

“All the allies of each”:  
Lelia’s Robinson’s portrait of  
early women lawyers in America

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Directed Research  
1998

*[T]he woman who, in this day, attempts the practice of law,  
must expect to quaff the bitter with the sweet.  
--Letitia L. Burlingame, 1889*

In 1890 one of the lawyers' magazines of the day, *The Green Bag*, published an article titled "Women Lawyers in the United States." The article is a key document in the early history of women lawyers. No other record like it exists: its 20-odd pages chronicle the experiences of over 100 of the first women to practice law in this country (and the world). The article was written by Lelia Robinson, a thoughtful and dedicated lawyer and the first woman admitted to practice law in the state of Massachusetts. Robinson was licensed only after a fight, and her struggles were the order of the day: In the final decades of the last century, women around the country were battling to gain access to legal educations and the right to hold themselves out as lawyers. Robinson's article from *The Green Bag* does a thorough, fascinating, and unprecedented job of pulling together the stories of many of these early "lady lawyers."

When she set out to write "Women Lawyers in the United States," Robinson's aim was to paint as complete a picture as possible of the circumstances of women lawyers in America in 1890, to cull "a mass of unreliable data" into a cohesive story, and to dispel the then-common notion that the woman lawyer was a creature every bit as mythical and elusive as a sea serpent. "I have often been asked how many women there are in the law," she writes in the first page of her article, "and until the returns came in from a somewhat extended system of correspondence which I started a few weeks ago... I had to give very

vague replies."<sup>1</sup> Through her inquiries, Robinson was able to tell of 120 women lawyers throughout the country, a wonderful feat given the paucity of organized sources on this semi-shrouded group, whose entry into the legal field was commonly resisted, whose members were sometimes not in active practice, or whose efforts were conducted under a later, married name. She gave structure to an amorphous mass by pulling together brief mentions in local newspapers, names on school rosters, reports from other lawyers, whatever leads would provide her with the information she sought. The chart attached to this article breaks down the data Robinson collected for her piece, and it highlights just what an amazing document Robinson's endeavor produced: for the first time, a meticulous nationwide accounting of the country's female lawyers.

In her quest for information, Robinson was aided by the sense of sisterhood that pulled these women together. As Robinson's article makes clear, there was a feeling of camaraderie and support amongst the first women who sought to practice law in America. Many of these legal pioneers knew of and befriended each other; they met and corresponded with each other, trading strategies for success and advice for overcoming opposition. For four years, they published each others' letters in an annual circular distributed under the auspices of the Equity Club. The Equity Club was founded by a group of Michigan University women students and graduates with the motto "all the allies of each"<sup>2</sup>; as California lawyer Laura De Force Gordon wrote her "sisters in law" in 1887, "There is a certain moral support in the confiding sympathy of brave-souled, warm-hearted women, who have dared and suffered in kind with ourselves, which becomes a

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<sup>1</sup> Lelia Robinson, *Women Lawyers in the United States*, THE GREEN BAG, Vol. II, 1890, at 10.

*tower of strength* to nerve the heart and sustain the brain when both are taxed to the utmost [by] our grand profession."<sup>3</sup> One of the most poetic expressions of solidarity came from Ce Dora Lieuellen's letter: "Every step that woman takes interests me. If backward, she arouses my fear for her safety; if aside, she has my sympathy for her sorrow; if forward, she inspires in me hopes for better times, when man and woman will venerate truth and justice more than they now do custom."<sup>4</sup>

As the accounts in Robinson's article attest, opposition to the entry of women into the field was largely unrelenting. A few women had a relatively smooth time of it, particularly in the West. On the country's frontier, a celebration of tough individualism combined with a scarce population to allow for a quicker acceptance of the notion of a competent, resilient working woman. Brooklyn's Lemma Barkaloo took off for Missouri after she was refused admission to Columbia Law School; there, in 1870, she became the first woman to try a case in court. Mrs. Belle A. Mansfield, the first woman in America admitted to the bar, was admitted with relatively little fuss in Iowa in 1869. Elizabeth Eaglesfield was admitted to the Indiana Bar in 1875, even though the local statute provided for the admission of "every person of good moral character, *being a voter*."<sup>5</sup> But for most women, gaining the right to practice was a trial, often literally. Robinson's article details the early court battles of Myra Bradwell, Carrie Kilgore and Lavinia Goodell to gain a license to call themselves lawyers. Bradwell, who studied with her husband, Judge James B. Bradwell, passed the examination for the Chicago bar in August, 1869, but was

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<sup>2</sup> VIRGINIA G. DRACHMAN, *WOMEN LAWYERS AND THE ORIGINS OF PROFESSIONAL IDENTITY IN AMERICA: THE LETTERS OF THE EQUITY CLUB, 1887 TO 1890* (The University of Michigan Press 1993) at 11.

