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Cover photo: An American flag sewn by inmates at the California Institute for Women is displayed by two staff members; inmates also published *The Clarion* newspaper, which is the subject of Kathleen Cairns' article in this issue. (Courtesy of the California Department of Corrections and Rehabilitation)

WRITING FOR THEIR LIVES: THE CLARION AND INMATES AT THE CALIFORNIA INSTITUTION FOR WOMEN, TEHACHAPI

KATHLEEN CAIRNS

“**I**n our salute last month to the gentlemen in grey at Atlanta prison for their outstanding contribution to this war, the malaria project, we bollixed up a perfectly good tribute by listing one chap as Louise Chastain. He has sent us word that it strictly ain’t so, that he is a very manly character indeed!”

These words were penned in August 1944 by Gene Dayton—a woman—in *The Clarion*, the inmate newspaper published monthly at the California Institution for Women, Tehachapi. The irony of possessing a “man’s” name (or at least the spelling) and misidentifying “Louis” as “Louise” seemed to escape Dayton, a convicted forger. She went on to explain her lapse: “We really have no alibi unless we offer an expert’s opinion handed to us by a very kind husband we once had: ‘my wife is not clumsy—she is just in the abstract.’ So there it is Looie, Louis or Louise; being in the abstract does not alter the fact that you are still fine, brave men.”¹

The Clarion was one of nearly two hundred inmate newspapers published at American penal institutions between the two world wars, a period that media scholar James Morris calls the “heyday” of prison journalism. But the Tehachapi effort was somewhat unusual. The vast majority of inmate publications

¹Gene Dayton, “The Walrus Said,” *The Clarion*, August 1944, p. 10.

Kathleen Cairns teaches history and women’s studies at Cal Poly San Luis Obispo. She is the author of *Hard Time at Tehachapi: California’s First Women’s Prison*, published by the University of New Mexico Press.

The Clarion



CALIFORNIA INSTITUTION FOR WOMEN

JUNE 1944

The Clarion, published by women inmates at the California Institution for Women, Tehachapi, was the only prison publication in the country printed on the prison premises. (Earl Warren Papers, courtesy of the California State Archives)

came from men's prisons. Only a handful of women's institutions had newspapers. Others included the Massachusetts Reformatory in Framingham, the Indiana Reformatory in Indianapolis and the Federal Reformatory for Women in Alderson, West Virginia.²

The lopsided numbers are not really surprising. Journalism had long been considered a "male" profession. The few female reporters worked in "soft" feature sections, penning stories about society, fashion, and food. But in the interwar period, a few women began to cross the threshold to the newsroom, where they worked alongside rough-hewn and hard-drinking men and covered male "beats"—crime, politics, and war. Few observers would place female inmates in the same category as women reporters, no matter what kind of news they covered. But prison administrators themselves were female professionals working in a non-traditional field. A few of them may have viewed the emergence of a new, viable career option for other independent women with a great deal of interest and seen the creation of inmate publications as an appealing prospect. After all, they held a significant amount of control over the message, just as "real" publishers did.³

Savvy administrators also understood that prison newspapers could serve a larger purpose as well: demonstrating to a skeptical public their ability to rehabilitate inmates. Who could argue with their success when prisoners such as Gene Dayton wrote funny, self-deprecating, and well-crafted items? The evidence for this strategy is apparent in the number of publications, including *The Clarion*, that circulated outside prison walls.

Prison newspapers also served the interests of inmates. They resented a system that tried to silence them and forced them into lock-step conformity, but they could not openly resist without risking their future freedom. Engaging in sex with other inmates, fighting, destroying property, talking back, even malingering or faking illness brought swift punishment and

²James M. Morris, *Jailhouse Journalism: The Fourth Estate Behind Bars* (Jefferson, NC, 1998), 116–17.

³Kathleen A. Cairns, *Front-Page Women Journalists, 1920–1950* (Lincoln, NE, 2003) discusses the emergence of "hard news" reporting as a viable career choice for women. Many factors led to increased opportunities. Popular culture changed public perception of women's "essential nature" and allowed them to move from women's pages to the front page. The Depression and World War II brought an increased focus on human interest stories, women's "specialty." The rise of objectivity as a journalistic aspiration led women to argue that editors and publishers should use objective criteria in hiring as well.

the loss of precious "good-time credits." Writing for newspapers gave them the ability to express their individuality in safe ways, while also demonstrating their success at adopting the traits of virtuous womanhood demanded by their keepers.

The importance of language as a subtle resistance strategy is evident in the words and phrases inmates across the board created—quietly of course—to describe their incarceration. Female administrators liked to call the prisons "campuses," "farms," or "reformatories." Inmates had their own designation. They called the facilities "reservations." Newcomers were "fish," while matrons and staff members were "screws." "One-man-prison" referred to someone getting favored treatment, and "The Book" meant a harsh sentence. A "rum-dum" referred to an easy mark. "Pulling seconds" meant engaging in a hypocritical act. The worst kind of prisoner in this tight-knit "community" was a snitch, referred to in prison lingo as someone "rattling the cup."⁴

For scholars examining prison life long after the fact, inmate newspapers such as *The Clarion* provide an invaluable resource and an opportunity to hear the voices of individuals who otherwise remain absent from the historical record. And, despite heavy censorship, these publications hint at ways in which inmates emotionally and psychologically managed to survive in an environment controlled almost entirely by others.

BACKGROUND OF PRISON PUBLICATIONS

Prison journalism emerged toward the end of the nineteenth century as part of a larger movement, called the "New Penology," that aimed to replace old-style forbidding and punitive penitentiaries with reformatories aimed at rehabilitation. This effort fueled a wide variety of new approaches, from architecture and landscape to treatment options. The latter incorporated hard work, exercise, and self-improvement programs. The last category included journalism.

At the 1870 Ohio conference inaugurating the worldwide reform effort, Joseph Chandler, a former congressman and publisher from Philadelphia, raised the subject of prison publications. "Can a newspaper, specially designed for the use of prisoners, be made of considerable moral use?" he asked his fellow delegates. "If so, it ought to be established by any available means, and sustained at any cost."

⁴Florence Monahan, *Women in Crime* (New York, 1941), 187–88.

The fact that Chandler brought up the topic at all reflects the growing significance of journalism in the post-bellum period. Newspapers were fast becoming a huge industry, fueled by insatiable public demand for information both in urban areas and small towns, by technological improvements that enhanced the ability to print and distribute publications, and by the recognition by entrepreneurs that newspapers could bring wealth as well as political power. But how, Chandler asked, could a sensational press that lured readers with stories of crime and criminals also serve to rehabilitate those very same criminals? By offering them a sanitized version of "news," carefully vetted by authorities to emphasize uplift, rather than its opposite. Stories, for example, would lean heavily on "those great and fundamental universal principles in religion and morals" as well on information designed to "lure the inmate back to the good life with gentleness."⁵

According to James Morris, the first prison newspaper appeared in 1883 in Elmira, New York. *The Summary* contained four pages of news, a combination of current events—carefully censored—poems and letters, including those from successful parolees. It circulated outside the prison as well, proving particularly popular among penal reformers. Within months, the paper had doubled in size, and inmates competed to see their stories in print. By the turn of the twentieth century, more than fifteen states had prison newspapers. Ostensibly operated "for the benefit of the inmates," in reality they mostly reflected "the Superintendent's suggestion."⁶

There were a few exceptions, however, including the *Prison Mirror*, published by the inmates of the Minnesota State Prison in Stillwater. Among its notable contributors was Coleman Younger, a bank robber, bandit, and member of the infamous Younger-James outlaw gang. Inmates started the monthly paper in 1887, entirely subsidizing it themselves, which allowed them a fair degree of editorial freedom. For example, they occasionally criticized prison management. Eventually, though, as many of the initial contributors left the prison, the paper lost its independent streak.

Other "celebrity" prisoners also contributed to inmate newspapers. They included Julian Hawthorne, son of writer Nathaniel Hawthorne and a writer himself, most notably for Joseph Pulitzer's *New York World*. In 1913, at the age of sixty-seven, he was convicted of participating in a financial scheme that investors deemed a hoax, and was sentenced to a year at

⁵Morris, *Jailhouse Journalism*, 32–36.

⁶Ibid., 45.

the newly built federal penitentiary in Atlanta. Hawthorne used his notoriety to pen articles for the prison newspaper *Good Words*. Some articles urged uplift and self-improvement, but others contained harsh criticism of prison policies, including the practice of isolating prisoners, referring to them by numbers rather than names, and failing to create any productive work.

Such criticism might have earned other inmates a swift ejection from reportorial duties, but Hawthorne had a sophisticated understanding of his public relations value. "It was plain that the officials took interest in the prison paper as a medium for advertising and gaining credit for the penitentiary; and when I began to write for it, newspapers all over the country quoted the articles and commented kindly on them."⁷

Another early prison journalist, Charles Chapin, had also worked for Pulitzer's *World*. Reared in Chicago, Chapin was lured to New York by Pulitzer's promise of a high-profile job as city editor and a big paycheck, and Chapin took advantage of both. In 1918, he shot his wife through the head as she slept. He feared his inability to support her in old age, he claimed. At Sing Sing prison, the warden put him to work editing *The Bulletin* and allowed him to clean out a vacant office to use as a newsroom. Chapin spent more than twelve hours each day on the paper and began to demand total editorial control.

Like Hawthorne, his celebrity gave him strong influence. In his articles, Chapin demanded pay for convict labor and also higher wages for guards and other staff members. He studied court decisions to determine if any rulings pertained to inmate cases. When he began writing about his own experiences in prison—drawing enthusiastic responses from a wide variety of New Yorkers who lobbied state officials in Albany for Chapin's release—authorities decided to suspend publication. Despite public outcry, the paper shut down.⁸

By the time Chapin died at Sing Sing in 1922, "prison journalism had become an established part of life behind the walls." Before the end of the 1930s, more than half of all prisons, including San Quentin in California, had newspapers. Although authorities maintained strong editorial control over most of them, the emphasis had changed. "Uplift" remained a component of inmate journalism, but only one of many. Most papers now focused on inmate activities and on national events occurring outside prison walls.⁹

⁷Ibid., 73–77.

⁸Ibid., 99–107.

⁹Ibid., 111–15.

This shift reflected increased sophistication as the second and third generations of prison journalists replaced the neophytes. In many ways, prison journalism followed the example of mainstream news coverage in general in the post-World War I years—away from idealism and emotion and toward skepticism and “objectivity.” Authorities, however, still viewed newspapers as evidence of their success at rehabilitating inmates and as a crucial venue for promoting themselves.

THE CLARION

When members of the board of directors of the California Institution for Women, Tehachapi, inaugurated *The Clarion* in February 1937, they benefited from years of journalistic organization at other prisons across the United States. They specifically benefited from San Quentin's experience, where inmates had spent a dozen years writing for *The Bulletin*. The prison had housed women from its earliest days. Although most spent their time sewing, cleaning, and cooking, a few women wrote for *The Bulletin*.



They included Roberta Hall. Sent to San Quentin in the early 1930s for writing \$450 in bad checks in the resort town of Carmel, she began writing poetry to fill her time, and soon *The Bulletin* began publishing her work. Even the *Los Angeles Times* admired Hall's talent. After reading an issue of *The Bulletin* that included one of her poems, a *Times* reporter was moved to declare,

It is almost unbelievable that inmates of a prison can produce such remarkable literature. From behind prison bars, Roberta Hall writes this: “Out of the earth, the tender healing earth, Where sweet renewals rise in time, Came forth a flower . . . and came forth a gem. You laid them in my hands to match a rhyme, A rhyme that was no other thing, God knows, Than the blue flower of my love for you. . . .”

The reporter concluded, “There is something that Elizabeth Barrett Browning might well envy.”¹⁰ Hall was one of very few inmates, male or female, who sold their work to outside publications. By the time she left Tehachapi on parole in May 1939, she had earned enough to repay all of her debts.¹¹

¹⁰“Seen from the Green Verdugo Hills,” *Los Angeles Times*, January 21, 1934, p. 12.

¹¹“State Liberates Prison Poetess,” *Los Angeles Times*, May 8, 1939, p. A22.

Fingerprint Classification	Fingerprint Reference
	
<i>Jan - 30 - 1936</i>	
Age <i>27</i>	Nat. <i>New York</i>
Eyes <i>blue</i>	Teeth <i>16 plate some missing</i>
Hair <i>gray</i>	Chin <i>Round</i>
Complexion <i>Swiss</i>	English Height <i>5' 2 3/4"</i>
Weight <i>164</i>	Build <i>Medium</i>
Description taken at San Quentin <i>3-2-37</i> ID <i>51063</i> by <i>Black</i>	

Roberta Hall sold her poems to outside publications and earned enough to pay off the debts she had incurred from writing bad checks. (Courtesy of the California State Archives)

At San Quentin, female inmates initially lived in separate quarters inside the men's complex. In the 1920s they moved to a three-story building just outside the prison walls. Reformers, unsatisfied with this arrangement, spent decades lobbying for a separate women's prison. In November 1933, Tehachapi finally opened, and nearly 150 women were transferred to the sixteen-hundred-acre facility nestled in a valley in the windswept Tehachapi Mountains. They did not immediately become free of San Quentin, however. For three years, Tehachapi remained under its jurisdiction. Then, in November 1936, California voters approved a statewide initiative making the institution an independent entity.¹²

¹²*Los Angeles Times*, January 5, 1937, p. 12.

Three months later, at their first meeting, newly appointed trustees authorized *The Clarion*. The masthead announced the paper's mission as "a medium of self-expression and to encourage self-improvement."¹³ Annual subscriptions cost one dollar. Like most other publications, it circulated outside of the prison. Administrators mailed it to powerful politicians around the state.

The first issue appeared in April 1937. *The Clarion* began as "a minor project" but soon grew into a major part of the institution. It was the only prison publication in the country printed on the prison premises, according to Florence Monahan, superintendent of Tehachapi when *The Clarion* first appeared. Trustee Lotus Loudon published the *Anaheim Bulletin* and donated printing equipment from his own plant, including an old-fashioned hand press. *The Clarion* staff dubbed the press "Paul Revere" and treated it "with tenderness and respect." In addition to the newspaper, inmates published cookbooks—costing a quarter apiece—programs, and bulletins for a variety of prison activities.¹⁴

Prisoners built the pressroom themselves, remodeling a "noxious, barn-like" building that had once housed rabbits. They "ripped out the hutches, installed windows, tar-papered the roof, laid a pine floor, wall-boarded the inside, drenched the outside with whitewash, and then sat back and admired their work." The part of the building not used as a press room became a small movie theater.¹⁵

Unfortunately, fewer than two dozen issues of *The Clarion*'s Tehachapi years survive, virtually all from the 1940s. Although the paper experienced changes in design during this period, its style remained consistent throughout: a combination of dry wit, breeziness, sentimentality, and the earnest approach of a college or high school newspaper. Some of the writing was almost as sophisticated as mass-circulation publications, while other writers clearly struggled to put one word in front of another.

At any one time, a dozen or so inmates worked on the paper, and the names of contributors suggest a multicultural staff. They included Mary Assad, Edna Griego, and Navas Rey. It is clear that African Americans also contributed, since much

¹³*The Clarion*, August, 1944, p. 4 [in the Earl Warren Papers, F3640:1009, California State Archives, Sacramento, CA]. The extensive Earl Warren collection covers every aspect of the California governor's ten-year tenure as the state's chief executive. Information on the California Institute for Women at Tehachapi is contained in the archives' files, F3640: 1009–1011. According to James Morris, it is extremely difficult to know the number of publications emanating from women's prisons, although he did not really examine those that existed.

¹⁴Monahan, *Women in Crime*, 207–10.

¹⁵Ibid.

of the news emanated from Culver, which authorities called "the Colored" cottage. In fact, Culver writers proved far more consistent in their submissions than correspondents from other cottages. If ethnic conflicts occurred, they do not appear in the pages of *The Clarion*.¹⁶

Not every story carried a byline, and it is impossible to know the crimes of most contributors. A few stand out, however. Dorothy Goodrich, a serial check-kiter, edited the paper for a time. Isa Lang, a teacher convicted of murdering a female church treasurer in what may have been a lover's spat, edited the opinion section in the late 1940s. Barbette Hammell, a flamboyant con-woman convicted of bilking San Franciscans out of thousands of dollars, served two separate stints as a journalist. She won parole after writing for the *San Quentin Bulletin*, but re-offended and was sent to Tehachapi, where she immediately became the unanimous choice to edit *The Clarion*. Hazel Casteel, the so-called poker-bandit; Navas Rey, who murdered her lover in Monterey; and Gene Dayton, the forger, worked as general reporters.¹⁷

Because their work was censored, it is tempting to dismiss the inmates' writing as unrepresentative of their actual sentiments and their depiction of prison staff—and prison life in general—as unrealistic and excessively fawning. Contributors also were not representative of all inmates: only the articulate, creative, and talented and those deemed suitable for rehabilitation need apply. Looking closely at their work, however, one can intuit how they used writing to gain personal empowerment.

The writers may have shaped their messages in terms acceptable to authorities, but the words and ideas were their own. As storytellers, they also were actors, rather than members of a passive audience. And their example served as a silent but clear rebuttal to the one-size-fits-all image of inmates as, in the words of Superintendent Florence Monahan, "coarse, common and uneducated."

The stories, essays, and poems that appeared in *The Clarion* depict women using constant activity to stave off boredom and loneliness, struggling to understand the world beyond the

¹⁶It is impossible to know the ethnic backgrounds of the writers, except for a few whose names clearly were Spanish in derivation. But most months, the paper included news from cottages, and since Culver housed African Americans, it seems likely the contributors were African American.

¹⁷Isa Long was a 46-year-old teacher, convicted in 1935 of shooting a friend to death during an argument over an avocado sandwich. Barbette Hammell concocted numerous schemes to bilk San Franciscans out of their money, including one in which she claimed to need money for her son's medical bills. Hazel Casteel was part of a trio that robbed a poker game, getting away with \$303.

Height	1 m	Head length		Arm		Forearm		Hand		Age	35 Years
Build	1 m	Width		Mid F		Periph. Z		Gray		Build	Thin
Front		Ear		L. F		Foot					
English		Finger Print	31	M	11	Finger Print					
Height	5'4"	Classification	20	55	16	Reference					



137-5000-101-101

Weight		Height		Head		Forearm		Hand		Build	
Width		Length		Forearm		Periph. Z		Gray		Build	Slender
Front		Ear		L. F		Foot					
English		Finger Print		M		Finger Print					
Height		Classification				Reference					

Measured at San Quentin, 1932, 1935, 1938, 1942, by Black

Re-Measured When and Where

Con-woman Barbette Hammell served two stints as a journalist, one at San Quentin and one at Tehachapi, where she edited *The Clarion*. (Courtesy of the California State Archives)

prison gates, anxious to join that world but fearful of their reception. An essay from the March 1945 *Clarion* reflects some of these sentiments: "Seemingly, we are separated as if by seas and distance in opinions of each other. We too are people with souls, hopes and desires. Our caravans have traveled from many places and some day again our caravans will travel on . . . into your world. All we ask is equality, understanding, tolerance and compassion."¹⁸

For their part, officials seemed open to allowing writers a fair amount of editorial leeway, within firm guidelines. And they expressed ambivalence about their role in the editorial process. When trustee Grace Barneberg took over as official

¹⁸*The Clarion*, February 1945, p. 6.

censor in 1944, she wrote a short message to the "girls," declaring her belief that "I think I should aid and encourage, but not participate."¹⁹

Women who wrote for *The Clarion* had much in common with their male counterparts at men's prisons, and much of their coverage is similar in focus. But there were differences as well, having to do with such subtleties as tone and approach to their subjects, that suggest how well the women understood the power of language, whether spoken or implied. Female writers took great care to seem deferential and often laced coverage of serious topics with self-deprecation, humor, or sentiment. Men, on the other hand, tended to hold their subjects at arms' length and wrote dispassionately, more like "objective" reporters writing for mainstream newspapers.

