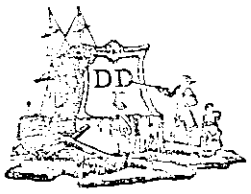
Angels and Amazons

A HUNDRED YEARS OF AMERICAN WOMEN

By INEZ HAYNES IRWIN



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field had been admitted to the bar in Iowa. Mrs. Mansfield who had apparently "read" in a private office, accomplished this feat without opposition. The examiners endorsed her in these words:

> Your committee take unusual pleasure in recommending the admission of Mrs. Mansfield, not only because she is the first lady who has applied for this authority in this state, but because in her examination she has given the very best rebuke possible to the imputation that ladies cannot qualify for the practise of law.

Ada M. Bittenbender in *Women in Law* says:

> The statute under which she was admitted provided only for the admission of "any white male person," but there was also a section which allowed "words importing the masculine gender only may be extended to females." And Mrs. Mansfield writes me that the presiding judge said very significantly that when any of those restrictive words did a manifest injustice to individuals, the court was justified in construing statutes as extending to others not expressly included in them.

Yet at that very time, the Illinois bar refused admission to Myra Bradwell of Chicago on the grounds that:

1—As a married woman her contracts would not be binding.
2—Admission of a female attorney would not be in accord with the common law.
3—To license a woman would be to admit that women should be governors, judges and sheriffs; and that, the court was unwilling to admit.
4—"Delicacy" of the female sex would be endangered.
5—Influence of women lawyers on "administration of justice" would be a question that only experience could answer.

Mrs. Bradwell appealed to the Supreme Court of the United States which reaffirmed the judgment of

the Illinois Court. It happened that in 1868, Mrs. Bradwell had founded the *Chicago Legal News;* and so when, in 1872, the Illinois Legislature enacted that "no person shall be precluded or debarred from any occupation, profession, or employment (except military) on account of sex," she was so busy with editorial-legal work that she did not renew her application for admission to the bar. However, she achieved a personal triumph—in 1890, the Supreme Court of Illinois admitted her on its own motion.

Columbia College closed the door of its law school to Lemma Barkaloo, and she entered Washington University in St. Louis in 1869. Her name does not appear on the list of graduates, but she was admitted to the Supreme Court of Missouri in 1870. The *Chicago Law Times* cited her as the first woman in this country to try a case in court. Not exactly true, that—Mistress Margaret Brent in Maryland had anticipated her by nearly two centuries!

Now they come thick and fast. Sara Kilgore, the second woman to receive an LL.B., was graduated from the University of Michigan in 1871. Then comes Phœbe Couzins, a graduate of Washington University, admitted to the bar in 1871. Miss Couzins never practised but acted as deputy under her father, who was a United States marshal. At his death, she received an appointment to fill his unexpired term.

The legal annals of 1873 record a triumph and a rebuff. Ohio admitted two sisters, the Misses Cronise, of Tiffin, Ohio, to practise in the State Courts. Miss Nellie Cronise married a fellow-student, N. B. Lines, who is quoted in Lelia J. Robinson's *Green Bag* as writing:

> They have won their standing at the bar solely upon their merits as lawyers in every-day practice, and the fact that they are women seems to have almost lost sight of, so far as their practice as lawyers is concerned.

But Alta M. Hulett's story diffuses a tragic pathos. Brilliant and beloved, she studied in law offices in Chicago for about two years. The state refused her admission to the bar but in 1873 she herself secured the passage of a new law which admitted her. She established a lucrative law practice--and died four years later.

The fight went on; characteristically, through a series of irritating refusals and unexpected triumphs. The Circuit Court of Rock County, Wisconsin, admitted Lavinia Goodell to the local bar in 1874. But the Wisconsin Supreme Court refused her admission when she applied in 1875. The words of the decision illustrate perfectly that graceful combination of egregiousness and condescension, typifying one kind of masculine thinking, which so infuriated Elizabeth Cady Stanton and Susan B. Anthony and which continued to infuriate women until their enfranchisement.