<sup>3</sup> *Id.* at 50.

<sup>4</sup> *Id.* at 112.

refused admission on gender grounds. She appealed all the way to the U.S. Supreme Court, where she argued that the newly adopted Fourteenth Amendment should provide all of the nation's women with the right to practice. The Court rejected her claim and handed the decision back to the states. (Eventually, in 1882, the Illinois Legislature passed a law allowing women to practice.) Kilgore was ready for admission to the bar in Pennsylvania in 1872 but was refused. She applied for a writ of mandamus and was again refused. She sued the Board of Examiners, tried to get the Legislature to pass a law allowing for the admission of women, sought admission repeatedly in different courts and was at last admitted eleven years later, in 1883, to the Orphans' Court. Goodell sued for the right to appear before the Wisconsin Supreme Court in 1873; the Court's decision, penned by Chief Justice Ryan, went on at length about the proper "woman's sphere," which, in Ryan's view, did not extend to the courtroom. Undaunted, Goodell convinced the Wisconsin legislature to pass a law allowing for the admission of women. Indeed, with lawsuits largely unsuccessful, many women employed Goodell's strategy of convincing state legislatures to pass laws allowing women admission to the bar; Robinson's article notes the work here of Alta Hulett, Annie Smith, Laura De Force Gordon, Kate Stoneman, and Robinson herself, who instigated laws in Illinois, Virginia, California, New York, and Massachusetts. In 1879, Belva A. Lockwood secured an Act of Congress that allowed women admission to the federal courts, including the U.S. Supreme Court.

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<sup>5</sup> Robinson, *supra* note 1, at 18.

Before the license, though, came the education--and for most women, unless they had a father, brother, or husband to tutor them, gaining that education was another arduous task. In the mid-nineteenth century, virtually all of the nation's law schools were loathe to admit women. Many of the very first women lawyers studied as apprentices in law offices; as Robinson notes, "[p]erhaps the majority of the married women lawyers...were wives before they began the study of law, many of them studying in their husband's offices."<sup>6</sup> Law schools in the West allowed women the first real access to organized instruction. Women in these schools were still greatly outnumbered by men, but they were apparently treated with a measure of fairness. Almeda Hitchcock, a student at the Law School at Michigan University during the 1880s, wrote the Equity Club that she was welcomed by her male classmates ("[m]y classmates have treated me with respect and kindness").<sup>7</sup> Jane M. Slocum, another student at the school, wrote the Club of school's faculty, "[t]he generous interest of these distinguished jurists will never be forgotten by the grateful women who were treated not only as students who were welcome there, but as friends whom they were glad to aid in their life work."<sup>8</sup>

This acceptance stands in marked contrast to the story Robinson tells of Alice J. Jordan, the first female graduate of Yale Law School, who entered that school in 1885. Jordan was admitted to the school only after its administrators discovered that they hadn't crafted their documents carefully enough to keep her out; they had failed to specify that the law school was for men only. They quickly rectified their "mistake." As Robinson describes it,

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<sup>6</sup> *Id.* at 11.

<sup>7</sup> DRACHMAN, *supra* note 2, at 104.

Dean Wayland, of Yale Law School, sends me a catalogue of the University, and writes that "the marked paragraph on page 25 is intended to prevent a repetition of the Jordan incident." The paragraph referred to appears on the page devoted to departments of instruction, and reads as follows:--"It is to be understood that the courses of instruction above described are open to persons of the male sex only, except where both sexes are specifically included."<sup>9</sup>

Friendlier institutions noted by Robinson included the Union College of Law in Chicago (which had been attended by fourteen of the women mentioned in the article), the Law School of the Michigan University at Ann Arbor (attended by twenty-five women mentioned), the State University of Iowa at Iowa City (attended by eight women mentioned), the Law School at Boston University (attended by fourteen women mentioned), the Law Department of Washington University in Saint Louis (attended by three women mentioned), the University of Wisconsin (attended by three women mentioned), the Evening School of Law in Chicago (attended by three women mentioned), and, to a certain extent, Howard University in Washington D.C. (attended by six women mentioned) and Hastings College of Law in San Francisco (attended by eight women mentioned).