For example, a writer for *The New Era* at the federal penitentiary in Leavenworth, Kansas, discussed an inmate with a good prison record who feared that earlier arrests might derail his pending probation:

Carefully and with interest Judge Savage read the certificates. Finally, he looked up and said, "Charles, you have been cooperating with the prison officials for the past year. Now we are going to cooperate with you. We are going to place you on probation."

Jerome Gilpatrick discussed a federal malaria project in *The Atlantian*, the Atlanta penitentiary's publication:

The men of Atlanta—whose patriotism has gone far to remove the traditional stigma of their circumstances and social status—were offered the opportunity to volunteer as "human guinea pigs" for the project of giving the drugs a final test.²⁰

Tehachapi authorities, like those at other prisons, clearly recognized the value of their paper. The April 1947 *Clarion* carried a letter from a San Francisco doctor who pondered, "Who is sending me *The Clarion*? I like it very much, and it has served in relieving the institution of the chill it always held for me. And you surely do have talent among you."²¹

¹⁹*The Clarion*, August 1944, p. 2.

²⁰"Atlanta Opens Up a Second Front," *The Clarion*, June 1944, p. 6; "This Happened in Leavenworth, It Can Happen Here," *The Clarion*, June 1944, p. 19.

²¹"Importance of Prison Publications," *The Clarion*, April 1947, p. 3.

"ALL THE NEWS THAT'S FIT TO PRINT"

So how did *The Clarion* staff members depict life at the California Institution for Women? A college campus comes to mind, with inmates living together in dorms and working hard to learn the skills necessary for "graduation." In fact, writers usually referred to themselves as "students" and to Tehachapi as a "campus," although occasionally they slipped up and called it "the reservation."

Like any "campus," Tehachapi was the site of an endless round of activities, and *The Clarion* covered most of them: movies, church services, plays, musical performances, sports activities, and holiday celebrations. Also, there were elections for cottage councils; sewing, knitting, academic and vocational classes; self-help groups, including The Confraternity of Saint Theresa, which raised money for charity; and a chapter of Alcoholics Anonymous. The AA group started with fifteen women in 1945; two years later its membership had grown to 120, "with meetings every Monday."²²

Inmates in Culver Cottage wrote of their beauty salon: "A constant string of Mi Ladies come to and fro—they don't have to wait because the operators are always on time and you should see what a quick twist of the wrist and a little dab here and there of paint and powder will do in improving on nature," wrote Lucrecia McLeod, Culver's *Clarion* correspondent. Customers emerged "patting their shiny curls and trucking on down just like on Broadway or Main Street in any little town."²³

Writers bannered the lavish celebrations held for virtually every holiday. In May 1944, for example, Culver Cottage celebrated Mother's Day with a beautifully arranged dining room, "the tables in a horseshoe arrangement with an elaborate flower scroll, at the center of the dining room, forming the words Mothers' Day in flowers grown on our campus and made by Gladys Johnson."²⁴

July Fourth seems to have been a favorite holiday, providing the opportunity for a day-long extravaganza lasting deep into the night. The 1944 event included baseball, "lawn bowling, badminton, volley ball, a treasure hunt and various other games and contests," as well as a lavish picnic. "In the evening, we had a dance at the Globe and a big crowd was there. There was a Waltz

²²"Five Years of Progress," *The Clarion*, March, 1947, p. 5.

²³*The Clarion*, August 1944, p. 10.

²⁴*The Clarion*, June, 1944, p. 16.

contest, and a Jitter-bug contest. . . . Of course there were a few casualties during the day. Ella May Hart got a Charlie Horse and had to drop out of the baseball game while on second base. Then Gene Dayton got hit with a baseball bat." Inmates won prizes for, among other things, "Husband Calling," high jump, jitter-bug, and waltzing. The women danced with each other.²⁵

Music formed a constant backdrop to inmates' lives. Culver Cottage held frequent jam sessions. "There are some mighty fine voices in Willard [Cottage]. Helen Richmeire and Elaine Summers are ever faithful to both orchestra and chorus. . . . Hodder [Cottage] isn't out of the running, not with Sandra Cooper's voice and the girls who never miss an orchestra practice and play faithfully through every dance. . . . So much talent that has been hidden is coming forth. We have even discovered a chicken that will not stay put in its own backyard, but wanders over to Culver and Hodder and sings and sings . . . quite early in the morning when we prefer to sleep."

Inmates also took part in theater performances. In May 1944, forty prisoners participated in an adaptation of Clare Booth Luce's play *The Women*, sponsored by *The Clarion*. Gene Dayton, who must have been the busiest inmate at Tehachapi, directed the cast in the story of a group of bitter, vengeful females. It seems an interesting choice for prisoners laboring to explode the backstabbing image. Invited guests, who included members of the State Prison Board, the Tehachapi Board of Trustees, and city officials from the nearby town of Tehachapi, pronounced the performance "remarkable."

Inmate Navas Rey wrote a review that displayed a sophisticated understanding of gender relations: "In the women [sic], Claire [sic] Booth Luce, with her feet firmly set in the path of a career, has chosen to give us a play eulogizing the old fashioned home loving wife. . . . What shall we say of the recent performance by a director and a cast within our midst? Simply that it was astonishing! Without a real stage, with makeshift arrangements on every hand, a great deal of backbreaking work and very little opportunity to devote time and energy to rehearsing, the director . . . and her cast succeeded in putting on what any fair-minded individual would qualify as practically a professional performance." Rey went on to detail the various characters, including Alice Avila as the villain ("with whom by the way the entire inmate body openly sympathized").²⁶

²⁵*The Clarion*, June 1944, p. 5. The June issue was published late and did not appear until after July events.

²⁶Navas Rey, "A Play Review, *The Women*," *The Clarion*, June 1944, p. 15.



Music formed a constant backdrop to inmates' lives. (Courtesy of the California Department of Corrections and Rehabilitation)

Such rave reviews were common. In fact, it is difficult to find a single negative review of any performance, activity, or individual personality at Tehachapi—either staff member or inmate. The few exceptions pertained to former employees, including superintendent Florence Monahan. Without mentioning her by name, an article in the March 1947 *Clarion* noted, "Once upon a time, not so long ago (about 1941 in fact)

we dressed in patches. Not a patch here and a patch there, but patches. Period. There were no new dresses. They didn't look as if they had ever been new. They were patched with patches made from patches that had outlasted the original dress." Under Superintendent Alma Holzschuh, however, inmates wore spanking new dresses.²⁷

Holzschuh was the primary beneficiary of good press. *Clarion* staff fell all over themselves to depict her in flattering terms. In March 1947, inmates held a surprise party, marking the fifth anniversary of her arrival at Tehachapi. "Everyone was pledged to secrecy and even the roots of the grapevine were cut until we were well on our way and the committees working." The celebration featured a program of singing, food, and gifts, including an orchid corsage and a burnt wood plaque that read: "Five lines, Five years." The writer added, "It is our wish that Miss Holzschuh will be with us for many more years." She quickly inserted, "Not us, but those that may come behind."²⁸ The next year, inmates crowned Holzschuh "Mardi Gras Queen," a difficult role, as she explained later, "because I had never been a queen and certainly never expected to be one."²⁹

The Clarion provided a forum for writers to show off their humanity and genuine good feelings for one another. Personal profiles and anecdotes gave writers a prominent platform for this purpose. In June 1944, staff members featured eighty-one-year-old Molly De Forcy, Tehachapi's oldest prisoner and a resident of Davis Cottage. Obviously a character, De Forcy was "equally well versed in the classics and the patois of the steve-dore. Molly has delighted us for years with her ribald comments on the world in general and the people here in particular."

She also took care of the institution's cats, in spite of efforts by unnamed opponents to eradicate each batch of kittens. Twice each day, Molly "takes the long trek across the campus to the dairy for milk for her pets, and makes the round of the cottages, carrying her little basket to garner scraps of meat. That's a big chore for old Molly, but she carries on in any and all weather—an indomitable force of human woman." On the occasion of Molly's birthday, the residents of Davis Cottage feted her with gifts, including "salmon for her cats and a lovely flower arrangement in a black cat pottery vase. We loved Molly's reaction, 'well, I'll be damned!'"³⁰

²⁷"Rags to Riches," *The Clarion*, March 1947, p. 5.

²⁸"Anniversary Party," *The Clarion*, March 1947, p. 11.

²⁹"Mardi Gras," *The Clarion*, April 1948, p. 5.

³⁰"An Unforgettable Character," *The Clarion*, June 1944.



In 1944, Davis Cottage housed Tehachapi's oldest prisoner, eighty-one-year-old Molly De Forcy. (Courtesy of the California Department of Corrections and Rehabilitation)

Other inmates lavished affection on pets as well, including a pigeon, nicknamed George, who perched atop a box of type and watched the monthly press run; a frog named Oscar who reportedly croaked on hearing his name; a cat named Timmy who walked on a leash; and another named Violet, who was the beneficiary of sweaters, hats, mittens and nightgowns made by "the girls." Violet turned out to be a male, but prisoners kept on making him clothing.³¹

Nipper, a small terrier, seems to have been a particular favorite. He frequently got into trouble, a circumstance that led to publicity in *The Clarion* from time to time. In early 1947, for example, "while wandering around after lock-up time, Nipper in one of his impetuous moods did put his footprints in the wet cement of the new runway between the laundry and annex. . . . Nipper says he wants a date put on them, like they do the stars at Grauman's Chinese [Theater]." Nipper even accompanied inmates to Alcoholics Anonymous meetings, which led to this comment: "Now Nipper, you seem to be trying to follow the program. But you are not an alcoholic, so you must be using it for that candy habit which is spoiling your digestion." A photo of Nipper sitting in a wicker basket appeared with the story.³²

³¹"Mascots," *The Clarion*, January, 1947, p. 7.

³²"Squealing on Stoolie," *The Clarion*, April 1947, p. 4.

Inmates also looked out for each other. While Molly De Forcy took care of the cats, other inmates took care of Molly. "Fern Sheridon and Beatrice Hazeltine make sure that Molly's room is cleaned for her." And there were numerous other good Samaritans as well. Carolyn Fulghum, for example, was "always doing something nice for some one [sic] else." Virginia Netherly "sees beauty in nature and is doing a fine job with her paintbrush."³³

One of the most poignant and difficult tasks for inmates was to see their "sisters" through pregnancy and childbirth. Some reformatories allowed inmates to keep their babies for a few months, even up to a year. Tehachapi was not one of them. Inmates had to arrange for care from family members or put babies up for adoption. *The Clarion* tried to put the best spin on the problem. "Willard [Cottage] seems to have a very persistent visitor these days—Old Man Stork," *The Clarion's* "Roving Reporter" wrote in April 1947. "He brought Billie E. a little boy at Tehachapi Valley Hospital. This little guy has acquired many aunts, god-mothers, and even grandmothers. Now, Rita E. is anxiously awaiting the arrival of her little boy—Why? Because Rita wants it to be."³⁴

Once they gave birth, many inmates worked hard to pay for their children's care. One "girl knitted crocheted and knitted at night, after the house lights were out, by mere glow from the fence lights, in order to earn the money every month to pay the board of her baby outside."³⁵

Staff writers did, on occasion, use wry humor in describing fellow inmates, but always with an affectionate undertone. Two women who worked in the back shop setting type, for example, were described in terms that made them sound like beloved, if occasionally rascal, little sisters. Beverly Pennington "is a lively, good natured youngster." Irene Mehlem "is a lovely, rosy cheeked little doll who would seem more at home under somebody's Christmas tree than setting type. Little care we," the writer added, "that [Mehlem] confuses b's with d's and sets u's and n's upside down."³⁶

Sober reflection and sentimentality also found their way into the newspaper pages. The former often came in essays on self-improvement. Mary Jo Thomson warned of the perils of jealousy, which she compared to "a boa-constrictor that strangles every God-like sentiment within the heart. It distorts the mind

³³*The Clarion*, March 1945, p. 5.

³⁴"Roving Reporter," *The Clarion*, April 1947, p. 8.

³⁵"On My Way," *The Clarion*, March 1945, p. 7.

³⁶"The Time Has Come," *The Clarion*, August 1944, p. 8.

and poisons the soul. It wraps us more fiercely in its coils until imagination and hallucination replace reason."³⁷ Evelyn Simpson despaired of thoughtless behavior: "Did you ever stop to think what a chance remark overheard and misinterpreted might be when it reaches the ear of the one whom it concerned? Now you begin to correct your statement, but alas, the harm has been done."³⁸

Dorothy Stewart described the long and painful journey from self-pity to self-understanding. "The hardest step is that first night, when in the quiet of your own four walls after lock-up time, we utter a faltering 'hello there' to the real self who awaits our welcome. . . . Each of us has lost more than we care to admit. . . . Regardless of circumstances, conditions and surroundings, let us not lose sight of the fact that it is our own life, our own self-respect which must be maintained to cope with the everyday standard of good living."³⁹

Poems, perhaps, provide the most straightforward evidence of prisoners' real feelings, or at least the feelings they wanted to show to the world. As one inmate said, "[I]n prison, everybody writes. It seems that every person, after she has been here awhile, tends to become introspective."⁴⁰

Editors and Tehachapi authorities carefully vetted poems, interviewing writers to make certain they had not cribbed contributions from other sources. Some inmates who clearly did not understand that copying someone else's work amounted to plagiarism happily submitted the work as their own. Confidence woman Barbette Hammell taught poetry classes and encouraged her fellow inmates to enter their work in prison poetry contests.

The subjects of their musings ranged widely. Ruth Rosenow wrote about the sadness of loss and of life passing:

I, having lived the round of life
As sweetheart, mother, friend
And wife
Feel autumn's fingers on
My heart
And dread with her loveliness
To part⁴¹

³⁷Mary Jo Thomson, "Jealousy," *The Clarion*, August 1944, p. 7.

³⁸Evelyn Simpson, "Contentment," *The Clarion*, March 1947, p. 19.

³⁹Dorothy Stewart, "Say Hello To Your Real Self," *The Clarion*, December 1945, p. 3.

⁴⁰Monahan, *Women in Crime*, 201.

⁴¹Ruth Rosenow, "Pageant," *The Clarion*, March 1947, p. 20.

Some poems were speckled with humor. Dorothy Peet wrote,

I've heard folks complain a lot
And say hens have no poise
'Cause soon as she has laid an egg
She makes a lot of noise.⁴²

Others were full of self-deprecation, such as this offering from Mary Simmons:

Mirror, mirror on the wall,
Am I the fairest of them all?
Good Heavens No!
The answer came;
Your face would put a dog to shame.
Your hair is limp, your cheeks are white
Your lips are pale, you look a sight.
Mirror, mirror on the wall,
Can I improve my face at all?
Get lots of sleep and gobs of cream
To melt away wrinkles as you dream.
A little rouge and powder too,
To cover the freckles, thick as dew.
Then come to me and ask again
I'll give you a better answer then.⁴³

Hazel Casteel, the "poker bandit," wrote with hope of the future,

Oh build me a house on the crest of a hill
Let there be speckled trout in a nearby rill
May there be grace at a meal for two
Let there be socks to mend for you
And let there be cupboards to stock and fill
with greens from our garden on the hill.⁴⁴

Dale Thrapp riffed on the weather at Tehachapi:

This is the windiest place
I've ever been
The way the wind blows

⁴²*The Clarion*, March 1947, p. 20.

⁴³Mary Simmons, "What a Face," *The Clarion*, January 1947, p. 11.

⁴⁴Quoted in Dallas Eagan, "Musical Thoughts," *The Clarion*, August 1944, p. 6.

'tis really a sin,
 It whistles and howls
 And then it will roar,
 It stops for a second,
 Then howls some more.⁴⁵

Although references to sex rarely peeked through the pages of *The Clarion*, occasionally the censors let one through, such as this poem by Mary Jo Thomson in 1944:

I've fashioned a cocktail
 That intoxicates without fail,
 Ingredients—Perfume
 Procedure—Mix well,
 "Aphrodisia" a waltz in the moonlight
 "Tabu" Our eyes glowing bright
 "Tabbac Blanc" Your tuxedo—a walk in the park
 "Cuire Russe" Our kisses in the dark.
 Together—Perfumes remind me of you.⁴⁶

Connie Renner Willis compared the peaceful nature of birds with the grasping nature of humans:

As the days went passing by
 I watched and thought
 And wondered why
 That man with all his
 Wealth of gold
 Could not their peaceful fortune hold.⁴⁷

The festivities, cottage activities, relationships to pets and fellow inmates, even the opportunity to pen poems, masked one indisputable fact: Virtually every inmate—except for repeat offenders and, perhaps, Molly De Forcy, who, at eighty-three, was still in Tehachapi—had a single, overriding goal: to get out. Writers did not bother to hide that fact. Parole was a constant theme, perhaps an obsession, in *The Clarion*.

As one writer described it, "Along about Board time every month a peculiar malady called Board Fever hits this campus and women who are usually well balanced complain of hearing ringing bells, heavenly voices, train whistles and messages from Mars. Only women who are appearing before the Board

⁴⁵Dale Thrapp, "Indian Giver," *The Clarion*, January 1947, p. 11.

⁴⁶Mary Jo Thomson, "Cocktail," *The Clarion*, January 1944, p. 16.

⁴⁷Connie Renner Willis, "Halcyon," *The Clarion*, January 1947, p. 16.

complain of this plague." The writer urged women not to act like "morons" during this time, but to impress board members with "daily endeavor," "sincerity," and "poised demeanor."⁴⁸ Writing for *The Clarion* undoubtedly served as evidence that staff members had mastered these qualities.

Virtually every issue mentioned at least one impending—or at least hoped-for—parole. Gene Dayton tried to downplay her anxieties in a 1944 column. She described herself as the "same wacky old sister, with hair of pure spun, Palomino grey, who eats only one meal a day to combat the inflation of the late thirties." She added, "Just because we're playing hard to get with those northwestern Mounties (only we ain't playin') is no reason for you femmes to chirp 'goodbye now' every time we cross the campus."⁴⁹

Dayton left Tehachapi four months later, after penning this note to her fellow inmates: "Adieu, adieu, kind friends adieu. . . . The time has come . . . to wish you all, good luck."⁵⁰ Her own "luck" failed to hold, however. Dayton was not exactly a model citizen. Trustee Mary King lent her a car. Dayton promptly sold it and forged King's name to checks. Sent to San Francisco to work as a housekeeper, she fled with \$60,000 worth of checks, jewelry, and paintings before being rearrested and returned to Tehachapi. Her name does not appear in later issues of *The Clarion*, so she probably did not return to her former job.⁵¹

In August 1944, three other *Clarion* staff members got the good news. "Board Fever Quarantine has been taken off the print shop now that all three of us have our parole dates set. After this issue, we will have the pleasure of introducing a new *Clarion* staff, that is, Connie and Lucky are deliriously pleased; the third member of this combine is able to control her enthusiasm."⁵² In fact, many, if not most, of the staff changes probably coincided with parole dates.

The same issue offered congratulations to Gladys Black for her successful parole. "The best of friends must part," writer Lucrecia McLeod noted plaintively. "We of Culver will miss your daily tunes of the ivories. A special surprise party was given by Ethel George and Thelma Pelayo. . . . We sure will

⁴⁸"A Word to the Wise," *The Clarion*, August 1944, p. 2.

⁴⁹Gene Dayton, "Here We Go Again," *The Clarion*, August 1944, p. 13.

⁵⁰Dayton, "Adieu, Adieu, Kind Friends, Adieu," *The Clarion*, December 1944, p. 15.

⁵¹Information on Dayton appears in an unsigned December 22, 1944, letter from someone at Tehachapi to the state Corrections Department. It is contained in the Earl Warren Collection at the California State Archives, F3640: 1011.

