working Women*, *supra* note 250, *passim*.

314. Paul originally obtained a Ph.D. in the new discipline of sociology from the University of Pennsylvania. In the 1920s, after the passage of the Nineteenth Amendment and while her Women's Party was seeking passage of the Equal Rights Amendment, she obtained a Bachelor of Laws from Washington College of Law and then a Doctor of Civil Laws from American University. See BECKER, *supra* note 259, at 29.

the mainstream women's movement and worked with NAWSA, but then became dissatisfied with the attitude, tactics, and approach of its leaders.<sup>315</sup> Paul and those like her were women who were untouched by the sort of barrier imposed on females from an earlier age, and they saw no reason why women could not become fully equal partners in the American society, free to do and become what their own brains and initiative would allow them to be.<sup>316</sup> They developed a desire to experiment with militant tactics to see if militancy could produce results on the Nineteenth Amendment, for they too believed that political rights for women were a necessary step in removing the gender barriers blocking their way.<sup>317</sup> Militant suffragism, however, was not a home-grown product originating with Paul and those like her. A willingness to engage in civil disobedience for female emancipation started in Britain with the Pankhursts,<sup>318</sup> and some of the most radical tactics of militant suffragism were the brainchild of Christabel Pankhurst, a young woman who read law at Oxford.<sup>319</sup>

Militant British suffragism both appealed to and borrowed from the strategies of organized labor and involved public demonstrations and confrontations with governmental authorities.<sup>320</sup> These tactics were designed to ignite public interest in the suffrage cause and to reveal notions of male chivalry as hypocritical by showing that officials would use force to keep women from demanding political rights.<sup>321</sup> Alice Paul was exposed to this form of protest when she traveled to Britain to study and actually served time in an English jail for her suffrage activities. When she returned to the United States to work on her Ph.D. at the University of Pennsylvania, Paul continued her interest in militant tactics, became active in the American movement, and in

---

315. See FLEXNER, *supra* note 7, at 265.

316. See BECKER, *supra* note 259, at 47-57.

317. See LUNARDINI, *supra* note 110, at 150-52.

318. The Pankhursts were comprised of mother Emmaline and daughters Christabel and Sylvia from an aristocratic English family with socialist sympathies. Their special tactics evolved from efforts to attract labor to the suffrage cause in England and arose from the outdoor meetings that they and other activists began to hold in industrial areas to bring attention to their issue. In 1903, Emmaline Pankhurst formed the Women's Social and Political Union, which embarked upon a strategy of public demonstrations, civil disobedience, and disruption to keep the woman suffrage cause in the forefront of public discussion. One of the goals of this tactic was to bring home the fact in a particularly public way that some men were prepared to use physical force against women to deprive them of civil rights. See generally DAVID J. MITCHELL, *THE FIGHTING PANKHURSTS: A STUDY IN TENACITY* (1967).

319. See LUNARDINI, *supra* note 110, at 5-7.

320. See FLEXNER, *supra* note 7, at 250-51.

321. When Annie Kenney was beaten up for interrupting a speech of Sir Edward Grey to ask a question about woman suffrage, *she* was prosecuted, not her attacker. See RICHARD PANKHURST, SYLVIA PANKHURST, ARTIST AND CRUSADER: AN INTIMATE PORTRAIT 55-56 (1979).

1912, offered her services as a lobbyist on the federal amendment to NAWSA.<sup>322</sup>

Paul immediately galvanized NAWSA's moribund Congressional lobbying group, the Congressional Committee.<sup>323</sup> She organized a parade of 5000 women in Washington, D.C., which took place the day before Woodrow Wilson's inauguration and led to a public melee, when the police refused to protect the marchers from a hostile crowd. Public disapproval at the way the authorities treated the suffrage women led to increased attention to the whole question of the women's vote.<sup>324</sup> At first, NAWSA welcomed the increase in support that Paul's work engendered and allowed her to form an additional group, the Congressional Union, which was to be devoted exclusively to working for the passage of a federal amendment.<sup>325</sup> This was not to last long. Soon NAWSA leaders balked at Paul's tactics.<sup>326</sup> In an attempt to assert control, NAWSA removed her as chair of the Congressional Committee and directed its members to conform to their guidelines.<sup>327</sup> Instead of submitting, Paul and her supporters split off from the national union and turned the Congressional Union into their own organization for militant suffragism.<sup>328</sup> The two greatest contributions of militants to the suffrage crusade were the creation of a public furor over picketing of the White House and the organization of a political party around women's issues. The former made woman suffrage a

---

322. For a short biographical sketch of Paul, see FLEXNER, *supra* note 7, at 263-65. See also INEZ HAYES IRWIN, *THE STORY OF THE WOMEN'S PARTY* 13 (1921).