With an education and license in hand, the next great challenge for women was practice itself. A number of the women Robinson contacted had chosen not to practice but to Robinson this was hardly a failing: "[A]s we do not cease to regard as a lawyer a politician who spends his days in Washington in his country's service, so neither should

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<sup>8</sup> *Id.* at 68.

<sup>9</sup> Robinson, *supra* note 1, at 13.

the woman who has temporarily or even permanently abandoned the office and the courtroom for the platform or the nursery, thereby lose recognition as a lawyer."<sup>10</sup> Three women wrote that they had chosen to teach, six others that they had chosen to write for a living. Bradwell and Catherine V. Waite both had great success as legal publishers and journalists. Two women had chosen to work exclusively for social and political reform, focusing most commonly on suffrage and temperance concerns. Still others chose to devote themselves exclusively to their families, as is discussed below. And, sadly, some of the pioneers of the day had died by the time Robinson's article was published.

Mansfield, who, as noted, was the first woman in America admitted to the bar, never practiced, but she wrote Robinson that "her interest in law and women lawyers has never been lost, and she is glad that her pioneering along this line has helped open up the way in which others are now achieving success."<sup>11</sup> Mary Wilkinson wrote Robinson that while she had never practiced, "her love for the law has never flagged...she keeps up reading to some extent, and will enter the profession yet if home affairs are shaped so that she can do so."<sup>12</sup> This feeling, that the study of law in and of itself was of value, seemed to be shared by many; as Leona T. Lounsbury wrote the Equity Club, "I am now wife and mother, yet I do not regret the study of law; for I consider it an important step in the direction of confirming the theory, that true woman can think and act for herself independently, yet modestly; at the same time adorning the virtues of womanhood."<sup>13</sup> Margaret Wilcox summed up the worth of the study when she wrote the Club, "My legal

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<sup>10</sup> *Id.* at 10.

<sup>11</sup> *Id.* at 21.

<sup>12</sup> *Id.* at 22.

<sup>13</sup> DRACHMAN, *supra* note 2, at 60.

studies have...given me a clearer insight into the past, a closer analysis of human thought and progress, a more comprehensive mental grasp, more flexible habits of mind, in a word, a broader culture."<sup>14</sup>

The women who did practice worked in all realms of the law. Kate Kane, who was practicing in Chicago, wrote Robinson that "in criminal law she has either prosecuted or defended in every crime known to modern times except treason and piracy; that she has represented clients from every quarter of the globe, of every hue and every religion except the followers of Zoroaster and Mahomet."<sup>15</sup> Catherine G. Waugh, wrote Robinson, was doing "all varieties of work, foreclosing mortgages, obtaining divorces, drafting wills, collecting claims, settling estates, and occasionally appearing in probate and justice courts."<sup>16</sup> Florence Cronise had a very successful practice that covered "all classes of business."<sup>17</sup> Emma M. Gillett had "an unusual degree of success. Her work has been principally in office lines,--the drawing of papers, taking testimony in equity cases, and probate business, together with a large amount of notarial and some financial work."<sup>18</sup> Carrie Kilgore practiced in her husband's office until his death, "and she was able to take up all his business just where he left it and carry it on... She has twice been appointed

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<sup>14</sup> *Id.*, at 202. This view, though, was not quite an absolute. Emily Buckhout of Oakland wrote Robinson, "[t]he more I see of life the stronger is my belief that public life for women is not desirable, individually or for society. I began life a woman-suffragist, but my own experience and observation have worked a radical change in my opinions." In response Robinson noted, "out of all the hundred and odd letters which I have received from women lawyers and law students of the present and of the past, it is the only one which has been expressed in discouraging terms, and I cannot help but wonder whether the misfortune of ill-health has not had at least some part in forming the disinclination." Robinson, *supra* note 1, at 26.

<sup>15</sup> Robinson, *supra* note 1, at 16.