We cannot but think the common law wise in excluding women from the profession of the law. . . . The law of nature destines and qualifies the female sex for the bearing and nurture of the children of our race and for the custody of the homes. . . . And all life-long callings of women, inconsistent with these radical and sacred duties of their sex, as in the profession of the law, are departures from the order of nature. . . . The cruel chances of life sometimes baffle both sexes, and may leave women free from the peculiar duties of their sex. These may need employment, and should be welcome to any not derogatory to their sex and proprieties. . . . But it is public policy to provide for the sex . . . and not to tempt women from the proper duties of their sex by opening to them duties peculiar to ours. . . . The peculiar qualities of womanhood, its gentle graces, its quick sensibility, its tender susceptibility, its purity, its delicacy, its emotional impulses, its subordination of hard reason to sympathetic feeling, are surely not qualifications for forensic strife. . . . It would be revolting to all female sense of the innocence and sanctity of their

sex, shocking to man's reverence for womanhood . . . that woman should be permitted to mix professionally in . . . the nastiness of the world which finds its way into courts of justice. . . .

However, out of all this exquisite consideration swiftly emerged a law making women eligible to practice; and the Wisconsin Supreme Court had reluctantly to sully womanhood by admitting Miss Goodell in 1875.

Next come Tabitha A. Holton, of Dobson, North Carolina, admitted to the bar and practice in Dobson in 1878; Laura deForce Gordon, in 1879; Mrs. J. M. Kellogg, Lelia Robinson, Marilla M. Ricker, Bessie Bradwell and Mary Hall in 1882; Carrie B. Kilgore in 1883; Lettie L. Burlingame in 1886; later California provides us with three names, Elizabeth Kenney and Catharine McKenna of Los Angeles and Mary Anne Greene of Pasadena; and Colorado joins in with Florence Lathrop and Mrs. E. Jean Nelson Penfield.

Those are merely names. But as in the case of all pioneers, each career is a separate struggle, blazing new and interesting trails.

Of Laura deForce Gordon, for instance, we read that after she had helped pass a bill in the legislature enabling women to practice law, Hastings College of Law, San Francisco, refused her admission. She obtained a writ of mandamus and Hastings College had to yield. The bar admitted her in 1879. She specialized in criminal law. When she won a verdict of "not guilty" in her most famous case, The People vs. Sproule, the men in the courtroom cheered; the women cried and the jurymen, half weeping themselves, joined in the applause.

Of Lelia Robinson, we learn that in 1878 she entered Boston University—this institution held always a liberal attitude toward women—took the regular three-

years' course and was graduated in 1881. The bar refused her admission on the grounds of sex. Whereupon the women went to work on the Massachusetts Legislature and changed the law.

Seemingly without a struggle, Marilla M. Ricker was admitted to the bar in the District of Columbia in May, 1882, and was appointed Commissioner and Examiner in Chancery by the District Supreme Court.

Bessie Bradwell's mother studied law with her husband and passed the Chicago bar examinations in 1869; but of course at that early date the courts refused her admission on the grounds of sex. Bessie, however, was graduated from the Union Law College of Chicago in 1882. She was the orator of her class at Commencement.

Mary Hall, of Hartford, Connecticut, tried to practise both in Massachusetts in 1881 and in Connecticut in 1882. She applied to the Superior Court of Hartford County in 1882 for admission and was accepted. In its decision, the Superior Court sounded a pleasant new note when it said:

> All progress in social matters is gradual. We pass almost imperceptibly from a state of public opinion that utterly condemns some course of action to one that strongly approves it. . . . We are not to forget that the statutes are to be construed as far as possible in favor of equality of rights. . . .

Carrie B. Kilgore, of Philadelphia, until 1890 the only woman to gain a B. A. degree from the University of Pennsylvania, was one of the first women to apply for admission to the bar and one of the last to win it. The Orphans' Court admitted her in 1883, the Court of Common Pleas in 1884 and the Supreme Court in 1886. When her husband died, all his clients, except one, asked her to carry on his business. At one time, she acted as solicitor of a corporation.

Education Goes On

Lettie L. Burlingame, of Joliet, Illinois, received her degree from Ann Arbor in 1886, and was admitted to the Michigan bar. She opened an office in her home in 1888 and achieved a remarkable success. It is amusing to read that she said, speaking of the kindness and the encouraging attitude of the professors at Ann Arbor, "One of them used to arouse my indignation by picking out easy questions to ask us women." This too sounds a new note.

Mary Anne Greene was one of two women to deliver an address upon the same platform with leading jurists of Europe and America at the World C
Jurisprudence in Chicago in 1893. She was also the first woman to contribute to the *American Law Review*.

Mary Florence Lathrop, who became a recognized authority on probate law and on titles to real estate, was the first woman member and the first woman officer in the American Bar Association. Mrs. E. Jean Nelson Penfield, her comrade as a pioneer in Colorado, had won the interstate college oratorical contest in 1892, the only woman who had ever taken that honor.