⁵²"The Time Has Come," *The Clarion*, August 1944, p. 7.

miss Gladys, but we surely got a thrill when we watched her step out of the gate and cruise down that long lonesome road in that special made body—by Fisher."⁵³

Writing in the April 1947 issue, "Roving Reporter" Jean Evans exulted, "At last! At last! Our friend and ex-roving reporter Buda Green has departed for the sunny side of the street. Someone told her that the ratio was three men to each woman in Wyoming. So—being Buddy, and being one smart gal, [she] decided that was the place for her. Her send-off wasn't the traditional 'Auld Lang Syne.' Instead, we sang 'Home in Wyoming.' Hope you've found it Buddy, along with the happiness you so deserve."⁵⁴

Getting out of prison did not mean all ties were cut, however. Parolees corresponded with inmates still inside. A few, like Gene Dayton, reoffended and came back as prisoners. Most returned only as visitors, a policy instituted by trustees in 1944. Administrators and trustees vetted inmates carefully before sending them out into the world with twenty dollars, a set of new clothes, and a hug for good luck, but some suffered separation anxiety. As Superintendent Holzschuh explained, "[M]any girls, as they have left the Institution for parole or discharge, have expressed the desire to remain in contact. They have said that they felt we are friends, with whom they can share their joys and who will help them with their problems."⁵⁵

The Clarion also provided a forum for a discussion of issues facing parolees. Some found themselves adequately prepared for the world outside. "Life is just what one makes it," wrote Gertrude Marie Dexter in March 1945. "*Life on Parole* has been an easy one for me. I feel when things don't go right for me, I have my Parole Officer. When I left CIW, I felt that all the officials had profound confidence in me, that's why my chance was granted, and I feel that I can go on and on keeping my promise, no matter what comes my way."⁵⁶

But others experienced challenges and difficulties. "In prison, I had my decisions worked out for me. I knew no financial obligations, had my routine ordered, had a specified job to do and if I failed in that job, I was assured of another to suit my abilities," one parolee wrote anonymously. "I was given medical assistance at the first threat of illness, my problems were worked out with the assistance of counseling and my place as a member of my so called community was assured."

⁵³*The Clarion*, June 1944, p. 16.

⁵⁴Jean Evans, "Roving Reporter," *The Clarion*, March 1947, p. 4.

⁵⁵Alma Holzschuh, "Direct Dictation," *The Clarion*, June 1944, p. 1.

⁵⁶Gertrude Marie Dexter, "Letters from Friends," *The Clarion*, March 1945, p. 12.

Once on parole, though, everything changed, she warned her readers. "No longer will you be assisted in making decisions; no longer will you have to know the ordered routine that has been yours for so long. And here I realize the arguments and ridicule that you might offer me. You might tell me that you would be only too glad to be able to do away with that routine and order. True, for every one of us rebel [sic] against confinement. But the fact remains that we encounter difficulty when first facing the outside world, unless we are fortified within ourselves."⁵⁷

For women imprisoned at the California Institution for Women, *The Clarion* served many purposes. It entertained, instructed, and uplifted. It provided a creative outlet for poets, artists, and writers. It lessened the loneliness and sense of isolation and gave inmates a crucial sense of "community." Most importantly, it was an invaluable forum that enabled them to present themselves as ordinary people, complex and flawed—neither the paragons nor the monsters portrayed in various forms of popular media. As writer Isa Lang noted, "*The Clarion* is small in comparison to many other penal publications, but 'good stuff is done up in little packages,' as the old saying goes. As it goes forth each month, it is with the sincere prayer that those who read it may find something in its pages that will create a kindlier feeling toward those who having failed along the way are finding the way back. . . . Within ourselves lies victory or defeat."⁵⁸

⁵⁷"I Am a Parolee," *The Clarion*, April 1948, pp. 10–11.

⁵⁸Isa Lang, "The Importance of Prison Publication," *The Clarion*, March 1947, p. 3.

WESTERN WOMEN'S STRUGGLE TO SERVE ON JURIES, 1870–1954

JANOLYN LO VECCHIO

While the battle of women to achieve the right to vote is well known, the struggle of women to achieve the right to serve on juries is more obscure. In both cases, women were seeking to gain equal rights with men. Many of the same arguments used to deny women suffrage were reiterated to deny them jury service. These included the beliefs that women were too emotional, would make illogical decisions, and should remain in their homes to raise their children. Two new arguments also emerged. One was the necessity for men to shield women from courtroom testimony involving sordid criminal cases such as rape and murder. The second argument related to problems of housing mixed-gender juries sequestered overnight.¹

There were two key differences between the suffrage and jury service movements. First, although women's suffrage became a national movement for passage of the Nineteenth Amendment to the U.S. Constitution, it was not necessary to amend it for women to serve on juries. Instead of a national campaign, women worked state by state to amend state constitutions that specified that jurors must be male.

When the Nineteenth Amendment to the Constitution was ratified in 1920, fourteen states granted women the right to serve on juries because state laws construed jury service as part of voting privileges. However, the majority of states would not relinquish state jurisdiction of juror qualifications to the fed-

¹Carol Weisbrod, "Images of the Woman Juror," *Harvard Women's Law Journal* 9 (1986): 59–82.

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eral government.² Numerous state courts ruled that the Nineteenth Amendment applied only to voting and cited *Strauder v. West Virginia* as a legal precedent for barring women from jury service.³ In *Strauder*, a black man appealed his murder conviction on grounds that he was denied a trial by his peers, since his jury did not include black men. The U.S. Supreme Court ruled that states could not impose juror qualifications discriminatory to individuals on the basis of race or color but could confine jury selections to men.⁴

Second, although most western states granted women suffrage earlier than eastern states, the same pattern did not occur with jury service, possibly because it was not a national movement like the suffrage movement. In this article, western states are defined as those states located west of the Mississippi River. Legal scholar Cristina Rodriguez presents another explanation for the disparity of this pattern. Rodriguez argues that the performance of pioneer women jurors in Wyoming and Washington created a "gendered justice," which threatened an established masculine-based legal culture and fueled opposition to female jurors in western states.⁵

In 1870, the first jury with women was convened in Wyoming Territory.⁶ Utah was the first state to grant women jury service in 1898, followed by Washington and California in 1911 and 1917, respectively. However, by 1929 only seven western states and fourteen eastern states allowed women to serve on juries. Nine western states and one territory did not permit women to serve on juries until the mid-1940s and 1950s.⁷

Although no official national movement was organized, three of the first women's organizations to address this issue were the National Women's Party (NWP), the National Association of Women Lawyers (NAWL), and the National Federation of Business and Professional Women's Clubs (BPW). Founded

²Grace Taylor, "Jury Service for Women," *University of Florida Law Review* 12 (1959): 224–31.

³Linda Kerber, *No Constitutional Right to Be Ladies: Women and the Obligations of Citizenship* (New York, 1998), 133–34.

⁴*Strauder v. West Virginia*, 100 U.S. 303 (1879).

⁵Cristina Rodriguez, "Clearing the Smoke-Filled Room: Women Jurors and the Disruption of an Old-Boys Network in Nineteenth-Century America," *Yale Law Journal* 108 (1999): 1805–44.

⁶Grace Raymond Hebard, "The First Woman Jury," *Journal of American History* 7 (1913): 1293–1341.

⁷Kerber, *No Constitutional Right to Be Ladies*, 137.

in 1913 by Alice Paul, the goal of the NWP was to achieve full equity for women. A monthly magazine, *Equal Rights*, provided information about legal and social inequities affecting women as well as updates about lobbying efforts to resolve these inequities.⁸

NWP chair of the Lawyer's Council and NAWL member Burnita Shelton Matthews wrote several articles analyzing the status of women jurors for *Equal Rights* and the *Women Lawyers Journal*. In these articles she provided a comprehensive history of the jury system, updates about states' permitting or refusing women jury service, and comments by judges and lawyers about the effectiveness of women jurors.⁹ In one article, she proposed a solution to housing mixed-gender juries overnight: "The friends of the woman juror movement direct attention to the fact that for years men and women on trains have occupied the same pullman [sic] car with only curtains to separate the sleeping quarters of one person from those of another, yet there has been no cry of impropriety thereby that women were contaminated." The article ends, "Jury service is an important part of the administration of justice, and women lawyers everywhere should give their active support to movements in behalf of women jurors."¹⁰ Matthews' articles were reprinted as pamphlets and distributed nationally by the NWP.

In 1931, the NWP funded an appeal to the U.S. Supreme Court by Genevieve Welosky of Massachusetts. Convicted for selling liquor during Prohibition, Welosky appealed her conviction by a male jury as a violation of the Fourteenth Amendment's provision that guaranteed a trial by a jury of one's peers. NAWL and NWP member Gail Laughlin prepared the brief for Welosky's appeal. The NWP believed that a favorable ruling by the U.S. Supreme Court would establish a federal right for women jurors and end prolonged struggles to amend state constitutions for women to serve on juries. This goal, however, was defeated when the U.S. Supreme Court declined to grant certiorari.¹¹

⁸Richard F. Hamm, "Mobilizing Legal Talent for a Cause: The National Women's Party and the Campaign to Make Jury Service for Women a Federal Right," *Journal of Gender and Social Policy and the Law* 9 (2001): 97-117.

⁹Burnita Shelton Matthews, "The Status of Women as Jurors," *Equal Rights* 16:16 (May 24, 1930): 123. See also *Equal Rights* 16:20 (May 31, 1930): 133-34; 16:21 (June 7, 1930): 140-41; 16:22 (June 14, 1930): 148-49; 16:23 (June 21, 1930): 157.

¹⁰Matthews, "The Woman Juror," *Women Lawyers Journal* 15:2 (April 1927): 16.

¹¹Hamm, "Mobilizing Legal Talent for a Cause," 97-117; *Commonwealth v. Welosky*, 284 U.S. 684 (1932).

Four years later, in 1935, the NWP again became involved in the trial of a woman convicted by a male jury. Edith Maxwell was a twenty-one-year-old schoolteacher convicted of murdering her drunken father by hitting him with a shoe during a brawl in which he threatened to kill her with a butcher knife. Maxwell's father was an alcoholic who subjected his family to years of domestic violence. Her two trials and convictions generated national press and support from women's organizations. The *Washington Post* and the NWP organized national donation drives to raise funds for her defense. After Maxwell's initial conviction and sentencing to twenty-five years in prison, she appealed the verdict partially on the basis that she was convicted by male jurors and was denied a trial by a jury of her peers. One of her defense lawyers hired by the NWP was Gail Laughlin, who unsuccessfully argued that Maxwell had been denied her Fourteenth Amendment rights at the second trial. A complete autopsy had not been performed on the victim, and, at the second trial, coroners reversed their testimony that her father had died from a head injury. Even though outside expert witnesses testified that his death could have been caused by a heart attack, Maxwell was sentenced to twenty years in prison and was denied a pardon by Virginia governor George C. Peer. Four years later, due to the intervention of First Lady Eleanor Roosevelt, Maxwell was pardoned by Virginia governor James H. Price.¹²

The Edith Maxwell case created national controversy. It was frequently cited by women lawyers as an example of the injustice inflicted on women who were denied trials by their peers because women could not serve as jurors. Maxwell's verdict stimulated the NWP to increase its agitation for women jurors. An *Equal Rights* editorial, "Begin the Campaign Now," urged immediate action by women in the twenty-eight states where women were denied jury service.¹³ Another article in the same issue, "It Will Require Hard Work," listed twelve steps for organizing a successful legislative lobbying campaign and reminded women that they "cannot stand still and expect things to happen. They must make things happen."¹⁴

While the NWP began to focus exclusively on passage of the Equal Rights Amendment, the BPW and the NAWL continued

¹²Gary Dean Best, *Witch Hunt in Wise County: The Persecution of Edith Maxwell* (Westport, CT, 1994).

¹³Editorial, "Begin the Campaign Now," *Equal Rights* 2:9 (May 2, 1936): 66.

¹⁴"It Will Require Hard Work," *Equal Rights* 2:9 (May 2, 1936): 68.

to work through their state organizations to coordinate passage of state legislation to allow women to serve as jurors.

NAWL was founded in 1899 by eighteen women lawyers in New York City. It published a monthly magazine with networking information and legal issues affecting women lawyers and other women. Members of NAWL also drafted jury bills for introduction in state legislatures. Reports about lobbying efforts for jury service bills were presented at state and national conventions and were published in the national magazine.¹⁵

Founded in 1919, BPW was the first professional organization for working women. BPW's goals were equity and economic self-sufficiency for women and advancement of women in business. For three decades, women's jury service was part of BPW's national legislative platform. Articles outlining techniques for lobbying legislators and providing updates on state legislative jury service bills were published in *Independent Woman*, BPW's national monthly magazine. State legislative chairs organized statewide lobbying campaigns and coalitions with other women's organizations. Reports about state lobbying campaigns were presented at state and national conventions. Many BPW members were pioneer businesswomen, lawyers, and state legislators. BPW quickly grew from an initial 212 members in 1919 to 37,970 members in 1924; 64,300 members in 1937; 137,724 members in 1947; and 175,274 members in 3,489 clubs in 1959. When BPW was organized in 1919, NAWL members attended the first BPW national convention, wrote the bylaws for the new organization, and joined BPW. Gail Laughlin was elected the first BPW national president.¹⁶

During the twentieth century, women lawyers continued to be joint members of NAWL and BPW. Five joint members were BPW national presidents: Gail Laughlin, Lena Madesin Phillips, Judge Sarah Hughes, Hazel Palmer, and Marguerite Rawalt. A prominent feminist and New York lawyer, Lena Madesin Phillips organized BPW while serving as secretary for the YWCA Women's War Council during World War I. She also served as the president of the National Council of Women and international president of the international BPW federation. Judge Sarah Hughes was the second woman to be appointed a federal court judge and the first woman to be elected a district

¹⁵Florence A. Joyce, "How We Started," *Women Lawyers Journal* 27:1-2 (April 1942): 27.

¹⁶*A History of the National Federation of the Business and Professional Women's Clubs, Inc.: 1919-1944* (New York, 1944); *A History of the National Federation of the Business and Professional Women's Clubs, Inc.: 1944-1960* (Washington, DC, 1960).

court judge in Texas. Hazel Palmer was a Missouri lawyer and an assistant county prosecuting attorney.¹⁷

One joint member, Marguerite Rawalt, was national president of both BPW and NAWL. A noted feminist, Rawalt was a lawyer in the Office of the Chief Counsel of the Internal Revenue Service in Washington, D.C., and became the first woman president of the Federal Bar Association. She was appointed by President John F. Kennedy to the Presidential Commission on the Status of Women and filed the first sex discrimination lawsuits for the National Organization of Women (NOW) under Title VII during the 1960s and 1970s.¹⁸

Some other notable joint members were NAWL national president Burnita Shelton Matthews, the first woman to be appointed a federal district court judge; Florence Allen, the first woman to be elected a state supreme court justice, and Lorna Lockwood, the first woman to serve as a chief justice of a state supreme court.¹⁹

The intensity and duration of the struggle by women to serve on juries varied from state to state. A chart contrasting suffrage versus jury service dates is in Appendix 1.

After women received the right to vote in Wyoming in 1869, Esther Morris was appointed the first woman justice of the peace in the United States in 1870. Shortly after her appointment, six Wyoming women were summoned for service on a grand jury in March 1870. They were Miss Eliza Stewart (teacher), Mrs. Amelia Hatcher (widow), Mrs. G.F. Hilton (doctor's wife), Mrs. Mary Mackel (clerk's wife), Mrs. Agnes Baker (merchant's wife), and Mrs. Sarah Pease (deputy court clerk's wife).²⁰ Presiding Justice John Howe assured the women he would protect them, saying, "[Y]ou shall not be driven by the sneers, jeers and insults of a laughing crowd from the temple of justice, as your sisters have from some of the medical colleges

¹⁷"Lena Madesin Phillips—International Feminist," *Equal Rights* 1:40 (December 7, 1935): 316; Tiffany E. Dalpe, "Sarah Tilghman Hughes," in Brenda Farrington and Gordon Morris Bakken, eds., *Encyclopedia of Women in the American West* (Thousand Oaks, CA, 2003): 143–44; *Who's Who of American Women*, 2d ed. (Chicago, 1961–62), 758.

¹⁸Judith Paterson, *Be Somebody: A Biography of Marguerite Rawalt* (Austin, TX, 1986).

¹⁹Maymie Sydney Mizen, "Burnita Shelton Matthews Member National Women's Party Council Appointed to Federal Judgeship," *Equal Rights* 35:5 (November–December 1949): 50; Greta Anderson, *More Than Petticoats: Remarkable Ohio Women* (Guildford, CT, 2005), 104; Marshall Trimble, *Arizona: A Cavalcade of History* (Tucson, AZ, 1989), 236.

²⁰Hebard, "The First Woman Jury," 1293–1341.



The first woman president of the Federal Bar Association, Marguerite Rawalt was appointed by President Kennedy to the Presidential Commission on the Status of Women and filed the first sex discrimination lawsuits for the National Organization of Women during the 1960s and 1970s. (Courtesy of BPW/USA)

of the land. The strong hand of the law shall protect you"; and "that it will be a sorry day for any man who shall so far forget the courtesies due and paid by every American gentleman to every American lady as to even by word or act endeavor to deter you from the exercise of those rights with which the law has invested you."²¹

News of the first grand jury with women jurors in the United States quickly spread throughout the world and prompted a telegram from Kaiser Wilhelm in Germany to President Grant, congratulating the men of Wyoming for their "evidence of progress, enlightenment, and civil liberty."²² The women jurors wore heavy veils as they traveled to and from the courtroom, and they refused to pose for pictures. An artist's drawing depicting them holding babies in their laps, with the caption, "Baby, baby, don't get in a fury. Your mamma's gone to serve on a jury," was printed in many national newspapers. The caption was frequently quoted as a reason why women should not serve on juries.²³

During a three-week session, the grand jury reviewed cases of murder, manslaughter, cattle and horse stealing, and illegal branding. At the end of the session, Justice Howe complimented the women on their conduct, saying they had proven that "women would make just as good jurors as men if not a great deal better."²⁴

A common argument against women serving on juries was that they would be too merciful. This theory was dispelled by the performance of six women petit jurors (Lizzie Spooner, Mrs. Retta Burnham, Nellie Hazen, Mrs. Mary Wilcox, Mrs. I.N. Hartsough, and Mrs. J.H. Hayford) during a murder trial in Laramie. Petit jurors are those who serve during civil and criminal trials. Despite defense arguments designed to appeal to the women's sympathy, Mrs. Hartsough, a Methodist minister's wife, consistently voted for murder, while knitting and muttering, "Whoso sheddeth man's blood by man shall his blood be shed."²⁵ On the first ballot, the jurors' votes were as follows: one vote by a woman for murder in the first degree, two votes by women for murder in the second degree, three votes by women for manslaughter, three votes by men for manslaughter,

²¹Quoted in *ibid.*, 1303.

²²*Ibid.*, 1304.

²³*Ibid.*, 1313.