<sup>16</sup> *Id.* at 14.

<sup>17</sup> *Id.* at 23.

<sup>18</sup> *Id.* at 28

Master by the courts...Among other valuable business she is retained as the solicitor of a corporation."<sup>19</sup>

As noted above, many women worked in partnership with their husbands. Twenty-seven of the fifty-seven married women mentioned in Robinson's article were married to lawyers. Sara Kilgore practiced with her husband in Indianapolis for several years and then in Ashland, Ohio, where Kilgore devoted herself to real estate and abstracting titles. At the time she wrote Robinson, she and her husband intended "soon to remove to Port Townsend, Washington, where [they] will engage together in law and real-estate business."<sup>20</sup> Mrs J. M. Kellogg formed a law partnership with her husband in Kansas. The two practiced together and when he became attorney-general, she was appointed assistant attorney-general. Nettie Cronise first practiced with her sister Florence, but in 1880 entered into a legal practice with her husband, N.B. Lutes. He wrote Robinson for the article, "Our practice is general in character.... Now, when I tell you that I am *totally deaf* and have not heard the sound of the human voice since 1881, you will understand that Mrs. Lutes is at least a busy lawyer."<sup>21</sup> Among the many other women working with their husbands were Laura Woodin in Michigan; Margaret Wilcox in Chicago (who was about to open an office with her husband and formally enter the profession as his partner); and J. Ellen Foster in Iowa ("whose most celebrated case was a murder case where she secured a new trial for a woman who was convicted and sentenced to hang; she was able to get the sentence changed to imprisonment for a term of years,

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<sup>19</sup> *Id.* at 29.

<sup>20</sup> *Id.* at 18.

<sup>21</sup> *Id.* at 23.

'the most that could be hoped for in the case'"<sup>22</sup>). Anna Christy Fall, a student at Boston University Law School at the time of Robinson's article, intended to practice with her husband, "though under the existing law in Massachusetts they cannot form a legal partnership."<sup>23</sup>

Six women also practiced or planned to practice with their families. Minerva A. Doyle, who graduated from Union College of Law in 1889, joined her father's firm of Doyle, Morris & Doyle upon graduation. "She has been very actively at work since that time in preparing pleadings, briefs, and written arguments," writes Robinson, noting "many women lawyers, old and young, will envy Miss Doyle her exceptional opportunities."<sup>24</sup> Almeda E. Hitchcock, who graduated from Michigan University in 1888, returned to her home in Hilo, Hawaii to work in her father's firm. Kate H. Pier, who graduated from the law department of the University of Wisconsin in 1887 with her mother, went into practice with her mother and father, Col. C.K. Pier, Esq. Tabitha A. Holton of North Carolina studied law with her three brothers under the tutelage of their father, Rev. Quinton Holton, and practiced law with her brother until her early death.

As they sought to make a space for themselves in the man's world of law, the country's first women lawyers grappled with issues that continue to challenge their counterparts today. They had to decide how best to confront prejudice, how to keep themselves healthy, how to combine their roles as mothers and wives with their professional identities, and whether they should operate in the field as women with a

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<sup>22</sup> *Id.* at 22.

<sup>23</sup> *Id.* at 31.

distinct identity as such or as pseudo-men, "objective" creatures whose gender had no impact upon their work.

This last issue was hotly debated in letters to the Equity Club. Robinson herself urged, "Do not take sex into the practice. Don't be 'lady lawyers.' Simply be lawyers, and recognize no distinction...between yourselves and the other members of the bar."<sup>25</sup> She was echoed by Florence Cronise, who thought herself "too matter of fact" to "think woman's mission in the profession is to purify."<sup>26</sup> She wrote, "I cannot accept any sentimental view of woman's mission...sentiment may be beautiful to look at...but it will earn no bread and butter, accomplish no genuine good, and should be set aside for holiday recreations and not allowed to show itself as our hard work days."<sup>27</sup>

Others disagreed. Sara K. Wertman wrote, "[w]oman's place in the practice of law, as elsewhere, is not so much to bring to it wisdom and justice, as the purifying graces."<sup>28</sup> Ada Kepley thought women's "sweeter manners" would bring "purer laws."<sup>29</sup> Marion Todd asked women to think of law as more than a set of rules: "What I ask our women to do is to investigate the great wrongs of our country. There is something besides law to be studied. It is human justice."<sup>30</sup>

In 1887, Martha K. Pearce optimistically envisioned the day when the debate could finally cease and wrote her colleagues, "The time will come when no 'double

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<sup>24</sup> *Id.* at 15.