323. See LUNARDINI, *supra* note 110, at 22-26.

324. See Christine A. Lunardini & Thomas J. Knock, *Woodrow Wilson and Woman Suffrage: A New Look*, 95 POL. SCI. Q. 655, 658 (1980).

325. See FLEXNER, *supra* note 7, at 265.

326. While Alice Paul was adopting a militant approach to women's issues and organizing new groups for suffrage work, another women emerged whose leadership provided a bridge between working, professional, and elite women and generated a center of militant suffragism in New York City. She was Harriot Stanton Blatch, daughter of Elizabeth Cady Stanton. Blatch had moved to England on her marriage and was exposed there to the radical activities of the Pankhursts. See FLEXNER, *supra* note 7, at 250. See HARRIOT STANTON BLATCH & ALMA LUTZ, *CHALLENGING YEARS: THE MEMOIRS OF HARRIOT STANTON BLATCH* 92 (1940).

327. See FLEXNER, *supra* note 7, at 266.

328. See IRWIN, *supra* note 322, at 47-48. Women professionals in general and women lawyers in particular were to be especially involved in its activities. A small group of New York suffragists from the New York University School of Law were particularly active in Union work—they were Crystal Eastman and Inez Milholland. Eventually Eastman founded the American Civil Liberties Union with Roger Baldwin and became a champion for civil liberties for all Americans. See Sylvia A. Law, *Crystal Eastman: Organizer for Women's Rights, Peace, and Civil Liberties in the 1910s*, 28 VAL. U. L. REV. 1305, 1323-25 (1994); see also MORELLO, *supra* note 136, at 131-33. Milholland unfortunately had a tragic end. Working tirelessly to speak and organize for the suffrage cause, she collapsed and died of pernicious anemia at the age of 30. See LUNARDINI, *supra* note 110, at 99.

front-page topic and instigated a change in public opinion.<sup>329</sup> The latter organized the voting power of women in the few states that had given the franchise to them to hold over the heads of the two dominant political parties to pass the Nineteenth Amendment.<sup>330</sup>

In January of 1917, just as relations with Germany were deteriorating, Alice Paul and her supporters began peaceful picketing outside the White House.<sup>331</sup> Although the public was used to suffrage parades and marches, no one had ever taken her cause to the President in such a way.<sup>332</sup> At first, there was no trouble, but as tensions over the war mounted and hostility to the demonstrators increased, the picketing provoked mob violence. On June 22, 1917, after several incidents involving service men, authorities started arresting the picketers.<sup>333</sup> In the beginning, there were no sentences, but as women continued to appear and be arrested, the federal district courts began jailing them.<sup>334</sup> Eventually, women picketing peacefully in front of the White House were imprisoned for up to six months under brutal conditions.<sup>335</sup> To protest their treatment, they began a series of hunger strikes.<sup>336</sup> All of a sudden, the Wilson administration had a public relations disaster on its hands as public controversy raged. Eventually, the arrests were invalidated, but not before public attention to the issue of woman suffrage was dramatically increased and a public relations disaster was dumped in Wilson's lap that could only be ameliorated by pressure being put on Congress to pass the Nineteenth Amendment.<sup>337</sup>

Meanwhile, Alice Paul had also organized the Women's Party, an association designed to capture the voting power of women who hailed from states where woman suffrage had been approved by state referenda. By 1916, there were twelve states that had given females the vote and women had an impact on almost one fourth of the electoral college.<sup>338</sup> It was Paul's strategy

329. See *id.* at 126-28.

330. See FLEXNER, *supra* note 7, at 269-70.

331. See IRWIN, *supra* note 322, at 196-98. See also *Suffragists Wait at the White House for Action*, SUFFRAGIST, Jan. 17, 1917, at 7 [hereinafter *Suffragists Wait*].

332. See *Suffragists Wait*, *supra* note 331, at 7.

333. See IRWIN, *supra* note 322, at 220. See also *Suffrage Sentinels Arrested by the Government*, SUFFRAGIST, June 30, 1917, at 6.