²⁴*Ibid.*

²⁵*Ibid.*, 1316.

and three votes by men for acquittal. After some struggle with the testimony and multiple additional ballots, the jury found the defendant, Andrew Howie, guilty of manslaughter, and the judge sentenced him to ten years at hard labor.²⁶

One reason Wyoming women were given the right to serve on juries was that they were perceived as more capable than men to uphold the law in lawless mining camps, and the initial performance by women jurors validated this belief. After the Howie indictment, the women grand jurors discussed territorial laws restricting operating hours of saloons and gambling houses on Sundays. They were concerned that these laws were not being enforced. The women so passionately pursued rigid enforcement that Wyoming legislators reacted strongly at the next territorial legislative session by repealing the laws.²⁷

Wyoming's experiment with women jurors was cut short when the Wyoming Supreme Court overturned a conviction by a mixed-gender jury, ruling mixed-gender juries unconstitutional.²⁸ As a result of this decision, Wyoming women were barred from serving on juries for almost eighty years. During these years, bills for women jurors were introduced and killed in the state legislature. In 1925, Senator D.A. Preston opposed a women's jury bill because "it worked a hardship on husbands and fathers who were summoned home to care for babies and do the housework."²⁹ Wyoming women finally regained the right to serve on juries in 1950, when the state constitution was amended. The 1950 women's jury bill was introduced by state representative Madge Enterline, a member of the NAWL and the BPW.³⁰

In 1884, Washington became the second territory to allow women to serve on juries, once again because women were perceived as more likely than men to uphold the law. As in Wyoming, mixed-gender juries in Washington were a brief experiment, ending in 1887 when the Washington Supreme Court rescinded both suffrage and jury service for women. When suffrage was restored by the state legislature in 1910, Washington became the first state to amend its constitution

²⁶Ibid., 1315, 1316.

²⁷Ibid., 1313.

²⁸Ibid., 1293–1341.

²⁹"Wyoming Bans Women Jurors," *Los Angeles Times*, February 10, 1929.

³⁰Lorna M. Shipley, "Council of Delegates Meet," *Women Lawyers Journal* 35:1 (Winter 1949): 26.

to allow women to serve on juries one year later.³¹ The victory prompted a newspaper editorial:

That the gift of logic was withheld from women has been frequently asserted though never proved but the logic of male jurors in the State of Washington has not been noticeably strong. . . . [O]ne stupid or obstinate man will often keep a jury in conference many hours. Stupidity and obstinacy are not denotements of sex.³²

However, other publications viewed the restoration of women jurors in Washington less favorably. An article in the *Virginia Law Register* about an Olympia trial with five women jurors ends with the comment, "No doubt (women jurors) will act as wisely and sanely as the ordinary run of jurymen; but we cannot help wishing that their services as such will for many years be confined to regions beyond the Rockies."³³

California women also encountered legal reversals after initially serving on juries in the early 1900s. State and national newspapers published numerous articles about the behavior and actions of women jurors in 1911. By publicizing what was construed as irresponsible behavior by women jurors, newspapers reinforced the perception that women were not capable jurors. A Los Angeles newspaper article, "Good Looks Free Prisoner," described women jurors acquitting a horse thief because he was "far too handsome a man to be a horse thief."³⁴ In San Francisco, the first woman empanelled in a California Superior Court requested and received a court recess because she urgently needed to stay home. Although the woman didn't specify why she needed to stay home, the *Los Angeles Times* article speculated that her request might be due to the risk of a batch of rising bread overflowing or the risk of moistened clothes prepared for ironing becoming mildewed.³⁵ A *New York Times* article, "Woman's Jury Fails to Agree on Eating," which reported the failure of Los Angeles' first all-women jury

³¹Aaron H. Caplan, "The History of Women's Jury Service in Washington," *Washington State Bar News* 59 (March 2005): 13–21.

³²Editorial, *New York Times*, September 8, 1911.

³³"The First Jury of Women in the United States," *Virginia Law Register* 16 (1911): 708.

³⁴"Good Looks Free Prisoner," *Los Angeles Times*, March 23, 1913.

³⁵"Woman Juror Delays Case," *Los Angeles Times*, June 25, 1913.

to reach a verdict or decide where to eat lunch, implied that women had difficulty making decisions.³⁶

When men convicted by mixed-gender juries successfully appealed their verdicts because the state constitution defined jurors as a "body of men," California women were prevented from serving on juries until its constitution was amended.³⁷ A women's jury bill was introduced in the California legislature in 1915 and passed the state senate by a vote of 24–14. One week later, the bill was reconsidered by the senate during a heated two-hour debate. Despite an attempt by Senator Edwin M. Butler to amend the bill to allow women to opt out of jury service by filing a written notice, the senate reversed its decision and the bill failed by a vote of 17–20. Senator Edward K. Strobbridge changed his vote after polling fifty clubwomen in his district and discovering that forty-three were opposed to jury service for women. Similarly, Senator E.S. Birdsall changed his vote, saying that forty out of forty-three women in his district opposed jury service for women.³⁸

In 1917, Miss Marguerite Ogden, a San Francisco lawyer and NAWL member, chaired a committee of the Women's Legislative Council of California, which drafted a women's jury bill. The council was a state organization with delegates from all women's clubs interested in legislation affecting women's issues.³⁹ Gail Laughlin wrote the women's jury bill.⁴⁰ A speaker for the National American Woman Suffrage Association, Laughlin opened a law office in San Francisco in 1914 and was a member of the California Republican Central Committee.⁴¹

When the new law was signed by the California governor, a 1918 editorial summarized the difficulties of mixed-gender juries:

Men can sprawl in the chairs and can put their feet on the rails but what of women? There is no opportunity to gossip and the fair jurors are liable to be assailed with

³⁶"Woman's Jury Fails to Agree on Eating," *New York Times*, November 12, 1911.

³⁷Matthews, "The Status of Women as Jurors," 123–25.

³⁸"No Women Jurors," *Los Angeles Times*, April 21, 1915.

³⁹"Women on Juries," *Women Lawyers Journal* 7:5 (February 1918): 37–38.

⁴⁰"Prominent Woman Lawyer," *Atlanta Constitution*, August 1, 1920.

⁴¹Rebecca Hourwich, "Gail Laughlin of Maine," *Equal Rights* 14:1 (February 12, 1927): 3.

the odor of a tobacco chewing man juror or one from the ranch with the smell of cattle on his clothing.⁴²

Despite the newspaper's predictions, California women proved they could effectively serve on juries. In August 1918, Emily Baruch became the first woman in California to vote for the death penalty. In a newspaper interview, she said, "I brushed aside womanly feelings. . . . Murder was against God's law, and the slayer should not go unpunished for lack of decision on the part of a woman."⁴³ Baruch concluded her interview by saying her experience had proven that women were not too impractical or sympathetic to serve on juries.

State legislatures in Nevada, Utah, and Oregon passed bills allowing women to serve on juries as well as permitting them to claim exemption from jury service if they had minor children or were married. When large numbers of Oregon women exercised this option, it created difficulties for empanelling juries in trials affecting children under eighteen, because the law also required half of such juries to be women.⁴⁴ In 1923, the territory of Alaska amended its constitution to permit women to serve on juries.⁴⁵ Montana, however, didn't amend its state constitution until 1939, fourteen years after a woman's jury bill was defeated in the 1925 legislature.⁴⁶

Women living in nine other western states and one territory—Arizona, Colorado, Hawaii, Idaho, Nebraska, New Mexico, Oklahoma, South Dakota, Texas, and Wyoming—waged long struggles to serve on juries that did not end until midway through the twentieth century. The 1946 federal census showed an increase of 1,171,948 women over twenty-one years of age since the previous federal census. It was estimated that women owned 70 percent of private wealth, 65 percent of savings accounts, and 40 percent of real estate, and were directly or indirectly involved in 40 percent of all litigation. But eighteen states throughout the United States still banned women jurors.⁴⁷

⁴²Editorial, *Los Angeles Times*, January 20, 1918.

⁴³"Woman Juror Tells of Trial," *Los Angeles Times*, August 25, 1918.

⁴⁴R. Justin Miller, "The Woman Juror," *Oregon Law Review* 2 (1922): 30–63.

⁴⁵*Session Laws of the Territory of Alaska*, chap. 68 (1923), 106.

⁴⁶*Laws of Montana*, secs. 8883, 8885, 8886, 8887, 8889, 8890, 8893, 8894 8895 (1939); "Woman Juror Bill Killed," *Los Angeles Times*, February 18, 1925.

⁴⁷Amber Wallin Anderson, "Jury Service for Women," *Georgia Bar Journal* 11 (1948): 196–99.

During these years, the issues of whether women should serve on juries, were capable of serving on juries, or wanted to serve on juries generated frequent articles in state and national newspapers, magazines, and legal journals. Appendix 2 presents a brief list of headlines from national newspaper articles outlining these issues, as well as problems associated with women jurors ranging from proper attire and conduct to housing of mixed-gender juries sequestered overnight, lack of courthouse bathrooms for women, and the willingness or unwillingness of women to serve on juries.

Jury service by women was a controversial issue that divided both men and women. Social attitudes and biases changed slowly. After the first trial with women jurors in Wyoming, the *Cheyenne Daily Leader* predicted, "The prospect of being compelled to sit with a lot of strange men . . . a target for the impudent stare of hundreds of masculine loafers, breathing the foul air of a court room reeking with a conglomeration of vile smells—is not the most inviting to a refined and sensitive woman."⁴⁸ In 1921, a Phoenix newspaper article, "Giggling Girls Not Wanted on Juries," reported Judge Louis Repetto's ruling barring "busy wives of working-men, mothers of small children, and immature women who giggle, rouge, and powder but do not think" from serving on juries in his New Jersey courtroom.⁴⁹

A 1938 *Arizona Republic* random poll reflected the continuing division of opinion. While one woman said, "[F]ailure to enact a law permitting women to serve on juries is just part of the discrimination against women," another woman retorted that "it's a man's job and I am perfectly satisfied to let the man take care of it." While one man stated, "Yes, women are as well balanced as men," another man replied, "No, women are too fickle and they change their minds too easily."⁵⁰

In 1952, attorney Frank Doherty spoke at a Los Angeles lawyers club meeting and described the jury system as "being weakened by the overloading of juries with women."⁵¹ Two years later, Judge Richard Austin encouraged members of the United Protestant Church Men's Club in Chicago to "do whatever you

⁴⁸"Females in the Jury Box," *Cheyenne Daily Leader*, March 1, 1870.

⁴⁹"Giggling Girls Not Wanted on Juries," *Phoenix Gazette*, January 27, 1921.

⁵⁰"Our Inquiring Reporter," *Arizona Republic*, January 21, 1938.

⁵¹"Too Many Women Serve on Juries, Attorney Says," *Los Angeles Times*, February 14, 1952.

can" to have their wives excused from jury service.⁵² When the *Phoenix Gazette* polled Arizona men and women about women jurors in 1957, a woman emphatically declared, "My father was a judge, and he thought the courtroom was no place for a lady. I was brought up to believe that way and I still do."⁵³

Lawyers and judges also were divided about women jurors. In 1918, attorney H.W. Powell recorded his experience as a juror during a Washington trial with women jurors:

As for the ladies, I am firmly convinced that women as a whole are temperamentally unfit for jury duty. . . . Women's divine sympathy cropped out in every case I was on, yet they strenuously denied this always.⁵⁴

Two years later, New York Assistant District Attorney Alfred Talley opposed women jurors because "the prime duty of woman is that she should be the mother of the race and guardian of the home and this is more important than any service in the courtroom."⁵⁵ In the same year, a *Virginia Law Review* article commented, "The exclusion of woman far from being prejudicial, is if anything, beneficial to her. She may not have the right to be tried by a jury of her equals, but she has the unique privilege of being tried by a jury of her admiring inferiors. By a jury of peers is meant nothing more than a jury of fellow citizens."⁵⁶

However, women lawyers and judges argued that women were not only qualified to serve but would improve the quality of juries. In 1934, Alma Lutz wrote two *Equal Rights* articles, both titled, "The Case for Women Jurors," which included numerous quotes by lawyers and judges. Judge Florence Allen of Ohio argued that "the participation of women in the courts, not only as attorneys, prosecutors, and judges, but as jury women has immeasurably raised the tone of the administra-

⁵²"Too Many Women Serve on Juries, Attorney Says," *Los Angeles Times*, February 14, 1952.

⁵³"Do Women of Today Approve of the Chance to Be Jurors?" *Phoenix Gazette*, February 1, 1957.

⁵⁴H.W. Powell, "A Lawyer on the Jury," *Case and Comment* 24 (1918): 740-41.

⁵⁵"Talley Opposes Women as Jurors," *New York Times*, January 26, 1920.

⁵⁶"Constitutionality under the Fourteenth Amendment and the Proposed Nineteenth Amendment of State Laws Limiting Jury Service to Male Citizens," *Virginia Law Review* 6 (1920): 592.

tion of justice."⁵⁷ Echoing these sentiments, California Superior Court Judge Georgia Bullock declared that the "advent of women as jurors" was not a "concession" but a "recognition of their rights and duties as citizens."⁵⁸

As women began to serve on juries, increasing numbers of lawyers and judges publicly commented favorably on women jurors. When women began serving on juries in Oregon, Judge G.F. Skipworth wrote, "My experience and observation teaches me that women are equally as good jurors as men. . . . [T]he women show a very high degree of intelligence in discussing the facts and applying the law to the facts."⁵⁹ In 1934, Washington U.S. District Court Judge J. Stanley Webster wrote, "I was Judge of the Superior Court . . . for Spokane County for a number of years prior to the time when women were made eligible for jury service, and I was still on that bench after women took up service in the Court. . . . I have no hesitation in saying that, in my judgment, women make acceptable, capable, and satisfactory jurors."⁶⁰

Judges who previously had opposed women jurors started to change their minds. In a 1934 *Equal Rights* article, Minneapolis Judge Edward Waite admitted, "Like many other men of the old school, I was formerly adverse to the employment of women as jurors, but since serving with them on several occasions I have entirely reversed my opinion. Strange to say, the average woman juror, despite the factor of more than half of them having no business experience, grasps the import of a case more intelligently than the average man juror."⁶¹

During the 1940s, women argued that their war service and employment in war factories qualified them as jurors. In 1943, state legislator Mrs. Leslie Cutler, the sponsor of a Massachusetts women's juror bill, urged, "Are we here in Massachusetts going to tell our women who have been serving as nurses on Bataan and Corregidor, who have been ferrying planes for the

⁵⁷Quoted in Alma Lutz, "The Case for Women Jurors," *Equal Rights* 20:5 (March 3, 1934): 39.

⁵⁸Quoted in Lutz, "The Case for Women Jurors," *Equal Rights* 20:6 (March 10, 1934): 46.

⁵⁹Quoted in Miller, "The Woman Juror," 39.

⁶⁰Quoted in Lutz, "The Case for Women Jurors," 47.

⁶¹"Judge Waite on Jury Service for Women," *Equal Rights* 19:2 (February 11, 1933): 10.

Army, who have been taking men's places in war industries, that they are incapable of being jurors? Not in my opinion."⁶²

In 1948, New York Judge Dorothy Kenyon exclaimed, "The courthouse at present shelters women plaintiffs and defendants, women witnesses, women policewomen, women lawyers, women prosecutors, and women judges. There is no reason why the court cannot also shelter women jurors."⁶³

Meanwhile, during these years, western women continued to struggle for jury service. In 1921, a women's jury service bill was introduced but failed in the Nebraska state legislature.⁶⁴ Although the bill continued to be introduced in the legislature, Nebraska's constitution was not amended to include women jurors until 1943.⁶⁵ After Idaho women received suffrage in 1896, they began to serve on juries. State and national newspapers printed articles about the difficulties and problems of the women jurors and criticized their behavior. A *Washington Post* article, "Funny Women Jurors," described the failure of a Boise mixed-gender jury to reach a unanimous verdict as an entertaining experiment.⁶⁶ In 1912, the first all-women jury in Twin Falls created a furor when they defied a judge who refused to recess court so they could cook dinners for their families at noon. After an unauthorized two-hour absence, the women jurors returned to the courtroom but were not penalized by the judge.⁶⁷

In 1924, a convicted bootlegger appealed a mixed-gender jury verdict to the Idaho Supreme Court because the Idaho state constitution defined jurors as "a body of men." The Idaho Supreme Court ruled "that the jury statutes provide that a jury is a body of men" and were not affected by the Idaho suffrage amendment.⁶⁸ One year later, a women's jury bill was introduced and failed in the state legislature. Another women's jury bill passed the Idaho House of Representatives but was defeated in the Idaho senate by a vote of 35-9 in 1933.⁶⁹ The bill

⁶²Quoted in Lutz, "Uncle Sam Needs Women Jurors," *Equal Rights* 29:3 (March 1943): 28.

⁶³Anderson, "Jury Service for Women," 199.

⁶⁴Editorial, *Los Angeles Times*, February 9, 1921.

⁶⁵*Session Laws of Nebraska*, secs. 20-1601, 20-1608, 20-1636, 20-2903(1943).

⁶⁶"Funny Women Jurors," *Washington Post*, October 31, 1897.

⁶⁷"Women Jurors Defy Court," *New York Times*, December 16, 1912.

⁶⁸Matthews, "The Status of Women as Jurors," 133.

⁶⁹"Idaho Senate Kills Women Jurors Bill," *Los Angeles Times*, February 19, 1933.

continued to be introduced in the state legislature, but Idaho women did not serve on juries until the state constitution was amended in 1943.⁷⁰ A condescending *Chicago Tribune* article, "Women Can Wear Hats If They're Pretty," reported Judge Charles Koelsch's ruling that women jurors could wear hats in his Boise courtroom "if they are pretty ones."⁷¹

One of the longest battles by women to serve on juries occurred in Arizona. In 1914, nine women who lived in Mesa, Arizona, were summoned for jury service but were prevented from serving when Maricopa County Attorney Frank Lyman ruled women jurors unconstitutional.⁷² Lyman's decision was a major reversal in a state in which women had previously achieved significant political success. Arizona women received suffrage in 1912 and elected two women, Frances Willard Munds and Rachel Berry, to the state legislature in 1914.⁷³

Beginning in 1921, a women's jury bill was annually introduced and died in legislative committees in the next five sessions of the state legislature.⁷⁴ In 1933, BPW member and Arizona legislator Jessie Bevan sponsored and secured its passage by the house of representatives only to have it die in the senate.⁷⁵ During the house debate, Representative William Wisener entered a written objection in the legislative records that included common arguments against women serving on juries:

I have tried hard to defeat this bill for I felt it was not in the interests of economy or of the women of the state. I still contend that the average woman of the state sincerely objects to leaving her home, her children, and all that a mother's heart holds dear, for the purpose of sitting as a judge in certain cases such as rape, seduction, bastardy, incest, sodomy, and murder cases. Should she smother her finer qualities and consent to do so, can she

⁷⁰Session Laws of Idaho, secs. 2-101, 2-104, 2-201, 2-203, 2-304, 2-411(1943).

⁷¹"Women Jurors Can Wear Hats If They're Pretty," *Chicago Daily Tribune*, November 23, 1944.

⁷²"First Woman Jury Called," *Arizona Republic*, August 19, 1914. See also Janolyn Lo Vecchio, "Give Us the Chance to Go All the Way: The Struggle of Arizona Women to Sit on Juries, 1921-1945," *Journal of Arizona History* 43 (2002): 343-68.

⁷³Marshall Trimble, *Arizona: A Cavalcade of History* (Tucson, 1989), 235.

⁷⁴*Journal of the Arizona House of Representatives* (1921): 38, 507.

⁷⁵*Journal of the Arizona House of Representatives* (1933): 67, 80, 105, 123, 132, 134, 137, 138, 189, 826.

discuss the evidence with men as well as men alone?
The memory of my old mother, of my precious wife, our darling daughter, has led me to make the fight that I have made. With all due regard to those of the house who were not with me, I am led to utter a portion of a prayer of the Christ on the cross who said, "Father, forgive them for they know not what they do."⁷⁶

The defeat of the 1935 jury service bill sponsored by another BPW member and Arizona legislator, Bridgie Porter, inspired BPW members to further intensify their lobbying campaign as well as to adopt new methods for public education on the issue.⁷⁷ In 1938, a Phoenix BPW club organized a five-week jury training school with a judge, mock trials, and women jurors. The school's curricular goals were to "improve the competence of jurors" and demonstrate that women could effectively serve on juries. Several hundred women from the Arizona chapter of BPW, Soroptomists, Century Club, Altrusa, Breakfast Clubs, Pilots, American Legion Auxiliary, and the Arizona Federation of Women's Clubs attended the schools. Women jurors heard attorneys argue cases that had previously been tried. The women's juror school generated significant publicity in Phoenix newspapers. In an *Arizona Republic* interview, Judge Marlin Phelps stated, "[T]hese women juries have been very fair and compare favorably with the verdicts given by men juries sitting on similar cases."⁷⁸ An *Arizona Republic* editorial reported, "The women attending these sessions of the school for jurors are finding out that serving as a juror is not a pleasant job at all, and that it is not one of play but one that means considerable work. . . . These Phoenix women who take the time to attend are not wasting it. The time is not distant when jury service will be one of the rights of women in the nation. Like Boy Scouts they will be prepared."⁷⁹

Despite the success of the jury training school and increased newspaper publicity, the women's jury bill was again de-

⁷⁶*Ibid.*, 138.