<sup>25</sup> DRACHMAN, *supra* note 2, at 23.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.* at 158.

<sup>28</sup> *Id.* at 138.

<sup>29</sup> *Id.* at 23.

<sup>30</sup> *Id.* at 130.

consciousness' will disturb a *woman* who wishes to be a *lawyer*."<sup>31</sup> Marion Todd was a little more cynical when, a year later, she wrote, "We flatter ourselves that we have but little sex prejudice now to overcome. It is a mistake."<sup>32</sup>

And, indeed, Pearce's prediction has yet to transpire: the promised dissolution of the double consciousness has yet to materialize. Debates are still raging today about the role that women should play within the legal profession, despite the huge increases in the number of women in the field.<sup>33</sup> Today, feminist criticisms of the structure of law emphasize the male hierarchy and the fierce, contentious tone of law. A long tradition connects legal analysis with intellectual traits generally ascribed to men--hardness, toughness, sharpness--and women are under perpetual suspicion of intellectual and temperamental softness, particularly if they gravitate toward practice that is conciliatory and consultative. Furthermore, women are constrained to act as men for to assert that a female perspective is fundamentally different from a male perspective is to defy the law's time-honored principle of objectivity.<sup>34</sup>

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<sup>31</sup> *Id.* at 63.

<sup>32</sup> *Id.* at 128.

<sup>33</sup> According to a December, 1995 report from the American Bar Association Commission on Women in the Profession, in 1995, women accounted for approximately 23 percent of all lawyers. The growth has been massive and rapid: In 1960 that number was 3 percent; in 1985, 13 percent. Approximately 80 percent of the women practicing law today have entered the profession since 1970. By 1991, 39 percent of law firms had women attorneys on the roster, 38 percent of legal aid and public defender program lawyers were women, and 35 percent of government lawyers were women. In 1991, private practice was the largest single employment setting for women lawyers, with 70 percent of all women practicing in this sector. *Basic Facts from Women in the Law: A Look at the Numbers*, ABA COMM. ON WOMEN IN THE PROFESSION (1995).

<sup>34</sup> There are a number of works that examine the place of women within the legal workplace and within legal educational institutions. Sources consulted for this project include CYNTHIA FUCHS EPSTEIN, *WOMEN IN LAW* (1981); REGINA GRAYCAR & JENNY MORGAN, *THE HIDDEN GENDER OF LAW* (1990); LANI GUINIER, MICHELLE FINE & JANE BALIN, *BECOMING GENTLEMEN: WOMEN, LAW SCHOOL, AND INSTITUTIONAL CHANGE* (1997); MONA HARRINGTON, *WOMEN LAWYERS: REWRITING THE RULES* (1994); SUZANNE NOSSEL & ELIZABETH WESTFALL, *PRESUMED EQUAL: WHAT AMERICA'S TOP WOMEN LAWYERS REALLY THINK ABOUT THEIR FIRMS* (1998); and JEAN MACLEAN SNYDER & ANDRA BARMASH GREENE, *THE WOMAN ADVOCATE: EXCELLING IN THE 90'S* (1995).

With the increase of women in the legal field has come an increase in articles and books on the women in the field. One of the most notable of these is Mona Harrington's 1993 book, *Women Lawyers: Rewriting the Rules*. Much like Robinson's article a century earlier, Harrington's book is comprised of interviews with some hundred women lawyers. But it is entirely different in its tone: The optimism of the late nineteenth century is gone, and almost all of the women interviewed discuss their significant frustrations and disappointment with the current structure of the law and legal education. While all law schools are now co-educational and women comprise nearly half of the student body, the type of hostility directed at Alice Jordan by Yale apparently lives on.<sup>35</sup> Discussing law school, one woman remembered, "It was misogynistic, it was just a big streak in a lot of those men...It was faculty and students both, but of course faculty are the power figures. They set the tone."<sup>36</sup> Other women spoke of wanting to shun the chronic engagement in battle they felt the law requires of them. "I think, to some measure, the bill of goods that you get sold in law school about how the adversary system is a great engine for producing the truth," said one woman, "I'm not convinced."<sup>37</sup> Some of the women interviewed had tried to escape the pressure they felt by creating alternative forms of law practice with