334. See DORIS STEVENS, *JAILED FOR FREEDOM* 95-96 (1920). See also *Protest for Liberty Answered with Sixteen More Suffrage Arrests*, SUFFRAGIST, July 21, 1917, at 4.

335. *Id.* at 149, 248. See also *Pickets Get Maximum Sentence from Administration*, SUFFRAGIST, Oct. 20, 1917, at 4.

336. See *The Government Holds "The Ringleader,"* SUFFRAGIST, Nov. 24, 1917, at 5-6.

337. See FLEXNER, *supra* note 7, at 285, 287. See also *Government Forced to Release Suffrage Prisoners from Occoquan*, SUFFRAGIST, Dec. 1, 1917, at 4-5.

338. See *Keynote Speech of Maud Younger*, in SUFFRAGIST, June 24, 1917, reprinted in IRWIN, *supra* note 322, at 156-57.

to hold the party in power responsible for Congress's unwillingness to pass out the Nineteenth Amendment for approval by the states.<sup>339</sup> Paul wanted to combine the popular effect of civil disobedience with the practical leverage of women's voting power to force action on the federal amendment and federalize women's right to vote across the country.<sup>340</sup> Eventually, both the Democratic and Republican parties were able to see the handwriting on the wall, and both began to lose their appetite for holding out on the women's vote. With the closeness of the 1916 elections, alienating women seemed a politically risky thing to do.<sup>341</sup> Eventually, from the combined effects of political demonstrations, the threat of women's potential for deciding elections, and the day-by-day and highly organized efforts of Catt's mainstream group, the Nineteenth Amendment was finally passed by Congress in 1918 and ratified by the states in 1920.

### C. Aftermath

As the description of women's activities in the Progressive Era shows, professional women and professionalism were critical to the success of the suffrage cause. And, most women in learned occupations judged that the suffrage movement was essential to their own freedom and success. In particular, after the passage of the Nineteenth Amendment, many militant professionals of the suffrage cause felt that they had a continuing role to play and pursued a connection between *feminism* and *professionalism*.<sup>342</sup> From their perspective, obtaining the right to vote was just the starting point for realizing the greater goal of reordering gender relations in the American society.<sup>343</sup> As a result, many continued with the Women's Party and worked to focus its efforts on getting an equal rights amendment passed, designed to remove all remnants of sex discrimination from American law.<sup>344</sup> They were also involved in the fight for women's access to birth control, and they were determined to legally secure equal pay for equal work.<sup>345</sup> In this way, Alice Paul and her colleagues were direct predecessors of the modern feminists of today who organize for reproductive freedom, equal pay, and want the ERA passed.<sup>346</sup> But not all women's rights advocates or professional women agreed

---

339. See FLEXNER, *supra* note 7, at 276-77.

340. See LUNARDINI, *supra* note 110, at 85, 104-05.

341. See FLEXNER, *supra* note 7, at 290-91.

342. See LUNARDINI, *supra* note 110, at 150-68.

343. See BECKER, *supra* note 259, at 197-227.

344. This is basically the same amendment as the Equal Rights Amendment of the modern era. It was written by Alice Paul. Its text was simple: "Men and women shall have equal rights throughout the United States and every place subject to its jurisdiction." See BECKER, *supra* note 259, at 19.

345. *Id.* at 53.

346. *Id.* at 227.

with the policy of the Women's Party after 1920. Its equal rights feminism clashed with the more traditional approach to women's condition of NAWSA and also with some labor organizers who believed that women needed special legislation to protect them in the work environment.<sup>347</sup> Thus, the aftermath of the suffrage cause saw another division in the ranks of activist American women—Catt and her NAWSA workers formed the League of Women Voters and pursued mainstream political change.<sup>348</sup> Members of the Women's Party, such as Paul and Eastman, sought to redefine gender relations and obtain legislation creating more opportunities for all working women in the American society—both professional and laboring women.<sup>349</sup> Soon their efforts were eclipsed by the Great Depression and the return to conservatism in the post-World War II era. In fact, in the decade after the heady victory over the Nineteenth Amendment, the organized women's rights movement would dissipate and go underground. And, in a disturbing parallel, the percentage of women pursuing a professional career would decline. Only with the reappearance of the modern feminist movement in the late 1960s would large numbers of women again demand entry to the expert occupations.<sup>350</sup>