⁷⁷"Bridgie to Take Woman Juror Tiff to State Voters," *Phoenix Gazette*, February 21, 1935.

⁷⁸"First School for Jurors in West Is Held In Phoenix," *Arizona Republic*, January 23, 1938.

⁷⁹"School for Jurors Is Giving Women a Real Knowledge of Jury Service," *Arizona Republic*, January 31, 1938.

feated in the 1939 legislature.⁸⁰ Outraged, BPW Arizona state president and state legislator Annie Campbell Jones vowed to "establish jury service for women" or "abolish the jury system altogether."⁸¹ BPW Arizona members refused to accept defeat and continued to intensify their efforts under the guidance of state legislative chair Harriet Oliver, who encouraged members, "[W]e are looking forward to a brighter dawn but the road which we must travel is ORGANIZATION."⁸²

From 1941 to 1943, women's jury bills were introduced by male legislators and female BPW Arizona legislators. Finally in 1945 BPW member, Arizona legislator, and women's jury bill sponsor Claire Phelps danced a jig on the legislative floor after it passed both houses of the legislature, even though the bill was amended with a clause providing women the option of exemption from jury service due to their gender.⁸³

One day later, Governor Sidney Osborn approved the women's jury bill on an emergency basis in the presence of BPW/AZ members. He gave BPW/AZ members the pen he used to sign the bill in recognition of their role in passage of the law.⁸⁴ Arizona's first all-women jury was convened three hours later. All the jurors were members of BPW Arizona.⁸⁵

Colorado women also fought a lengthy battle for jury service. In 1907, Hilda Smith was the first Colorado woman selected to serve on a jury for a divorce trial.⁸⁶ Six years later, Lydia Berkeley Tague became the first county judge in Colorado.⁸⁷ In 1916, lawyer Clara Ruth Mozzer was the first woman to serve as an assistant to the attorney general of Colorado.⁸⁸ During these years, Colorado women continued to serve on juries until they were barred from jury service in 1924 because the state consti-

⁸⁰*Journal of the Arizona House of Representatives* (1939): 650.

⁸¹*Arizona Federation of Business and Professional Women: Women Who Made a Difference, 1921–1988* (Phoenix, 1998), 17.

⁸²Harriet Oliver, "Report of Legislative Chair," *The Rodeo* (1930): 4.

⁸³"Past Legislator Gets Her Wish," *Phoenix Gazette*, February 1, 1957.

⁸⁴"After Twelve Years," *Arizona Woman* (February 1957), 2.

⁸⁵"First Woman Jurors Serve," *Arizona Republic*, March 16, 1945.

⁸⁶"Colorado's First Woman Juror," *Washington Post*, February 1, 1907.

⁸⁷Marion Weston Cottle, "Women in the Legal Profession," *Women Lawyers Journal* 3:3 (December 1913): 22.

⁸⁸Flora Warren Seymour, "Colorado Women and the Law," *Women Lawyers Journal* 8:5 (June 1919): 36.

tution specified jurors as "males."⁸⁹ Women did not regain the right to serve on juries until the state constitution was amended in 1945.⁹⁰

Although a women's jury bill was introduced (but failed to pass) in the South Dakota legislature as early as 1925, women in the state continued to be barred from jury service until the state constitution was amended in 1947.⁹¹

Like Arizona, Oklahoma gave women suffrage prior to passage of the Nineteenth Amendment in 1920, but delayed jury service for women until midway through the twentieth century. Oklahoma women began voting in 1918, and by 1933 there were one hundred women lawyers in the state.⁹² From 1943 to 1949, BPW Oklahoma sponsored women's jury bills that died annually in legislative committees.⁹³ As the women's jury bills continued to fail in the legislature, lobbying efforts by BPW Oklahoma increased. Beginning in July 1950, BPW Oklahoma state legislative chair Mary Pokorny met personally with or wrote letters to all state legislators about the bills. During the 1951 legislative session, Pokorny traveled frequently from Lawton to Oklahoma City to lobby for the bill. She wrote numerous letters to BPW Oklahoma clubs updating them about the status of the bill and the arguments against the bill so members could effectively lobby their local legislators.⁹⁴

In January 1951, House Bill 145 for women jurors was introduced by Judiciary Committee chair Robert Sherman. The bill passed the state house of representatives by a vote of 87 to 14 but was at risk of dying in the Senate Judiciary Committee when a dramatic event occurred. During the legislative session, the BPW Oklahoma held its annual state convention in Oklahoma City. After national BPW Second Vice President Marguerite Rawalt gave a stirring speech urging action, the state convention recessed, and three hundred BPW Oklahoma members

⁸⁹Emma Wold, "How Colorado Laws Discriminate against Women," *Equal Rights* 11:25 (August 2, 1924): 197-99.

⁹⁰*Session Laws of Colorado*, sec. 1 (1945).

⁹¹"Women Denied All Jury Duty," *Washington Post*, March 3, 1925; *Session Laws of South Dakota*, sec. 32.1021(1947).

⁹²Mary Francis, "Southwest Lawyers Move Forward," *Women Lawyers Journal* 25:1 (October 1938): 28-29.

⁹³"Tulsa Women Winners in Jury Battle," *Equal Rights* 37:16 (November-December 1951): 46.

⁹⁴"State Convention Storms Capitol at Oklahoma City to Get What They Wanted: Jury Service for Women," *Independent Woman* 30 (July 1951): 209.

stormed the state capital, led by their president, Dorothy Purdy.⁹⁵ State senators were called out of assembly to meet with the Oklahoma chapter members, who demanded that the bill be reported out of committee and passed. While the women waited, the Senate Judiciary Committee held a meeting in the hall, and the bill was passed without recommendation. As a result of their lobbying the next day, the bill was moved from nineteenth to fourth place on the senate's agenda and passed by a vote of 32–2 on May 8, 1951.⁹⁶

During the final floor debate, Senator Paul Ballinger referred to the outraged BPW Oklahoma members by recommending, "I think the saying 'hell hath no fury like a woman scorned' should be changed to hell hath no fury like a clubwoman scorned."⁹⁷ House Bill 145 passed with the provision that it be placed on the ballot as a proposition at a primary election for final approval by voters during 1951. The bill was also amended to permit women with minor children to be exempt from jury service.⁹⁸

The authors of the Oklahoma women's jury bill were Tulsa BPW and NAWL members Dorothy Young, Norma Wheaton, Mildred Brooks Fitch, and Jewel Russell Mann. Norma Wheaton and Dorothy Young also successfully defended the constitutionality of the new law before the Oklahoma Supreme Court.⁹⁹ Dorothy Young served as a judge of the Tulsa Juvenile Court beginning in the 1950s.¹⁰⁰ Norma Wheaton was elected president of the Tulsa County Bar Association in 1946.¹⁰¹ Mildred Brooks Fitch was a member of the Oklahoma and Washington D.C., bar associations.¹⁰² A prominent Tulsa lawyer in the oil industry, Jewell Russell Mann was elected first vice president of NAWL in 1953 and BPW Oklahoma state president in 1960.¹⁰³

⁹⁵Paterson, *Be Somebody*, 100.

⁹⁶"State Convention Storms Capital," 209.

⁹⁷"Hold That Fury! Senate Votes 32 to 2 Not to Scorn Women," *The Oklahoman*, March 9, 1951.

⁹⁸*Ibid.*

⁹⁹Dorothy Young, "Happy Anniversary," *Independent Woman* 31 (June 1952): 174.

¹⁰⁰*Who's Who of American Women*, 2d ed. (Chicago, 1961–62), 1093.

¹⁰¹Mildred Brooks Fitch, "It's a Milestone," *Women Lawyers Journal* 32:2 (June–July 1946): 85–86.

¹⁰²*Who's Who of American Women*, 2d ed. (Chicago, 1961–62), 328.

¹⁰³*Ibid.*, 628.

Unlike the territory of Alaska, which gave women jury service relatively quickly, women in the territory of Hawaii underwent a longer struggle to serve on juries because of legal complications. In order to permit the Hawaii territorial legislature to authorize women jurors, the Organic Act of Hawaii for Territorial Government had to be amended by the U.S. Congress. As early as 1929, a women's jury bill was introduced in the U.S. House of Representatives by Hawaii Congressional Delegate Victor Houston and was sent to the U.S. Senate, where it was later tabled.¹⁰⁴

During 1931, the Hawaii Bar Association passed a resolution opposing women jurors by a vote of 45–6.¹⁰⁵ The resolution influenced the Senate Committee on Territories and Insular Affairs, chaired by Connecticut senator and Hawaii native, Hiram Bingham, to table the bill despite lobbying by Hawaiian women. Outraged, Hawaii Congressional Delegate Victor Houston wrote a letter to Senator Bingham reminding him that the 1930 territorial Republican platform contained a plank for Hawaiian women jurors and that the last two territorial Hawaii legislatures approved concurrent resolutions by the territorial governor requesting Congress to amend the Organic Act.¹⁰⁶ Despite intense lobbying by Hawaiian women, the Organic Act was not amended by Congress until 1951, followed by a similar amendment of Hawaii's territorial laws to provide for jury service by women.¹⁰⁷

Also in 1951, the state of New Mexico joined the growing number of states and territories that allowed female jury service when it amended its constitution.¹⁰⁸ The last western state to allow women to serve on juries was Texas. In 1918, Texas women were granted suffrage, and Ma Ferguson, the first Texas woman governor, was elected in 1924.¹⁰⁹ During 1935, Sarah Hughes was appointed as a Texas district court judge, and in 1939 a Texas woman lawyer was admitted to try a case before

¹⁰⁴"Jury Service for Island Women," *Equal Rights* 15:38 (October 26, 1929): 303; "Hawaiian Women Want Jury Service," *The Women's Journal* 14 (1931): 27.

¹⁰⁵"Hawaiian Delegate for Jury Service," *Equal Rights* 16:50 (November 7, 1931): 400.

¹⁰⁶*Ibid.*

¹⁰⁷*Laws of the Territory of Hawaii*, sec. 226 (1951).

¹⁰⁸*Laws of the State of New Mexico*, sec. 30-101 (1951).

¹⁰⁹"Mrs. Ferguson Elected TX Governor," *Equal Rights* 11:34 (November 8, 1924): 307–308.

the U.S. Supreme Court.¹¹⁰ However, during these years women were still unable to serve on juries in Texas.

After national suffrage was achieved in 1920, women were summoned for jury service in several Texas counties. In 1921, the Texas Court of Criminal Appeals reversed a verdict of a man convicted by a mixed-gender grand jury and ruled women jurors illegal because the Texas constitution stipulated "juries in district courts shall be composed of twelve men."¹¹¹ Two bills to provide jury service for women were introduced in the state legislature and died without a committee hearing prior to 1937.¹¹²

In June 1937, the Texas chapter of BPW voted to focus exclusively on obtaining jury service for women and began a seventeen-year legislative lobbying campaign. BPW Texas organized a special state committee to develop educational material on women's jury service and coordinate radio and newspaper publicity throughout Texas. Letters were sent to other women's organizations providing information about women jurors and inviting them to organize or participate in educational activities.¹¹³

One of the leaders in the lobbying effort was Judge Sarah Hughes, a BPW Texas and NAWL member. A former state legislator, Hughes served as a state district judge in Dallas from 1935 to 1961, when she was appointed a federal district court judge by President John F. Kennedy.¹¹⁴

Hughes spoke frequently at public meetings throughout Texas about the need for women to serve on juries. Her speech, entitled "The Half-Citizen" was published in the *Texas Bar Journal* in 1939. Hughes believed women should serve on juries because they were citizens like men and entitled to the full benefits of citizenship. To deny women participation in jury service was to make them "half-citizens" subject to unequal justice. Her article refuted common arguments against women jurors. In response to the belief that women were too emotional and easily prejudiced, Hughes argued, "[T]here is hardly any more likelihood of a woman's being prejudiced by a good-looking district attorney than of a man's being overcome by the

¹¹⁰Dalpe, "Sarah Hughes," 143-44; "First TX Woman to Be Admitted to the Supreme Court of the U.S.," *Women Lawyers Journal* 25:3 (June 1939): 73.

¹¹¹Sarah Hughes, "Now I Can Throw That Speech Away," *Independent Woman* 34 (February 1955): 63-64; "99 Year Term Reversed Because of Woman Jurors," *Chicago Tribune*, January 12, 1922.

¹¹²Hughes, "Now I Can Throw That Speech Away," 63.

¹¹³*Ibid.*

¹¹⁴Dalpe, "Sarah Hughes," 143-44.

tears of a pretty woman." Hughes' article concludes by declaring that when women became jurors, they would assume the "full obligation of citizenship," and arguments against women jurors would disappear.¹¹⁵

In 1950, Judge Hughes spoke at a meeting of the Tennessee Bar Association about why women should serve on juries. Despite eleven years of lobbying, she continued to be an outspoken and fervent advocate for women's rights. Hughes exclaimed, "Well, if you are going to keep women from hearing the sordid things you would have to take all the newspapers away from them, you have to keep them away from the moving pictures, keep the magazines away from them, and probably lock them up in the house, because they are going to hear the facts of life."¹¹⁶ She ended her speech by urging the Tennessee lawyers to assume the responsibility of reform in the administration of justice and amend Tennessee's constitution so women could serve on juries.¹¹⁷

Beginning in 1939, the Texas chapter of BPW sponsored a women's jury bill annually in the state legislature that routinely was killed in committees or that passed the house of representatives and then died in the senate. In 1949, a bill to place women's jury service on the ballot at the November election passed both houses of the state legislature. However, due to a light voter turnout and almost unanimous opposition by rural counties, the proposition was defeated by voters in the November 1949 election by a vote of 54.6 percent to 45.4 percent.¹¹⁸

Simultaneously, two lawsuits were funded by a BPW Texas club and individual BPW Texas members who hoped to obtain a favorable judicial ruling on women's jury service. In 1938, a civil suit (*Glover v. Cobb*) was filed in Dallas County to require county officials to place the names of women in the jury wheel by interpreting the word *men* in a generic fashion to apply to both men and women in the state constitution regarding jury service.¹¹⁹ However, the court of civil appeals ruled that the word *men* could not be construed to include women, since there were no women jurors when the Texas constitution was adopted.¹²⁰

¹¹⁵Sarah Hughes, "The Half-Citizen," *Texas Bar Journal* 2 (1939): 99–108.

¹¹⁶Sarah Hughes, "Jury Service for Women," *Tennessee Law Review* 21 (1950): 476.

¹¹⁷*Ibid.*, 477.

¹¹⁸Hughes, "Now I Can Throw That Speech Away," 64.

¹¹⁹Hughes, "The Half-Citizen," 99–108.

¹²⁰Hughes, "Now I Can Throw That Speech Away," 63–64.



The Honorable Sarah T. Hughes, a member of both BPW and NAWL, was the second woman to be appointed a federal court judge and the first to be elected a district court judge in Texas. (Photo by Squire Haskins; courtesy of the University of North Texas Archives)

In 1950, a Tom Green County case was appealed to the Texas Court of Criminal Appeals by a woman defendant due to intentional exclusion of women jurors and lack of due process under the Fourteenth Amendment. The court upheld the verdict, and the U.S. Supreme Court declined to grant certiorari.¹²¹

During 1952, the Texas chapter of BPW embarked on an intensive public education campaign about the issue and organized a Texas Citizens Committee for Women Jurors. Committee members included BPW Texas, the American Association of University Women, the League of Women Voters, the Federation of Women's Clubs, and the Congress of Parents and Teachers. After an intensive, statewide publicity campaign of radio speeches, newspaper articles, and public meetings, the bill was reintroduced in 1953 and passed both houses of the legislature. The bill referred final approval to Texas voters by placing it on the primary election ballot as a proposition. On November 2, 1954, women's jury service was approved in a primary election by 57 percent of Texas voters by a vote of 237,078 to 175,539.¹²²

Elated by the victory, Judge Sarah Hughes wrote an article about BPW Texas Federation's lengthy battle for jury service for *Independent Woman*, the national BPW magazine. She stated,

Though the fight to make women eligible for jury service was long and hard, it was worth all our efforts. . . . It was only through the determined and cooperative efforts of hundreds that victory was achieved. . . . I am glad to write "finis" to the story and throw away that speech entitled, "Texas Women—Half-Citizens."¹²³

However, women in other states, particularly in the South, continued to be barred from jury service. During 1968, Mississippi was the last state to amend its state constitution to allow women to serve on juries.¹²⁴ In 1975, the U.S. Supreme Court ruled that systemic exclusion of women from juries was a violation of the Sixth Amendment. This decision ended the exclusion of women from jury service due to gender.¹²⁵ The final decision by the U.S. Supreme Court came in 1994, when it

¹²¹Ibid.

¹²²Ibid.

¹²³Ibid., 64.

¹²⁴*General Laws of Mississippi*, sec. 336 (1968).

¹²⁵*Taylor v. Louisiana*, 419 U.S. 541 (1975).



The first all-women jury in Texas was impaneled in 1958. (Photo from *Houston Post* Collection; courtesy of Houston Metropolitan Research Center, Houston Public Library)

ruled that gender could not be used as a defining qualification for jury service.¹²⁶

Due to the prominent status of the suffrage and ERA movements, the struggle of western women to serve on juries is an obscure footnote in history. Formerly controversial, today mixed-gender juries uniformly render verdicts throughout the United states, and most people are surprised to discover that women in western states were unable to serve on juries as recently as 1954.

¹²⁶*Powers v. Ohio*, 499 U.S. 400 [1991].