Ellen Spencer Mussey's career stands out in the annals of women and the law.

Mrs. Mussey went to Washington in 1869. There she attended her first woman suffrage meeting. As usual, all the great women of the movement appeared, Susan B. Anthony presiding. Mrs. Mussey says, "I sat next to Lucretia Mott, the Quakeress, and before long she turned to me and said, 'Thee is frightened,' and I had to admit that I was." Mrs. Mussey accomplished so many magnificent things in the District of Columbia that her recorder has to take to the catalogue method. First of all, for twenty-five years she acted as attorney for the Legations of Norway and Sweden. When the District Courts admitted women, she engaged as active counsel

in cases of criminal and civil law, equity and probate. It was her work that changed the laws in the District of Columbia, giving mothers equal guardianship with fathers over their children. She drafted and first presented to Congress a bill which is now a law, to grant married women the right to their own earnings. She drafted and first presented to Congress a bill which is now a law to grant married women the right to individual citizenship. She helped to found the Washington College of Law in 1896, served as its first active dean, and started in with a class of three women at her own office. She founded the Women's Bar Association of the District of Columbia. Twice she served on the local council of the American Bar Association.

Last of all—though she antedates many of these other women—comes the brilliant career of Belva Lockwood, the first of her sex admitted to the bar of the United States Supreme Court.

Born in Royalton, New York, Belva Lockwood began to teach at fourteen, herself earning the money to go to an academy in her native town. She married a Mr. McNall. After four years, her husband died leaving her with a daughter. Using the little money he left her, she studied for a time at Genesee College. After that, she taught at Lockport Union School and Gainsville Seminary; finally opened her own Seminary at Oswego, New York. In 1868, she moved to Washington, D. C., opened a school, married the Rev. Ezekiel Lockwood. About that time, she became interested in the law. She applied for admission to the legal course at Columbia College, which refused her on the ground "that her presence in the classes would distract the young men." So she entered Syracuse University—already co-educational—received her A. M. degree, went from there to the National University Law School from which she received her LL.B. degree. After much manipulation and agitation, the bar

literature of law. M. B. R. Shay wrote *Student's Guide to Common Law Pleading;* Lelia Robinson, *Law Made Easy* and *Law of Husband and Wife;* Catharine V. Waite edited the *Chicago Law Times* and Myra Bradwell, the *Chicago Legal News;* Bessie Bradwell Helmer compiled ten volumes of *Bradwell's Appellate Court Reports;* Cora Benson acted as law editor for the West Publishing Company of St. Paul.

Two important organizations of women lawyers emerged from this last quarter of the Nineteenth Century. The Equity Club, composed of women students and graduates of the Law Department of Michigan University, came into existence in 1886; the Women's International Bar Association, in 1888. The Women's International Bar Association worked for four objectives: opening law schools to women; removing disabilities to admitting women to the Bar; securing a better legal status; disseminating knowledge concerning that status. Constantly, this body exerted pressure on those states which barred the Bar to women. By the middle nineties, twenty-three had yielded. The situation had its oddities. New York State, birthplace of woman's rights and woman suffrage, in so many other things a centre of liberality, long turned a forbidding countenance on the aspiration of women lawyers. In

1886, Kate Stoneman of Albany gained admission; but only under a special bill. When the Cornell and Buffalo law schools opened to women, none enrolled—what was the use when they could not take the Bar examinations? In the spirit of protest, probably, Dr. Emily Kempin established a law school for women in New York. Her graduates took their examinations before committees of prominent jurists who disagreed with the spirit of the state laws. When they passed, Dr. Kempin flaunted the statutes by conferring LL.B. degrees publicly. She had the backing of a Woman's Law School Association on whose list of visitors appears a familiar name—she of the hundred talents, Dr. Mary Putnam Jacobi. Finally, in the late nineties the fettered Portias moved on the State Legislature and pried their way into the profession.

In 1882, the United States had fifty-six women attorneys, thirty-one of them graduates from law schools. By the end of the century there were one thousand and ten. Not all of them practiced. Some studied law, as do many men, as a preliminary education for business. Many of them worked for the legal periodicals. Also, a new sub-profession was rising in the big firms of the metropolitan cities—the office manager or general secretary. Women were seeping into this specialty; and a thorough knowledge of the commodity with which they dealt helped their efficiency and advancement.