#### V. CONCLUSION

It has been a continuing theme of this Article that the story of the first female professionals in America is also the story of women's first moves toward equality that began in the nineteenth century. From the 1830s through the 1920s, the fortunes of professional women were deeply intertwined with the success or failure of the female emancipation movement, and the causes that generated one would have significance for the other. Before the outbreak of the Civil War, when women were subject to the doctrine of coverture, had no real civil or political rights, and were consigned exclusively to the domestic sphere, almost no females pursued expert occupations. Nonetheless, the seeds for women's future deliverance were sown in this era, and the preconditions necessary for the emergence of women doctors, lawyers, and other experts in the post-bellum age came to be satisfied. Females began to secure the education they needed to support advanced study. Teaching became the first professional calling open to women. The laws limiting married women's autonomy began to be eroded. Most importantly, a social movement organized around *women's* liberation issued forth from the reform fervor of the period and galvanized many who wished to pursue professional occupations previously open only to men.

In the period surrounding the Civil War, when women were organizing and

---

347. See BECKER, *supra* note 259, at 213.

348. *Id.* at 206-13.

349. See LUNARDINI, *supra* note 110, at 150-68.

350. See HARRIS, *supra* note 1, at 117-18.



taking tentative steps toward autonomy, the first females professionals functioned primarily as symbols of what women wanted to be and were capable of becoming. Every individual woman who struggled to be admitted to the bar, trained as a doctor, ordained as a minister, or allowed to practice many of the other "masculine" callings stood as a living counterexample of sexist ideology, refuting the claim that women were incapable of intellectual achievement and professional expertise. In the post-War era when the social dislocations of the War began to play themselves out, more and more women worked to break down the barriers to their entry into callings reserved for men and attempted to practice the learned occupations with limited success. As their efforts were ongoing, scores of other women escaped the strict confines of the domestic sphere by becoming teachers, nurses, and secretaries. Although these "feminine" callings did not directly confront the sexist assumptions rampant in the American society, they still had a potentially momentous effect, because they provided scores of women with a measure of economic independence unknown at the start of the century. In this era, significant numbers of women joined in the woman suffrage movement, indicating their own view that suffragism and professionalism were directly linked.

As the century wore on, thousands of females attended college and became active in a variety of causes and organizations that capitalized on the new expectations generated by their Civil War experiences. At the same time, large numbers of females entered the labor force and began to be sensitized to the connection between gender discrimination and poor working conditions. All of these features contributed by the early 1900s to create circumstances leading to the increasing importance of professional women as leaders of the suffrage movement. No longer would a learned woman function only to symbolize what all women might aspire to, nor would she only struggle in isolation to achieve acceptance and success as an individual practitioner. By the time of the Progressive Era, professional females had learned to use their knowledge, their organizational skills, their prominence, their connections, and their resources to lead an alliance of women from a myriad of backgrounds focused on obtaining basic civil and political rights. The effectiveness of women professionals as leaders was most be strikingly demonstrated in the activities of the militant wing of the suffrage movement. Many of its adherents would try to campaign for an equal rights amendment, access to birth control, and other issues that have relevance to today's debates over women's roles. Their "radical" feminism would meet with very limited success. And, with the successful outcome of the suffrage fight, many professional women returned to private life. While some would struggle to succeed as private practitioners, many would return to the traditional roles of wife and mother. Moreover, a new schism in the women's rights movement between radicals and traditionalists would intersect with the effects of the Depression and World War II to cause the women's movement to go underground. At the same time, the percentage of women in the professions

would decline. But though the movement went underground, it did not entirely disappear, nor did professional women. By their personal actions and in a quiet way, each practicing woman lawyer, doctor, engineer, or other expert would promote the cause of today's professional women, by simply performing successfully the many tasks involved in pursuing a learned occupation.

As I hope the history of the first professional women shows, they functioned as symbols, leaders, and practitioners in a way that made possible the achievements of the thousands of young women pursuing expert occupations in the contemporary era. In this sense, there is a straight line leading from the accomplishments of Myra Bradwell, Antoinette Dakin Leach, Clara Foltz, and Crystal Eastman to the Supreme Court of the United States in the personages of Justices Sandra Day O'Connor and Ruth Bader Ginsburg. Hopefully, the professional women of today will continue this phenomenon and act as symbols, leaders, and practitioners for their daughters, their grand-daughters, and the countless future generations of women to come. In this way, the circle, if long forgotten, still remains unbroken between the pioneer professional women of a by-gone era and the thousands of female doctors, journalists, academics, scientists, and attorneys of today.