APPENDIX 1
STATE SUFFRAGE AND JURY SERVICE DATES

State	Suffrage	Jury Service
Alabama	1920	1955
Alaska	1913+	1923
Arizona	1912	1945
Arkansas	1917	1921
California	1911	1917
Colorado	1893	1945
Connecticut	1920	1937
Delaware	1920	1920
Florida	1920	1949
Georgia	1920	1954
Hawaii	1920+	1951
Idaho	1896	1943
Illinois	1913	1939
Indiana	1917	1920
Iowa	1920	1920
Kansas	1912	1913
Kentucky	1920	1920
Louisiana	1920	1924
Maine	1920	1921
Maryland	1920	1947
Massachusetts	1920	1949
Michigan	1917	1918
Minnesota	1920	1921
Missouri	1920	1945
Mississippi	1920	1968
Montana	1914	1939
Nebraska	1917	1943
Nevada	1914	1914
New Hampshire	1920	1947
New Jersey	1920	1921
New Mexico	1920	1951
New York	1917	1937
North Carolina	1920	1947

State	Suffrage	Jury Service
North Dakota	1917	1921
Ohio	1917	1920
Oklahoma	1918	1951
Oregon	1912	1921
Pennsylvania	1920	1921
Rhode Island	1917	1927
South Carolina	1920	1967
South Dakota	1918	1947
Tennessee	1920	1951
Texas	1918	1954
Utah	1870+	1898
Vermont	1920	1941
Virginia	1920	1952
Washington	1884+	1911
West Virginia	1920	1955
Wisconsin	1920	1921
Wyoming	1869+	1950

NOTE: + indicates suffrage dates that occurred when states were territories

APPENDIX 2

HEADLINES OF NEWSPAPER ARTICLES

- Jurors in Bonnets Convict Quickly, *New York Times*, 11/23/20
- Women Jurors May Powder in Court, *Los Angeles Times*,
1/25/21
- Giggling Girls Not Wanted on Juries, *Phoenix Gazette*, 2/27/21
- Mixed Juries Offer New Legal Problem, *Tucson Citizen*, 1/13/21
- Women Jurors Stopped from Showing Ankles While in Jury Box,
Atlanta Constitution, 2/19/21
- Women Merciless—Lawyer Bars Them from Jury, *Chicago Tribune*, 6/4/21
- Are Men More Merciful Than Women? *Atlanta Constitution*,
9/28/21
- Mixed Jury Curtain Causes Stir, *New York Times*, 3/19/22
- Jury Beds Are Cause of Uproar, *Los Angeles Times*, 3/25/22
- Men Dodge 'Em But Women Ask Rights on Juries, *Chicago Tribune*, 11/7/22
- Women Jurors Balk, *New York Times*, 2/25/23
- Kansas Women Jurors to Sew in Jury Room, *Atlanta Constitution*,
11/19/27
- Women Demand Legal Rights to Serve on Juries But They
Admit They Do Not Crave the Privilege, *Chicago Tribune*,
11/31/28
- Judge Declares Women Jurors Improve Courts, *Chicago Tribune*,
10/21/30
- Twenty Women Decline to Serve on Jury, *Washington Post*,
12/4/30
- Women Jurors to Get a Powder Room, *New York Times*,
10/1/37
- Men Jurors Found More Gallant Now, *New York Times*,
10/2/37
- Women as Jurors Praised by Judge, *New York Times*, 10/23/37
- 300 Women Boo/Cheer for Juror Rights, *Washington Post*,
2/2/39
- Woman Juror Signs Verdict, Then Revokes It, *Chicago Tribune*,
11/13/40
- Women Jurors Can Wear Hats If They're Pretty, *Chicago Tribune*,
11/23/44
- Ladies of Jury Tend to Knitting at Trial, *Los Angeles Times*,
11/15/47
- Too Many Women Serve on Juries, Attorney Says, *Los Angeles Times*, 2/14/52
- Husbands Told Jury Duty a Job for Men Only, *Chicago Tribune*,
1/28/54

THE JOHN MARSHALL CLEMENS LAW LEDGER: A LEGAL VESTIGE OF THE AMERICAN FRONTIER

TIM JON SEMMERLING

INTRODUCTION: THE RECOVERY OF CLEMENS' LAW LEDGER

Just across the Illinois border, a long-unseen historical artifact and record of the American frontier reemerged and now awaits its place in the modern national consciousness: the 1844–46 law ledger of Judge John Marshall Clemens, justice of the peace of Hannibal, Missouri, and father of Samuel Langhorne Clemens, a.k.a. Mark Twain.¹ The ledger is the only known surviving record of Judge Clemens' 1842–47 service in Hannibal.

The narrative of its recovery fits squarely into the frame of the garage-sale treasure story, which, in its retelling, alternately provokes bargaining pleasures and sad realizations of

¹This article is the first scholarly work to feature the J.M. Clemens law ledger of 1844–46 since it has been recovered. The only other mention of the ledger is made by Terrell Dempsey in Terrell Dempsey, *Searching for Jim: Slavery in Sam Clemens's World* (Columbia, MO, 2003), 52–54.

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our present-day commercial and throw-away society. In 1995, Frank and Dr. Donna Salter, two career chemists and residents of Hannibal, were at a municipal sale rummaging through the property that the city of Hannibal was trying to unload. Seven cardboard boxes containing old books caught their eye, and they offered to purchase them for five dollars per box. Unknown to the Salters at the time of the sale, one box contained law ledgers that dated back to the nineteenth century. Later, as they removed one ledger from the box, they discovered that the ledger underneath revealed an older date. At the very bottom, they found a tattered and deteriorating leather-bound book that happened to be Clemens' law ledger.

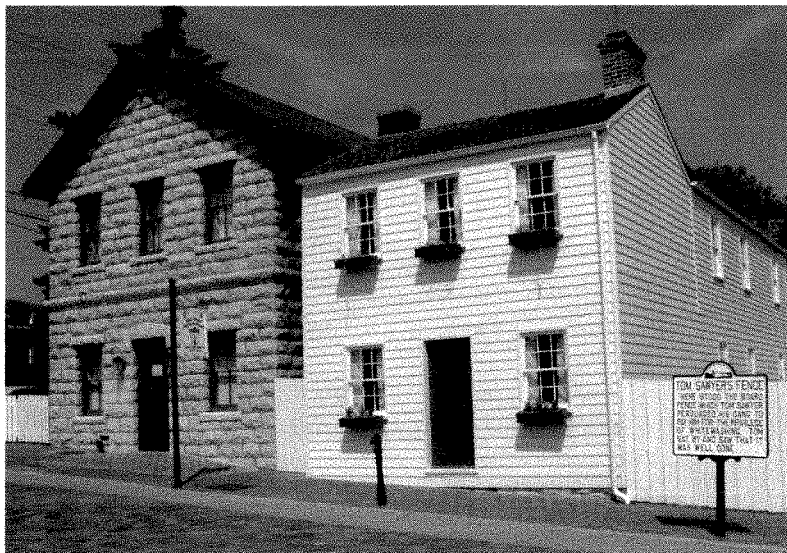
Their cash outlay of thirty-five dollars for all the boxes yielded an important museum treasure. The Salters offered the ledger to the Mark Twain Museum in downtown Hannibal on a permanent-loan basis for the public to see as of 2007. Museum curator Henry Sweets has been working diligently at transcribing the handwritten ledger into electronic format for future use by Twain scholars and others interested in Twain; almost half of the ledger has been transcribed. But does the J.M. Clemens law ledger present more than an artifact with which scholars can contextualize Twain's literature? Does it carry importance to the world outside tourist-Twainiana?

The ledger should not be wholly surrendered as simply context to Twain's legacy. In fact, it is a noteworthy testimony to the dockets, decisions, and procedures of a justice of the peace on the American frontier. Therefore it should be acclaimed on its own merits as a source for legal history, scholarship, and legacy. My discussion begins with the role of the jurist in westward expansion and with Clemens in that role; then I discuss the law ledger itself and how it provides evidence of applying the law on the frontier through a disciplining of the page, the legal process, and the town; I will use Clemens' judgments in slavery cases to cast him in the historical context of an ideology that dominated life in the frontier state of Missouri; finally, I will discuss how Clemens' law ledger stands as an insightful record of the common people in Hannibal at the time.

CLEMENS ON THE FRONTIER

The "Boostering" Jurist on the Frontier

The American historian Daniel J. Boorstin reminds us that the nineteenth-century jurists on the frontier played an es-



The Mark Twain Boyhood Home & Museum now houses John Clemens' law ledger on permanent loan. The Clemens family was forced to sell the clapboard house, where they lived from 1843 to 1853, because of John Clemens' debts. (Courtesy of the Mark Twain Boyhood Home & Museum, Hannibal, Missouri)

sential role in opening the American West.² Boorstin describes the westward-moving jurists as enterprising "boosters." The booster was a community builder who tirelessly and zealously tried with others to build the next Athens, Rome, or London on the frontier. The booster thrived on growth and expansion and may have been naïve and optimistic in trying to build the next metropolis that would become the universe of others. Archetypical boosters were boastful, tenacious, and promotional businessmen, newspaper men, hotel owners, and college founders, and Boorstin highlights boosters like William B. Ogden,

²Daniel J. Boorstin, *The Americans: The Democratic Experience* (New York, 1973), 53. My term *frontier* is used in concert with Boorstin and Don Harrison Doyle, who see the frontier as not only those places on the outer edges of the nation and far away from the metropolises, but also as a time period when the "first generation[s] of town boosters fought to seize a leading place in an open, rapidly developing, and as yet unfixed region." Don Harrison Doyle, *The Social Order of a Frontier Community: Jacksonville, Illinois 1825-70* (Urbana, IL, 1978), 3. Although Missouri gained statehood in 1821, in 1840 it was the last state one passed through before reaching the unorganized territories of the plains, then known as "The Great American Desert." Boorstin, *The Americans: The National Experience* (New York, 1965), 229-30. Life in 1840s Missouri was still rugged and developing, and John Clemens was among the early generations of the state and of the towns he settled.

who built Chicago; Daniel H. Richards, who used a newspaper to help establish Milwaukee; William Larimer, who established Denver and marked out a place for an extravagant hotel; Josiah Bushnell Grinnell, who founded Grinnell College in Iowa; and others as among the most successful and illustrious of these boosters. Jurists, as boosters, promoted their towns and encouraged growth; they organized, established, and enforced law and order on the land and its inhabitants; and they served as intelligence agents informing outsiders of the local laws, customs, and rules all in efforts to draw and funnel capital investment from the eastern metropolises on the Atlantic coast to the frontier.³ One of Boorstin's booster-jurist archetypes was Edward Oliver Wolcott, who graduated from Harvard Law School, moved to Colorado from Massachusetts, established himself as a lawyer adept in mining law, was elected district attorney, became counsel to the Denver & Rio Grande Railroad and other large corporations, and eventually rose to the offices of Colorado and United States senator.⁴

Likewise, Raymond T. Zillmer describes the migration of the majority of southern lawyers. He explains that these jurists generally moved from the East through Kentucky and Tennessee westward and onward to the western states' fringes.⁵ With them they brought the practices of the common law, and, in the case of Missouri, according to historian William Francis English, they transformed French and Spanish laws and legal customs into an Americanized common law.⁶

³Ibid., 113–23; Boorstin, *The Americans: The Democratic Experience*, 274.

⁴Ibid., 54.

⁵Raymond T. Zillmer, "The Lawyer on the Frontier," *American Law Review* 50 (1916): 27–42. According to Gordon Morris Bakken's study, many of the lawyers from this migratory route, including those who settled for a time in Missouri, would move on to California, especially in the 1870s. Gordon Morris Bakken, *Practicing Law in Frontier California* (Lincoln, NE, 1991), 1–8.

⁶William Francis English, *The Pioneer Lawyer and Jurist in Missouri* (Columbia, MO, 1947), 46–60. However, John Phillip Reid reminds us that even without lawyers and judges, the common pioneers brought with them some of the basic concepts of laws from the East and applied them on the Overland Trail. In his book about the trek to California between the 1840s and 1850s, he points out that overland travelers applied the basic understandings and respect for the laws of property in their transactions of buying and selling property, forming and dissolving property partnerships, recovering lost property, claiming abandoned property, and charging for medical services, which were all done far from courthouses and under the exigencies of the trail. John Phillip Reid, *Law for the Elephant: Property and Social Behavior on the Overland Trail* (San Marino, CA, 1997).

Placed in context with other democratizing, go-getting transient and booster heroes of the nation,⁷ lawyers and judges played as important a role in westward expansion and democratization as did the frontier hunters and surveyors entering and exploring the wilderness, the ranchers and cowboys raising and driving their cattle, and the barons and builders of railroads planning and laying track across the continent.

Clemens as "Boostering" Jurist

John Marshall Clemens (August 11, 1798–March 24, 1847),⁸ named in honor of the chief justice of the Supreme Court, fits the description of the transient, organizing, "boostering," and learned southern jurist of the 1840s, although he did not reach the level of success and fame of Boorstin's lionized archetypes. Clemens proudly claimed his identity as Virginian, but, when he was young, his family moved westward into Kentucky. There, as a young man, according to Twain scholar Ron Powers, Clemens apprenticed in the law firm of Cyrus Walker and eventually acquired certification to practice law in Kentucky courts.⁹ In 1825, he moved further westward into Tennessee with his wife and family in search of the dreamed-of opportunities and riches that the western Arcadia could supply. He thought "in terms of roads and bridges and libraries cutting into all that western wilderness."¹⁰

In Tennessee, he was named circuit court clerk of Fentress County and sometimes acted as attorney general. According to Twain scholar Minnie Brashear, he was one of the commissioners who located the county seat at Jamestown and drew up the specifications for the courthouse and jail.¹¹ As a result of purchasing 70,000 acres for \$400, he was burdened financially for the rest of his life.

Success in the frontier environment required lawyers and doctors to practice as businessmen outside their professions as well.¹² When the general store that Clemens opened there failed

⁷Boorstin, *The Americans: The Democratic Experience*, 53–64, 273–80; see also Boorstin, *The Americans: The National Experience*, 57–65, 113–23; see also English, *The Pioneer Lawyer*, 120–30.

⁸R.I. Holcombe, *History of Marion County, Missouri* (1884; repr., Hannibal, MO, 1979), 914.

⁹Ron Powers, *Dangerous Water: A Biography of the Boy Who Became Mark Twain* (New York, 1999), 31; Holcombe, *History of Marion County, Missouri*, 914.

¹⁰Powers, *Dangerous Water*, 31.

¹¹Minnie M. Brashear, *Mark Twain: Son of Missouri* (New York, 1964), 87–88.

¹²Boorstin, *The Americans: The National Experience*, 123.

financially, he moved his family, including a household slave, further west in 1835, searching for new riches in Missouri.

After settling in Florida, Missouri, Clemens acquired more land and became a booster and organizer of the town by sitting on fundraising commissions that tried to draw steamboat trade, build railroads, and establish an academic citadel.¹³ Clemens headed the list of commissioners for the Salt River Navigation Company, which would extend access from Florida to the Mississippi River and help bring steamboats, goods, and people to the town. When new plans for a railroad to reach Florida from Paris, Missouri, put an end to the need to make the Salt River navigable, Clemens headed the railroad plan's list of nine commissioners. In February 1837, Clemens was one of the trustees of the newly incorporated Florida Academy.¹⁴ Brashear claims, although maybe too magnanimously, that "[Clemens] put Florida on the map of the state."¹⁵ According to Twain biographer Dixon Wecter, Clemens was sworn in on November 6, 1837 as a judge of the Monroe County Court, earned his right to be addressed as "Judge," and was the town's best-educated and most enterprising citizen.¹⁶

Boosters, although loyal to their towns, stayed put only so long as the dream of possibilities existed. Florida's prospective wealth consisted of manufactured products, but these generated little profit without cheap transportation to a much bigger market.¹⁷ Clemens opened another general store and failed again. Two years later, he sold his Florida holdings and moved his family north to another prospective-opportunity town: the awakening river town of Hannibal, which "was fast proving itself the funnel for the land-locked counties."¹⁸

In Hannibal, Clemens established himself again as a town leader. C.J. Armstrong reveals,

[Clemens] filled a prominent and useful place in Hannibal. . . . There were meetings to discuss prospective colleges, roads, railroads, a city charter, a court of common pleas, and the secession of Hannibal from Marion County and its annexation to Ralls County. At these meetings Judge

¹³Powers, *Dangerous Water*, 44–45.

¹⁴Brashear, *Mark Twain*, 50.

¹⁵*Ibid.*, 89.

¹⁶Dixon Wecter, *Sam Clemens of Hannibal* (Boston, 1952), 48.

¹⁷*Ibid.*, 49–50.

¹⁸*Ibid.*, 49; see also Powers, *Dangerous Water*, 50.

Clemens takes a prominent part, is sometimes chairman, sometimes secretary, always on some committee.¹⁹

During his time there, Clemens worked to encourage investments in a railroad between Hannibal and St. Joseph,²⁰ in a macadamized road from Hannibal to St. Joseph, and in the establishment of a Masonic college for the state of Missouri. He also founded the Hannibal Library Institute, which held a modest collection of books available to borrowers and provided a place for lectures and debates.²¹ Adding to all this, Clemens was elected justice of the peace in 1842, a prominent place in the local community but with only a paltry salary. A justice-of-the-peace court in a Missouri town was the first level of courts. The justice heard citizens' civil suits involving small amounts, cases of infractions by slaves, and sometimes criminal misdemeanor cases. Litigants could appeal the justice of the peace's decisions to the county court, which, in the case of Hannibal, was located in Palmyra, Missouri. Clemens was on his way to being elected to the higher position of clerk for the circuit county court before he died on March 24, 1847, from pneumonia.²²

Just the same, Clemens' wealth in Hannibal dwindled. He failed in another attempt to establish a thriving general store. Unable to sell his large property in Tennessee, he was forced to sell all his landholdings in Hannibal by 1841, including the old Virginia Hotel, in order to settle his debts.²³ Twain scholars are convinced that his repeated financial failures show that he was a poor businessman. So it seems that Clemens did not measure up to booster archetypes.

But his failures do not mean that he was less of a booster businessman, jurist, and civic leader. Certainly not all of the hardworking boosters of the American West were financially

¹⁹C.J. Armstrong quoted in Brashear, *Mark Twain*, 90. Brashear hails Armstrong as a leading student of Mark Twain's life in Hannibal at the time of her writing.

²⁰Clemens hosted, in his office, the first meeting of businessmen planning the Hannibal to St. Joseph railroad. Holcombe, *History of Marion County, Missouri*, 942; Wecter, *Sam Clemens of Hannibal*, 110.

²¹Wecter, *Sam Clemens of Hannibal*, 110–11. Five years after Clemens' death in 1847, a groundbreaking ceremony commenced the building of the Hannibal to St. Joseph railroad; riverboats—up to a thousand a day—docked in Hannibal; and the population of people overtook the number of pigs in the town. By the early twentieth century, Hannibal had become a railroad center, brick houses replaced most of those constructed of white clapboard, and the population reached 12,500. See also Powers, *Dangerous Water*, 208–209, 292.

²²Wecter, *Sam Clemens of Hannibal*, 114; Holcombe, *History of Marion County, Missouri*, 914.

²³*Ibid.*

successful or reached legendary status. The frontier environment was extremely speculative and harsh, and many people did not succeed, particularly the early Missouri lawyers who, without enough legal work, had to enter into businesses outside their professions in order to eke out a living.²⁴ Brashear reminds us, "Much experiment was necessary before the right way out of the wilderness could be found. It was John Clemens's part to be one of those experimenters."²⁵ Moreover, Hannibal's citizenry understood his role in the town. Clemens' obituary in the *Hannibal Gazette* eulogizes him as a benefit to his community, a man of uncommon influence and usefulness, a possessor of public spirit exercised zealously and with effect upon every proper occasion, a loss to the whole community, and a good and useful citizen.²⁶

THE LAW LEDGER

The Ledger's Organization

Narratives of our Western and American selves often celebrate men from the cities for organizing and disciplining the "chaotic" state of the wilderness.²⁷ Clearly, transcription of the frontier's real-life events onto the pages of a law ledger in an organized, methodical, and legally comprehensible manner could, in itself, be regarded as a disciplining effort of the American frontier.

As a lawyer, Clemens brought with him from the Southeast the knowledge and practice of the common law, using them to aid the development of the young state of Missouri. Wecter cites an old clipping from the *St. Louis Republican* that describes Clemens, at work in his small, rustic 15-foot-by-16-foot courtroom, as

a stern, unbending man of splendid common sense . . .
the autocrat of the little dingy room on Bird Street where
he held his court. . . Its furniture consisted of a dry-

²⁴English, *The Pioneer Lawyer*, 13–14, 73–74, 99.

²⁵Brashear, *Mark Twain*, 90.

²⁶Announced in the *Hannibal Gazette* on March 25, 1847, and reprinted in Brashear, *Mark Twain*, 95–96.