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<sup>35</sup> A recent study of law schools by the American Bar Association revealed that law schools are still hostile places for women. The report noted the existence of blatant forms of bias, such as gender stereotyping, sexual harassment, and hostile or degrading behavior by males. It also noted more subtle forms of bias, such as a lack of female role models and mentors, low percentages of female tenured faculty, disproportionately high numbers of women in non-tenure track positions and pay disparity between male and female professors. Ken Myers, *Bias Against Women Lives On, Hearings and ABA Study Show*, NAT'L L. J., Mar. 4, 1996, page 16.

<sup>36</sup> HARRINGTON, *supra* note 34 at 44. Guinier, in her book *Becoming Gentlemen*, *supra* note 34, notes that many women feel--and are--excluded from the formal educational structure of law school, which she likens to "ritualized combat.... One's place in the law school hierarchy is orchestrated by a mandatory grading curve, large Socratic classrooms, skewed presentations of professional identity, and fierce competition brewing uninterrupted within peer culture," which "[d]istorts those characteristics traditionally associated with women, such as empathy, relational logic, and nonaggressive behavior." *Id.* at 60, 66.

<sup>37</sup> HARRINGTON, *supra* note 34 at 131.

smaller staffs, fewer hours, lower profits, and lessened institutional pressure and expectation. Others had left the profession altogether.

Early women also struggled with an issue that remains key today: striking the ever-challenging balance between the personal and the professional. Domestic concerns--raising children, nurturing a home, being a good partner--were central to many of the first women lawyers as they remain central to working women today. "The great problem is that of the married woman,"<sup>38</sup> wrote Robinson in one of her letters to the Equity Club and, in fact, so troubled was she by the issue that she later wrote a book on the subject. A number of the women she writes of in her article decided not to practice following marriage; others wrote that they had not yet figured out a way to combine home duties with the law. Clara H. Nash wrote Robinson that she had had to take "a less active part in the business owing to domestic duties."<sup>39</sup> Edith Sams echoed Nash's statement as did Mary Stockbridge, who wrote Robinson that she was engrossed in domestic duties. Rebecca May wrote that she had been called home from a successful practice on account of a family illness. The Boston lawyer Mary A. Greene, of whom Robinson was so fond and of whom she wrote, "Her reputation for scholarly legal learning and her ability as a lawyer rank very high, and promise the best grade of work from her in the future,"<sup>40</sup> wrote the same year to the Equity Club, "Nothing would please me better than to devote myself to practice just as a man does. But I cannot for two reasons. First, the want of physical

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<sup>38</sup> DRACHMAN, *supra* note 2, at 171.

<sup>39</sup> Robinson, *supra* note 1, at 29.

<sup>40</sup> *Id.* at 30.

strength, second, household duties which cannot be delegated to anyone else."<sup>41</sup> After she remarried, even Robinson herself was not immune from the pressures, as one of her letters to the Club proves:

My husband is proud of my professional ambition and does everything that a husband can do to encourage and sustain me in it...he does not fret very much when it is discovered that every pair of his socks is in need of mending. To be sure, I sit down the same instant, usually and have a pair ready in about three minutes.<sup>42</sup>

In general, women working in practice with their husbands had a slightly easier time of it, as Robinson acknowledged with her words, "the happiest thing, surely for the woman lawyer who marries is to marry into law rather than out of it."<sup>43</sup> J. Ellen Foster, who practiced with her husband, "has frequently said in public that she read Blackstone while she was rocking her babies."<sup>44</sup> Nettie Cronise raised three daughters while running a legal partnership with a deaf man. But not every woman was accorded equal status by her husband. Corinne Williams Douglass and Hamilton Douglass studied law together at Michigan University and graduated in 1887. In 1890, Hamilton Douglass wrote Robinson that his wife had studied law "for the purpose of helping me and not for the practice generally. In fact, women are not admitted to the bar in the State of Georgia."<sup>45</sup> Corinne Williams Douglass herself wrote the Equity Club in strong defense of women who chose to devote themselves to their families:

Between the home and the profession,...there can be no hesitation as to which is the greater, the more imperative. I

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<sup>41</sup> DRACHMAN, *supra* note 2, at 187.