²⁷Ella Shohat, "Gender and Culture of Empire: Toward a Feminist Ethnography in Cinema" in *Visions of the East: Orientalism in Film*, ed. Matthew Bernstein and Gaylyn Studlar (New Brunswick, 1997), 19–66.

goods box which served the double purpose of a desk for the Judge and table for the lawyers, three or four rude stools and a puncheon bench for the jury. And here on court days when the Judge climbed upon his three-legged stool, rapped on the box with his knuckles and demanded "Silence in the court" it was fully expected that silence would reign supreme.²⁸

The clerical aspect of adjudicating in this court must have been tediously time-consuming. The leather-bound ledger's cover is twelve inches long by eight inches wide and contains 423 pages, making the ledger two inches thick. The book is organized into quarter-annual sessions, called "terms," in which Clemens held hearings. There are a few instances where he held out-of-term hearings for seemingly pressing matters that deserved immediate attention. For example, while routine cases involving contract disputes were slotted into the September term dated September 14, 1844, and the December term dated December 14, state complaints regarding vagrancy in the town seem to have been pressing enough to warrant a special session on October 29.²⁹

The events of the real-life frontier were mimetically transcribed on the ledger's pages, demonstrating Clemens' attempts to discipline daily frontier activity. The page setup reveals the art and effort of organizing the ledger for the law's use. Each page was preprinted with horizontal lines to guide the scrivener's quill, but the pages had to be sequentially hand-numbered. The scrivener used a straight-edged instrument to create double-lined margins at the top and left of the page, similar to the preprinted margins on modern notebook paper. Case numbers were sequentially assigned in the top left-hand margin as they were recorded. The ledger shows evidence of an initial error in recording, because the original numbers were crossed through and renumbered. On the top left-hand side of the page the scrivener created the caption by recording the case names (e.g., *Mahan v. Beck*), and on the right-hand side of the page he noted the title of action (e.g., recovery on note). The two are

²⁸Wecter, *Sam Clemens of Hannibal*, 104–105. Today, Clemens' actual office and courtroom can be seen as part of the Mark Twain Boyhood Home exhibit. Although the building has been moved and antique or old-looking furniture and accoutrements have been placed inside to simulate the scene of his reign, the size of the room itself is thought-provoking. Its small dimensions make the large courtroom sets found in frontier-life television shows and movies seem rather silly.

²⁹*State v. Finn*, *State v. Warren*, alias "*The Old Soldier*," and *State v. Moon*, J.M. Clemens Law Ledger, 1844–1846 (October 29, 1844).



The clapboard building in which Judge Clemens presided from 1845 to 1847 originally stood on unpaved Bird Street. Photo by E.H. Frazier, 1930s. (Courtesy of the Mark Twain Boyhood Home & Museum, Hannibal, Missouri)

separated with a vertical-spiral line, creating the caption box.³⁰ The text of the case appears underneath.

The text of the case was not always written in one sitting or one day, and different handwriting styles over the period are evidence that Clemens had clerks acting as scriveners. The court recorded a case first by entering the complaint in the ledger on the opening date of the term in which it was brought to court. Even so, issuance and execution of a warrant, pleadings and accommodations of motions, issuances and executions of subpoenas, calling and hearing of witnesses, collection of a jury, ruling, and final settlement in relation to the complaint could take many weeks or even months to occur. The scrivener recorded each case event as it occurred on the same page as the initial entry.³¹ He wrote all entries in one paragraph, with appropriate transitional phrases to give the appearance and flow of a single narrative.

³⁰Today, caption boxes are commonly set off on the right side by a column of close parentheses. The kinship of the close-parentheses column to the vertical-spiral line is striking, particularly when considering that the close-parenthesis key is a typewriter's or word processor's best candidate for such mimicry.

³¹Usually each page is dedicated to a single case. Those cases that required more space than a single page were continued on the bottom of another, shorter case's page later in the ledger.

Although the one-paragraph construction would ordinarily make it difficult to find a particular event quickly, the scrivener solved that problem by using the left-hand margin to index corresponding points of procedure such as statement, charge, complaint, process, appearances, pleas, jury, continuances, judgment, new trial, and satisfactions. He also provided a cost calculation of the court tax for the services rendered by the justice's office, the constable, and the witnesses.³²

The Recording of Procedure

While the page layout reveals organizational talent, the recording itself informs us about procedure in the law court of a frontier town. According to John Ludlum McConnel's description of the justice of the peace as man and office, frontier people of the Mississippi valley came to the justice courts for authoritative decisions about their dilemmas, and they looked to the justice of the peace to deliver finality.³³ Clemens, faced with this popular mind-set, had to ensure that disputes and infractions in the town were processed with what was considered to be fair and just certainty. Clemens' court had to continually reestablish access and confidence in an institutional forum with service of complaints, an objective hearing, and justice that was as swift as possible. Although Clemens' ledger shows that he kept the process consistent, even cases brought in this frontier court could take months to adjudicate; closure for parties could extend into more months.

The indexical entries are quick references to the procedural steps and use conventional terms throughout the ledger. The cases in 1845 and 1846 reflect the simplified procedure enacted by the Missouri General Assembly, which overturned the previous common law practices based on the fundamental authority of Chitty's *Pleadings*. Under these new rules, the plaintiff filed with the court any complaint, bond, note, or instrument of writing held against a party; the defendant need only return with a one-sentence statement (general plea); the case had to be heard; and the defendant did not have to reveal his defense until

³²Later Hannibal law ledgers, recovered in the same box as Clemens' law ledgers, do not devote a single page to each case, and scribes did not use the margins to the extent that Clemens did. Generally, calculations and procedural indexing do not appear, and handwriting styles are not as clearly legible. However, the caption boxes look similar.

³³John Ludlum McConnel, *Western Characters: or Types of Border Life in the Western States* (1853; repr. New York, 1975), 253–57.

he was ready to present his evidence.³⁴ These new rules are exemplified by *Sear v. McDonald*: Sear was suing McDonald in order to collect on a credit account totaling \$31.25.³⁵ The *complaint* (account) was filed with the court, and a *summons* was issued on September 1. The constable served the summons and returned with an “*executed*” *summons*. Two weeks later, there were *appearances* of the parties before Clemens, the parties made their *pleadings*, and McDonald claimed that he could provide proof of offsetting payments to the account. Since there was not enough time that day to see the proof, Clemens declared a *continuance* of the case for two days later. The parties reappeared, and McDonald provided his *evidence* (in other cases this might include witnesses). After the hearing on September 15, Clemens found that the balance owed to Sear was only \$3.10, and he declared the *ruling*. Clemens assessed McDonald, the non-prevailing party, with court costs totaling \$7.25. *Execution of payment* was issued for satisfaction in sixty days. Later that day, McDonald filed his *affidavit for appeal* and entered into a *recognizance* (bond) with W.J. McGary & Woddson Johnson Securities in the sum of \$25 as guarantee that he would appear in the higher court. Clemens *approved the appeal* that day.³⁶

Sear was a rare case in that it included the full procedural paradigm in a breach-of-contract case. Many of the cases were resolved early as default, nonsuit, or not-found decisions because parties did not appear. In *Wm. K. Higgins & Co. v. Morgan*, the company sued Morgan on two notes amounting to \$81.61 at 6 percent interest.³⁷ After the parties’ appearances and pleadings, the case was continued into the next term (September Term).³⁸ On the day of the hearing, Morgan failed to appear, and Clemens ruled Morgan in “default” and passed judgment in favor of the company on that basis. In such cases, the defendant had to pay the court costs, which were \$3.03¾ in

³⁴English, *The Pioneer Lawyer*, 92.

³⁵*Sear v. McDonald*, J.M. Clemens Law Ledger, 1844–1846 (September Term, September 13, 1845). See section “A Record of the Common People” in this article and note 102 below to understand the comparative values of cases in today’s dollars.

³⁶Italicized words are the actual procedural points noted in the margin of the case.

³⁷*Wm. K. Higgins & Co. v. Morgan*, J.M. Clemens Law Ledger 1844–1846 (June Term, June 14, 1845). *But cf. Sterling v. Belknap*, J.M. Clemens Law Ledger 1844–1846 (June Term, June 14, 1845) [hearing assumpsit on account for buggy hire at \$11.25, defendant failing to appear, continuing to hear evidence before ruling, and ruling without the use of default.]

³⁸*Ibid.* It seems that Clemens began court at 10:00 a.m. The parties in this case, as in others, are required to appear at the court at 10:00 a.m.

this case.³⁹ Alternatively, in the case of *Huser v. Arnall*, Huser sued Arnall on an account for \$4.75.⁴⁰ After continuance into the next term, Huser failed to appear, and Clemens ruled the plaintiff to be "nonsuited." In these cases, court costs were charged to the plaintiff, which were \$1.83³/₄ in this case. In situations when both parties failed to appear, as in *Anderson v. Sively*, where Anderson sued Sively for \$30.00 on a past-due account, Clemens declared the plaintiff "nonsuited," assessed costs to the plaintiff, and allowed "that the defendant go hence & recover of the plaintiff his costs in his behalf expended."⁴¹ When the constable could not find a party to serve with the summons, he returned the summons as "not found." Such was the case in *Bennett & Crocker v. Cambel*, where the plaintiff sought recovery on an account of \$2.68.⁴² In these cases, plaintiffs had to withdraw their suits and cover the court costs.

However, procedure in the frontier court had to be flexible in order to deal with contingencies such as hazardous travel over long distances, illnesses, and other adverse issues in frontier life. Clemens thus allowed defendants or plaintiffs to come before him and explain their absences. In some cases, as in *Meredith v. Smack*, he set aside his "default" or "nonsuited" rulings and ordered new trials.⁴³ When Meredith did not appear in court on September 20, Clemens ruled that Meredith be "nonsuited" and bear the costs of the court. Four days later, Meredith must have presented an excuse for failure to appear that was good enough to convince Clemens to set aside the judgment and order a new trial in the next term. Ultimately, the defendant Smack did not show on that date, and Meredith prevailed. In *State v. Innis*, an assault and battery case, Clemens noted in the record that even after a postponement, the defendant could not return to litigate because he was confined to his

³⁹Half-cent coins existed during this period, but quarter-cent coins did not. The ledger does not state that the amount was rounded off when a party finally paid. Therefore, how parties dealt with this issue is unclear. Nevertheless, Clemens often made rulings involving sums ending with quarter-cent and three-quarter-cent. This may reflect the judge's interest in precision when settling accounts and court costs.

⁴⁰*Huser v. Arnall*, J.M. Clemens Law Ledger 1844–1846 (June Term, June 14, 1845).

⁴¹*Anderson v. Sively*, J.M. Clemens Law Ledger 1844–1846 (June Term, June 14, 1845). Accord *Garrett v. Allbright*, J.M. Clemens Law Ledger, 1844–1846 (March Term, March 15, 1845) (setting aside nonsuit ruling because plaintiff had "for good cause shown" the reasons for his failure to appear).

⁴²*Bennett & Crocker v. Cambel*, J.M. Clemens Law Ledger, 1844–1846 (September Term, September 13, 1845).

⁴³*Meredith v. Smack*, J.M. Clemens Law Ledger, 1844–1846 (September Term, September 13, 1845).

bed with fever.⁴⁴ The final decision of the case, after the notation of fever, is not declared, leaving open the question of Innis' ultimate fate. In conclusion, the ledger shows not only Clemens' use of procedure to introduce discipline into his frontier court, but also his flexibility in adjusting procedure to meet the demands and restraints of frontier life.

The Ledger's Cases

Frontier Hannibal

By 1844, Hannibal had the infrastructure of a permanent town, including the institution of law. Keelboat traffic was giving way to steamboats, and Hannibal became an important port. Circuses and minstrel shows came to town regularly, and on Independence Day parades were held and great speeches given. But, as Twain scholars remind us, this frontier river town was quite different from the romanticized and idyllic images of Hannibal as portrayed in our adaptations of Twain's novels. In the mid-1840s, this town was not a safe place. It existed in a wilderness in which inhabitants forged lives in mind- and body-grinding cycles of labor-intensive clearing of land and subsistence farming and hunting.⁴⁵ Hannibal had its share of violence and death: bloody corpses, acts of murder and manslaughter, hangings, rapes, lynchings, and drownings.⁴⁶ Twain scholar Bernard DeVoto reminds us that "American lawlessness towered everywhere on the border and reached its zenith on the Mississippi Islands, and bayous held confederacies of outlaws. . . ."⁴⁷ The reckless and violent impulses of the frontier culminated on the river. John A. Murrell and his gang of thieves, robbers, murderers, and barge-pirates, who infested the Mississippi shores from Hannibal southward, were embodiments of this frontier violence.⁴⁸

While Twain scholars tend to speak of the shocking dangers of frontier Hannibal in order to contextualize historically the fictional riff-raff appearing in Tom's, Huck's, and the river pilots' adventures, historian Don Harrison Doyle gives insight into the root causes of inherent tensions and conflicts in frontier

⁴⁴*State v. Innis*, J.M. Clemens Law Ledger, 1844–1846 (September Term, September 16, 1844).

⁴⁵Justin Kaplan, *Mark Twain and His World* (New York, 1974), 23; Powers, *Dangerous Water*, 56.

⁴⁶Kaplan, *Mark Twain and His World*, 19; Powers, *Dangerous Water*, 95.

⁴⁷Bernard DeVoto, *Mark Twain's America* (Boston, 1932), 17.

⁴⁸Powers, *Dangerous Water*, 143, 256.

communities that brought about daily civil disputes. Choosing the frontier town of Jacksonville, Illinois, during 1825–70—a town only sixty miles east of Hannibal—as his case study, Doyle states that the constant influx of uprooted newcomers through the frontier community and the mix of strangers in it made social cohesion problematic at best. He identifies the diversity of regional and ethnic cultures, social classes, religions, partisan loyalties, and personalized factions as fuel for a continuous round of internal conflicts. In Jacksonville, people particularly disagreed, sometimes to the point of violence, over the plans for the railroad's track through town, rival Christian ideologies, and the slavery issue. Town leaders, taking on the role of boosters and trying to entice future settlers to remain and invest in the town, worked hard to promote community harmony and, at the same time, to solve these internal conflicts.⁴⁹

These frontier descriptions reveal the social and economic problems and issues that Clemens had to address and solve in his court. Wecter cites the article from the *St. Louis Republican* that describes how in 1843 Clemens

quelled a disturbance in his court—after a bellicose plaintiff named McDonald had so provoked a witness named Snyder that the latter discharged an old pepper-pot revolver, “filling the room with smoke and consternation”—and in his confusion, clouted the Scot over the head with a hammer, sending him “senseless and quivering to the floor. The irate court was complete master of the situation.”⁵⁰

Mark Twain and his biographer Albert Bigelow Paine tempered the heroic language of the *Republican*, but, as Wecter assures us, “all agree that Judge Clemens commanded the peace, and obtained it, by wielding a hammer or mallet with summary effect.”⁵¹ Although there is no reason to question the descriptions of the dangers in this frontier town, these dangerous types of occurrences appear only sparingly in Clemens' law ledger.

⁴⁹Doyle, *The Social Order of a Frontier Community*, 3–10, 39–64.

⁵⁰Wecter, *Sam Clemens of Hannibal*, 105. Wecter states that the newspaper story comes from a clipping but gives no date. Holcombe, *History of Marion County, Missouri*, 914, Holcombe's biography of Clemens states that the entire incident occurred outside the courtroom after the initial litigation, when “McDonald was trying to make Schnieter (sic) shoot himself with his own pistol. Mr. Clemens commanded the peace, and not being obeyed he struck McDonald on the forehead with a stonemason's mallet. The plan succeeded, though McDonald expressed doubts of its legality.”

⁵¹Wecter, *Sam Clemens of Hannibal*, 105.

Clemens' law ledger, though only a single surviving volume of his tenure, happens to cover an array of frontier legal issues: contracts, property, vagrancy, fraud, violence, and slavery.⁵² Overall, Clemens had a way of simplifying many of the cases semantically by using formulaic descriptions in the ledger. Rarely in contract cases did he go too far into detailing the testimony of witnesses or the description of a contract, other than noting the dollar amount. By using process as a guide, he summarized his cases naturally.

Particular phrases were the custom of the court. When the defendant denied indebtedness to the plaintiff, as in *Webb v. Brown*, where Webb sued Brown for an account balance of \$2.20, Clemens described the defendant as "pleads the general issue."⁵³ In other situations where juries had to be summoned, as in *Inhabitants of the Town of Hannibal v. McGinnis* on a claim of taxes on property including a slave, Clemens used the phrase "commanding him [the constable] to summon six good and lawful men &c."⁵⁴ When the plaintiff is nonsuited, as in *Garnett v. Allbright*, where trespass on land damages were \$15.00, Clemens permitted the defendant to "go hence and recover of the plaintiff his costs in his behalf expended. . . ."⁵⁵

Clemens' law ledger provides a unique scope for observing the issues affecting the common person's life on the frontier and the essential role the jurist played in frontier life. From the ledger's cases it seems that Clemens was a fair judge who listened to the evidence of both parties, adhered to procedure, and made decisions based on the needs and circumstances of frontier life. However, when it came to decisions in slavery cases, his adherence to Missouri slave culture trumped human justice.

Contract Cases

The vast majority of the cases in the ledger are causes of actions dealing with breaches of promises and contracts and filings to recover on notes and accounts. This was typical of the kinds of cases that occurred in frontier Missouri, because the frontier was full of enterprises created with reckless abandon. Obligations were eagerly assumed and could have been re-

⁵²The ledger also includes two entries of marriages that Clemens solemnized: Heiser and Hershman on January 1, 1846, and Potter and Decker on October 19, 1846. J.M. Clemens Law Ledger, 1844–1846.

⁵³*Webb v. Brown*, J.M. Clemens Law Ledger, 1844–1846 (June Term, June 14, 1845).

⁵⁴*Inhabitants of the Town of Hannibal v. McGinnis*, J.M. Clemens Law Ledger, 1844–1846 (September Term, September 14, 1844).

⁵⁵*Garnett v. Allbright*, J.M. Clemens Law Ledger, 1844–1846 (March Term, March 15, 1845).

paid only with the prosperity generated by booming towns. In general, people paid their debts only when they were forced to do so.⁵⁶ Thomas L. Anderson, a lawyer who located in Palmyra, just twelve miles from Hannibal, in 1832, described the small justice courts in northern Missouri:

The litigation was generally of a small nature—there was a great deal however, in proportion to the population. Litigation at Palmyra increased rapidly. We had three terms per annum—frequently I would bring about fifty suits. The collection of debts furnished a very lucrative practice. The whole of North East Missouri was flooded with goods—all sold to merchants on credit of six months and sold to the people on credit of twelve months—the result was that the people could not pay the merchants and consequently the merchants could not pay their creditors. There was no such thing as Banks scattered all over the country, no deeds of trust—all the notes by suit—and not as they now are—by sale under deed of trust—and by Banks.⁵⁷

As English further describes the prevailing situation in Missouri towns at the time, it was in the interest of the boosters of the towns, many of them lawyers, to encourage investment in the town, and by insisting that debtors pay the creditor

⁵⁶English, *The Pioneer Lawyer*, 73–74. Interestingly, according to Wecter, Clemens himself was forced into ruin through suits on debt. He once loaned Ira Stout a substantial amount of money (Twain claims “several thousand dollars”), but Stout defaulted on the debt, and Clemens was unsuccessful in recovering the money. In 1843, Clemens had won judgment of about \$500 on notes he held against William Beebe, the Hannibal slave trader. Beebe refused to pay, and, on March 18, 1844, the sheriff confiscated and sold some of Beebe’s property in order to satisfy partial payment of the note: one nine-year-old slave girl, various barrels, tin plates, sacks of salt, and a screw press. But Beebe then acquired an IOU for \$290.55, which Clemens had given storekeeper Henry Collins back in 1842 and Collins endorsed over to Beebe. Beebe brought suit on the note and won the total amount, plus damages of \$126.50. Since Clemens could not pay, his personal property was ordered to be sold. However, the sheriff declared, “Recd [sic.] this writ Dec 19th, 1846. No property found in Marion County on which to levy the within Execution.” Clemens then made a reasonable plea to the Marion County Circuit Court that his own unpaid claims against Beebe be considered as an offset to Beebe’s awarded sum, which Judge Ezra Hunt accepted. It is quite possible that his fateful wintery ride to the court in Palmyra on March 11, 1847, from which he caught pneumonia and died, had to do with his hearing of the Beebe case. Wecter, *Sam Clemens of Hannibal*, 69–71, 111–15.