<sup>42</sup> *Id.* at 201.

<sup>43</sup> *Id.* at 118.

<sup>44</sup> Robinson, *supra* note 1, at 21.

<sup>45</sup> *Id.* at 19.

have no sympathy and but little patience with those who can say of a woman, no matter what her talent or how extended her researches, "She is burying herself in her home; throwing herself away upon the children." Thank God for the noble women who thus "throw themselves away" and the greater their genius and learning, the more shall their children rise up and call them blessed, and the more powerfully for good will their influence be felt in the next generation.<sup>46</sup>

Women realized early on the emotional difficulties that can come of having both a legal career and a family. As Emma Gillett wrote in an Equity Club letter: "If we have work pressing on us during office hours and hurry home to assume cares of various kinds we cannot expect a fine nervous condition. Self-sacrifice of this kind is absolutely wrong and unjust to what one sets herself out as capable of doing."<sup>47</sup> And yet this kind of self-sacrifice is still very much alive today. Women are still trying to balance their lives as partners--both professional and domestic. Women interviewed for Harrington's book told of constant planning, pressure, and guilt.

"The only place I spend enough time is on the freeway," said one woman. "I'm never satisfied with the way I'm balancing it. I mean, it's not that you can keep all the balls in the air if you're careful. You have to live with screwing it up all the time."<sup>48</sup> While law firms did introduce maternity leaves and part-time positions in the 1980s, women interviewed stressed that individuals doing part-time work are marginalized and given less interesting work. "They say if they really like you they'll bend over backwards to keep you," said one woman, "but my suspicion has always been...that when someone they really like announces she's pregnant and she really wants the firm to bend over

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<sup>46</sup> DRACHMAN, *supra* note 2, at 49.

<sup>47</sup> *Id.* at 161.

backwards, all of a sudden they won't like you anymore."<sup>49</sup> Another big change in the field that has spelled hardship for women: the massive increase in billable hours firms now require, from a prior norm of 1,600 a decade ago to 2,200 or higher today. One woman, who had raised children and maintained a successful career, said despite outward appearances, the message to be taken from her experience was that "making it in a man's world isn't worth it...the rules place nearly unbearable pressure on women and repeatedly force most of them out."<sup>50</sup> Still another woman initially told Harrington she believed "if women don't engage in competition, they will not gain power in society or over their own lives. The people controlling the firms are men. If women don't compete for control, they will remain disenfranchised."<sup>51</sup> A year later, after the birth of her child, she had left her job. The reason: She believed she couldn't function in a competitive world and create a warm, supportive, non-stressful atmosphere at home. She was, she told Harrington, "a content, happy person for the first time in my life."<sup>52</sup>

As women began to make their way into the educational and work worlds of men, concerns over frail female constitutions were invoked to keep them out. Still, health concerns were at times real: Ironically, some of the women who had to overcome dreadful prejudice to get any work at all soon found themselves with far too much work on their hands. "[S]o goes on my work, I've scarcely had an opportunity to do anything outside,"<sup>53</sup>

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<sup>48</sup> HARRINGTON, *supra* note 34 at 27,28.

<sup>49</sup> *Id.* at 33.

<sup>50</sup> *Id.* at 23.

<sup>51</sup> *Id.* at 141.

<sup>52</sup> *Id.* at 144.

<sup>53</sup> DRACHMAN, *supra* note 2, at 184.

wrote Florence Cronise to the Equity Club. "[T]here certainly are times when the busy woman cannot find time to do what she would like to do as soon as she would like to,"<sup>54</sup> wrote Emma Gillett. Concerns about staying healthy in the face of overwork began to surface. Catherine Waugh wrote, "We must not let another woman lawyer die of overwork," and opined,

if we paid more attention to dress, diet and exercise we might all be strong. My creed includes no corsets, broad, low-heeled shoes, reform under garments, dresses in one piece hanging from the shoulders, no tea, little coffee or pork, few pies and cakes, much sleep, a little hoeing in the flower beds and a day in bed when occasion demands instead of sitting up and suffering.<sup>55</sup>

Gillett offered counsel that would no doubt still prove useful to the hundreds of thousands of women practicing throughout the country today. She wrote the Club:

Lack of exercise is the bane of people who follow sedentary occupations. There are innumerable...times when the unwilling spirit is goaded on by the conscientious woman believing she must do the stint she has set for herself when there is no possible object to gratify except her own self will. Let her adapt her work whenever possible to her physical condition and ninety-nine chances out of a hundred when the strain comes her physical condition will adapt itself to the work.<sup>56</sup>

Concern was also expressed about the number of women practicing law who died young--though in many instances, there seemed to be no connection between the cause of death and the law. Lemma Barkaloo died of typhoid fever in 1870. Lavinia Goddell died of sciatic rheumatism at the age of 41. Tabitha Holton died of unmentioned causes in 1886, eight years after she was admitted to the bar. Alta Hulett died in the spring of 1877;

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<sup>54</sup> *Id.*

<sup>55</sup> *Id.* at 175.

Robinson wrote that she "lived only long enough to demonstrate what a woman could accomplish in a very brief time in her chosen profession of the law."<sup>57</sup> Letitia Burlingame, who had always had, in her own words, "the weakest constitution ever given to mortal," wrote Robinson "legal practice agreed with me, I continually grew stronger, gained fifteen pounds in weight in six months, and now enjoy the best health I ever had."<sup>58</sup> But not long after Robinson's article was published, in December, 1890, Burlingame died at the age of 31 of "brain disease" following a severe case of "nervous prostration."<sup>59</sup> M. Fredrika Perry died of pneumonia in 1883, eight years after graduating from Michigan University; her law partner, Ellen A. Martin, wrote the Equity Club in 1888, "Law is a severe task master and demands undivided allegiance...Hence, it becomes of prime importance that women attorneys have a first-class physical condition."<sup>60</sup> Robinson herself died not long after her article was published, of an accidental overdose of belladonna, at the age of 42.

Health concerns remain for women today, though medical care has improved over the last century. Work in the law, particularly in the law firms of the 1990s, often means running oneself ragged. Long hours, stressful work, the pervasiveness of gender discrimination, the constant need to conform to a conservative hierarchy, and a perpetual lack of fresh air and enough sleep can translate into emotional and physical suffering. Several of the women interviewed for Harrington's book spoke of sinking into deep depressions at work. One said, "I went on a very severe diet [at the firm]...I think that was

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<sup>56</sup> *Id.* at 161.

<sup>57</sup> Robinson, *supra* note 1, at 15.

<sup>58</sup> *Id.* at 17.

<sup>59</sup> DRACHMAN, *supra* note 2, at 215.

a response to wanting to get away."<sup>61</sup> A law student spoke of being seriously ill in her first year, in her third year and after the bar. The illness, which she had never experienced before, was attributed to stress. Harrington notes that several of the African-American women lawyers working in big law firms that she had interviewed had become seriously ill with stress-related problems and all had left.

The women who broke down the barriers to practicing law in America did so with the help of their own remarkable personalities and each other.<sup>62</sup> Today women are entering the legal field in immense numbers. By 2010, just over a decade away, an estimated 40 percent of all of the lawyers in the country will be women.<sup>63</sup> And yet many of the problems that faced the country's female legal pioneers still plague women today, sometimes to such an extent that women leave the field altogether. As women face the next century--the next millenium--they must find a way to once again join forces with each other to make the practice of law their own. In 1888, Laura A.W. LeValley wrote in a letter to the Equity Club, "Hope lures us on, you know."<sup>64</sup> It must continue to do so.

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<sup>60</sup> *Id.* at 114, 115.

<sup>61</sup> HARRINGTON, *supra* note 34 at 84.

<sup>62</sup> "Our brothers extended the hand in welcome, so far as to put no visible obstacle in our way--neither did they make an effort to remove any," wrote Florence Cronise of the way she was treated as a lawyer. DRACHMAN, *supra* note 2, at 94. "I have had no 'opposition' from anyone...But neither have I had much help, except from my own people. And help is what we all sadly need in this life,--especially so in starting out in the practice of law," wrote Robinson. *Id.* at 66.

<sup>63</sup> ABA COMM. ON WOMEN IN THE PROFESSION, *supra* note 33.

<sup>64</sup> DRACHMAN, *supra* note 2, at 109.