⁵⁷English, *The Pioneer Lawyer*, 107.

class, they ensured the incoming flow of capital.⁵⁸ Most of Clemens' cases were direct suits between plaintiff-creditors and defendant-borrowers. Evidence of a note's or account's existence would be enough to find in favor of the plaintiff, if the defendant did not appear. In the case of *J. Brown & Co. v. Morgan*, for example, Clemens simply found in favor of the plaintiff for \$4.88 because the defendant defaulted and that was "the amount appearing due on the note sued on. . . ."⁵⁹ However, if the defendant did appear in court, Clemens' decisions were based on the facts that the parties pleaded. In *Whaley v. Stevens*, for example, Whaley filed an overdue account owed by Stevens for \$55.00 with the court on August 15, 1845.⁶⁰ Once the parties appeared in person on September 20, with neither party demanding a jury, Clemens heard the allegations and proofs and found in favor of Stevens.

Some cases garnished debts of third parties owed to an original defendant-borrower and provided those receivables for payment to the original plaintiff-creditor. For example, citizen Bowen owed citizen Stout \$61.87. In *Stout v. Bull*, Stout had Clemens summon Bull, since Bull owed Bowen \$32.90.⁶¹ Clemens then ruled that Stout could collect this amount from Bull and collect the court costs of \$1.12 from Bowen as a result of the case against Bull. Some cases sought attachment to property in order to settle these monetary disputes: In *Goss v. Ware*, where Goss was seeking payment of a \$33.00 account, the court seized two bedsteads, one footstool, and one pair of tables from Ware.⁶²

Property Cases

Other interesting cases that attest to the social tensions in Hannibal included conversion of or damage to a neighbor's

⁵⁸*Ibid.*, 120.

⁵⁹*J. Brown & Co. v. Morgan*, J.M. Clemens Law Ledger, 1844–1846 (June Term, June 14, 1845).

⁶⁰*Whaley v. Stevens*, J.M. Clemens Law Ledger, 1844–1846 (September Term, September 13, 1845).

⁶¹*Stout v. Bowen*, J.M. Clemens Law Ledger, 1844–1846 (September Term, September 13, 1845); accord *Cross v. Elzea*, J.M. Clemens Law Ledger, 1844–1846 (March Term, March 15, 1845) (garnishing Elzea's debt to McDonald to satisfy McDonald's debt to Cross; after hearing Elzea's claims that he was not indebted to McDonald, Clemens ruled that Elzea be dismissed and Cross pay the court costs).

⁶²*Goss v. Ware*, J.M. Clemens Law Ledger, 1844–1846 (June Term, June 14, 1845); accord *Ayers v. Smith*, J.M. Clemens Law Ledger, 1844–1846 (September Term, September 13, 1845) (seizing and selling "one large bay horse" to settle on a note for \$27.50 plus interest). However, in most cases Clemens does not give an inventory of the property seized.

property. In *Buchanan v. Payton*, Buchanan alleged that Payton took Buchanan's six hogs, valued at \$15.00, and converted them for his own use.⁶³ When Buchanan did not show for the hearing, Clemens found Buchanan nonsuited, dismissed the case against Payton, and charged Buchanan \$2.00 for court costs. In *Dunlap v. Ruffiser*, Dunlap sued Ruffiser for \$10.00 as damages for killing Dunlap's dog.⁶⁴ Clemens ruled in favor of Dunlap but only awarded him \$2.00 in damages, and Ruffiser had to pay \$2.56¼ for court costs, including the cost of one witness, rated at fifty cents.

Vagrancy and Fraud Cases

Some interesting frontier and river characters, accused of being tramps or charlatans, appear in the ledger as well. In *State v. Warren, alias "The Old Soldier,"* the grand jury asked that "The Old Soldier" be tried for vagrancy.⁶⁵ He was summoned to court, tried by a jury, and found "not guilty." One can only imagine the history, mannerisms, and appearance that earned him the name of "The Old Soldier" and why he was accused of being a vagrant. In *State v. Burford*, Burford is accused of obtaining property worth a staggering \$1,000 by false and fraudulent pretenses.⁶⁶ Clemens issued a warrant to arrest Burford further south in St. Louis Township. After hearing the case, Clemens and his co-president, Justice Thomas Stacy, held that "it [is] not appearing by the testimony produced in support of the prosecution that there is probable cause for charging the prisoner with said offense—he the said Willis Burford is therefore discharged."⁶⁷

Violence Cases

A number of cases dealt with assault and battery. On October 10, 1844, *State v. Bryant* appears as a special session case. Bryant was brought up on charges of assaulting and beating Francis Huses' son.⁶⁸ Clemens found that Bryant was guilty of the charge and assessed him \$2.00 in fines. No goods or property

⁶³*Buchanan v. Payton*, J.M. Clemens Law Ledger, 1844–1846 (December Term, December 14, 1844).

⁶⁴*Dunlap v. Ruffiser*, J.M. Clemens Law Ledger, 1844–1846 (December Term, December 14, 1844).

⁶⁵*State v. Warren, alias "The Old Soldier,"* J.M. Clemens Law Ledger, 1844–1846 (October 29, 1844).

⁶⁶*State v. Burford*, J.M. Clemens Law Ledger, 1844–1846 (January Term, 1846).

⁶⁷*Ibid.*

⁶⁸*State v. Bryant*, J.M. Clemens Law Ledger, 1844–1846 (October 10, 1844).

could be seized in payment of the fines, but citizen Richmond was summoned to the court as garnishee in answer of the payment. In *State v. Hawkins*, Hawkins was accused of assault and battery of Samuel Innas.⁶⁹ Clemens charged the jury, but the jury could not agree on the verdict and asked to be discharged. Clemens first discharged the jury and then Hawkins. In *State v. Kirby & Justin*, Kirby and Justin were charged with causing an affray.⁷⁰ Clemens charged the jury, the jury convened, and it returned verdicts finding Kirby "guilty" and Justin "not guilty." Clemens fined Kirby \$6.00 plus \$7.45 in court fines. When Kirby could not pay, Clemens issued a clause of mittimus, incarcerating him.

In *State v. McDonald & Schnider*, McDonald and Schnider were accused of causing an affray in Clemens' presence.⁷¹ Since Clemens was a material witness, the case had to be transferred to another court. This case brings the account printed by the *St. Louis Republican* into question.⁷² Recall that the newspaper described a confused Clemens who clouted the wrong man, McDonald, on the head with a hammer when Snyder fired a gun at McDonald in the Hannibal courtroom. Have we found the famous case that Twain scholars celebrate as Clemens' rough but commanding justice? Here the party names are very similar (Schnider as opposed to Snyder), and the affray was in the presence of Clemens. Although the dates do not match (Clemens noting 1846, and the newspaper noting 1843), the newspaper may have printed the date erroneously. As Wecter points out, certain aspects of the *Republican's* account had its inaccuracies.⁷³ The newly found ledger may have set the record straight.

And there were more violent cases dealing with deadly weapons. In *State v. Railey*, Railey was accused of stabbing citizen Grant with the intent to kill.⁷⁴ In serious cases such as this, Clemens presided with the help of Justice Richard T. Holliday, the geographically closest justice of the peace. The two jurists found in favor of the state, holding that there was probable cause to believe Railey was guilty. Railey had to gain bail through recognizance and was ordered to appear in front of the Marion

⁶⁹*State v. Hawkins*, J.M. Clemens Law Ledger, 1844–1846 (September Term, September 16, 1844).

⁷⁰*State v. Kirby & Justin*, J.M. Clemens Law Ledger, 1844–1846 (March Term, March 21, 1846).

⁷¹*State v. McDonald & Schnider*, J.M. Clemens Law Ledger, 1844–1846 (May Term, 1846).

⁷²Wecter, *Sam Clemens of Hannibal*, 105.

⁷³*Ibid.*, 291, n. 8.

⁷⁴*State v. Railey*, J.M. Clemens Law Ledger, 1844–1846 (January Term, 1846).

County Court on the first day of the next term. Although the complaint was filed in the January Term of 1846, the trial lasted until August 6 of that year due to motions of continuance.

In *State v. Hyde*, Hyde is accused of shooting a gun at citizen De Moss with the intent to kill.⁷⁵ Clemens issued a warrant for Hyde's arrest, and the town constable imprisoned Hyde. Clemens and Holliday presided over the hearing, witnesses were called, and Hyde was found "not guilty" and was released. Clemens ordered Marion County to pay \$12.50 for court costs: \$4.75 for Clemens; \$1.25 for Holliday; \$2.50 for Constable Elgin; and \$0.50 for each of the eight witnesses called to testify.

Slavery Cases

Terrell Dempsey points out that Missouri harbored a slave culture and that, generally, white people believed slavery was of fundamental importance to the frontier economy.⁷⁶ In places like Hannibal, this dominant ideology fostered a deep hatred for abolitionists and their work. Trafficking of human beings downriver for hard labor was a trade in Hannibal, and at least one person in town, William B. Beebe, was known for his involvement. Citing Mark Twain's autobiographical writing, Wecter states, "Young Sam Clemens never forgot the sight of a coffle of slaves in Hannibal, lying on the pavement waiting shipment down the river, with 'the saddest faces I have ever seen.'"⁷⁷

Judge Clemens himself owned slaves, and by the time he reached Hannibal, he still had one left, a girl named Jennie, whom he is known to have whipped. He later sold Jennie to Beebe for needed money.⁷⁸ Afterwards, Clemens rented, from a slave owner, a chore boy named Sandy, whom Clemens cuffed from time to time for trifling blunders and awkwardness.⁷⁹ On one occasion, Clemens purchased a man named Charley, took him south, and planned to sell him at a profit.⁸⁰ Dempsey charges that Clemens' fortuitous role in the abolitionist case of *Missouri v. Burr, Work, & Thompson* was very helpful in getting him elected to his position of leadership in Hannibal, although

⁷⁵*State v. Hyde*, J.M. Clemens Law Ledger, 1844–1846 (December Term, December 14, 1844).

⁷⁶Dempsey, *Searching for Jim*, 23.

⁷⁷Wecter, *Sam Clemens of Hannibal*, 72.

⁷⁸Jennie helped raise Sam and the other Clemens children. *Ibid.*

⁷⁹*Ibid.*, 73–74.

⁸⁰Clemens received offers of \$50.00 and then \$40.00 for the man. He eventually sold Charley for ten barrels of tar. Powers, *Dangerous Water*, 124.

Brashear claims that it was probably his education and ability to write clear English that brought him many of his offices.⁸¹

In 1841, three abolitionists, James Burr, Joseph Thompson, and Alanson Work, crossed the Mississippi from Illinois trying to help slaves escape to freedom. However, some slaves were convinced that these men were slave thieves rather than abolitionists. The slaves, being wary of such assistance from white men, worried that they would be sold downriver into the hard labor of the sugar and cotton plantations rather than given passage to freedom, and they informed their masters. Burr, Thompson, and Work were apprehended, brought to trial, found guilty of property theft, and sentenced to twelve years in the penitentiary. Clemens was one of the "twelve good and lawful men" on the jury of the trial. He and the other jurors were hailed as local heroes for their verdict of conviction and heavy sentences for the abolitionists.⁸²

Indeed, Clemens' law ledger cannot be divorced from the context of slavery. According to Anthony Harrison Trexler's research on slavery in Missouri, the justice of the peace's court was "the tribunal to which the slave was haled for most of his offences," and since the justice of the peace was not always required to keep permanent records, "it is not possible to gain a very close view of the procedure or of negro punishment. . . . The county circuit court records contain many accounts of slaves tried for the more serious crimes."⁸³ Clemens, too, presided over cases dealing with slaves, but, unlike in other courts, his ledger records them.

In the case of *State v. Henry, a slave*, Henry W. Collins and other citizens filed a complaint that Henry the slave was in possession of "an offensive weapon, to wit a large butchers, or Bowie Knife; and had made threatening and seditious speeches &c."⁸⁴ After issuing a warrant for Henry's arrest "on application of the parties, severally," and issuing subpoenas for witnesses on behalf of the state, Clemens heard the case. The ledger states, "Whereupon, it appearing from the testimony of the witnesses aforesaid" Clemens found Henry "guilty." The statement may attest to the weight of authority between the testimony of a black man (if it was heard at all) and the testimony of the white man in such a case. Clemens sentenced Henry to twenty lashes at the hands of the constable and detainment

⁸¹Dempsey, *Searching for Jim*, 48; Brashear, *Mark Twain*, 90.

⁸²Dempsey, *Searching for Jim*, 48.

⁸³Harrison Anthony Trexler, *Slavery in Missouri, 1804–1865* (Baltimore, 1914), 78.

⁸⁴*State v. Henry, a slave*, J.M. Clemens Law Ledger, 1844–1846 (September Term, September 14, 1844).

afterwards.⁸⁵ Moreover, Henry the slave was responsible for the payment of court costs, including those of witnesses testifying against him.

In another case, *State v. Ben, Dave, and Abraham, Slaves of James Fresh*, three slaves were brought before Clemens' court on charges of "insolence &c. to white persons."⁸⁶ Upon "full examination and trial of said slaves," Ben and Dave were found "not guilty" and discharged. Abraham was found "guilty," and Clemens ordered

said Abraham receive at the hands of the constable ten lashes on his bare back, and that he remain in custody of said constable subject to the payment of the costs of this proceeding according to law which costs are taxed at seven dollars and twenty cents.⁸⁷

Without the details of testimony, other cases leave the motivations of allegations against and treatment of slaves to the imagination. In *State v. John, a slave of Woodson*, citizen Mark Blaser accused John the slave of setting fire to the home where Blaser's family resided.⁸⁸ John was brought before Clemens on the charge of arson. Clemens held that John was "not guilty" and discharged him because "evidence produced is insufficient to sustain said charge."⁸⁹ In *Price v. Aryes & Sowes*, Miriam Price brought action of assumpsit on a promissory note of \$75.00 for the lease of "a Negro man Willis for the year 1844."⁹⁰ While Willis was in their care, Aryes and Sowes agreed to give Willis "the ordinary as usual quality of clothing [...] &c. pay his taxes

⁸⁵Compare *State v. Railey*, at note 74 (finding probable cause to believe defendant guilty for stabbing citizen Grant, allowing for recognizance for bond, and ordering defendant to appear in Marion County Court on the first day of the next term). Compare the swift decision of *Henry, a slave* to the eight-months time for the decision of *Railey* due to motions of continuance and the differences in the sentences. See also Trexler, *Slavery in Missouri*, 74 (stating that there were differences in sentences of white males and slave males. Since whites could be fined or incarcerated and slaves normally could not be held in jail, unless being held at their master's request or for court costs, slave males were publicly whipped to bring about justice).

⁸⁶*State v. Ben, Dave, and Abraham, Slaves of James Fresh*, J.M. Clemens Law Ledger, 1844–1846 (January Term, 1846).

⁸⁷The court costs included the cost of six witnesses rated at fifty cents each. *Ibid.*

⁸⁸*State v. John, a slave of Woodson*, J.M. Clemens Law Ledger, 1844–1846 (n.d.).

⁸⁹*Ibid.*

⁹⁰*Price v. Aryes & Sowes*, J.M. Clemens Law Ledger, 1844–1846 (March Term, March 15, 1845).

& doctor bills &c."⁹¹ After supplying evidence of offset, Clemens found in favor of Price for \$54.50 plus court costs.

What is particularly notable about Clemens' rulings in these cases is the evident legal quandary concerning slavery that existed in slave-culture America; Malick W. Ghachem calls this the "slave's two bodies," the double-bind of slavery imposed by white-American legal thought. The law considered slaves, on the one hand, as property or chattel that could be sold from one master to another, punished arbitrarily, and classed with irrational animals. On the other hand, the law at times, particularly when slaves committed violence against others or others committed violence against slaves, considered slaves members of society, not as irrational property but as people capable of moral thinking. As a legal ideology, the slave's two bodies supported the institution of slavery and the justification of its existence in white-American thought.⁹²

The cases of *Henry* and *Ben* show that although slaves were chattel, they could still be tried as human beings and as part of Hannibal society. These slaves were brought to court as legal defendants, but they were classified as inferior in the legal record: "Henry, a slave" or "slaves of James Fresh." As chattel, they were incapable of moral turpitude, but Clemens tried them on charges of immoral behavior and arson. Moreover, as chattel, slaves are bodies for ownership and incapable of owning things themselves, such as their own labor and wealth.⁹³ Clemens followed this double-binding ideology of slave laws when he sentenced slaves to severe corporal punishment that was outside of the normal track of justice for the white citizens of Hannibal, but then forced them to be held until they could pay for the court costs just as any other citizen-litigant of the court, and as if they could pay.⁹⁴ As for *Price*, her slave could be

⁹¹Ibid.

⁹²Malick W. Ghachem, "The Slave's Two Bodies: The Life of an American Legal Fiction," *William and Mary Quarterly* 60 (2003): 809. See also Trexler, *Slavery in Missouri*, 68–71.

⁹³Trexler states, "[T]he slave had no legal right even to the clothes on his back. Hence he could make no valid contract, nor could he either sue or be sued. . . . [T]he slave had absolutely no property rights independent of his owner." Ibid., 64.

⁹⁴Despite the declaration, surely the court costs were expected to be paid by the slaves' masters.

leased as chattel, but Clemens' ruling shows that the slave still had to be treated as human, particularly with proper clothing.⁹⁵

The Record of the Common People

Clemens, like all justices of the peace, earned a paltry salary for this job.⁹⁶ It was a low-level position in the scheme of the state's law system. A justice of the peace in Missouri dealt with civil suits involving small amounts of money, which was the primary purpose of this court, and sometimes with criminal cases concerning misdemeanors. The justice knew that he was acting more as referee and arbiter of civil cases than as lawmaker.⁹⁷

Justice of the peace, as a post, may indeed have been the bottom rung on the judicial ladder, but generally the justice, "fair in his decisions, prompt in the discharge of his duties and not afraid to take responsibilities, was invariably popular with the people who liked the informality and the rough justice of these courts."⁹⁸ Therefore, the cases with which this lower-level court dealt are the best for investigating the application of the law to the everyday lives of men and women on the frontier. Clemens' ledger is filled with everyday concerns that Missouri's higher county and state courts could not hear. It would be an injustice to the historical record to underestimate the importance of Clemens' work simply because his cases were relatively uncomplicated and routine. I am reminded of the advice given to me by career-counseling criminal lawyers of Illinois: the best place to see the Constitution being tested on an everyday basis is in the traffic courts, where search and seizure come up frequently on a daily basis. Likewise, the justice of the peace's courtroom may be the best place to see frontier law in practice.

Clemens' daily docket was filled with seemingly mundane hearings and proceedings regarding recoveries for breaches of contract on notes and accounts. Some of the suits over small

⁹⁵Trexler points out that leasing slaves was a common practice and states that "[i]n addition to the cash paid by the hirer, he also furnished the slave with medical attention, food, and a customary amount of clothing." Trexler cites the testimony of Peter Clay, a former slave, who claims that "the hired slave of western Missouri usually received two pairs of trousers, two shirts, and a hat the first summer, a coat and a pair of trousers in the winter, and two pairs of trousers the second summer." Trexler, *Slavery in Missouri*, 29–30.

⁹⁶Wecter, *Sam Clemens of Hannibal*, 109.

⁹⁷English, *The Pioneer Lawyer*, 15–16, 74.

⁹⁸*Ibid.*, 16.

amounts, like *Bennett & Crocker v. Duding* for \$1.06,⁹⁹ *Purdain v. Smith* for \$3.00,¹⁰⁰ and *Stacy v. Saunder* for \$7.00,¹⁰¹ may seem today to be trivial quibbling over minor sums. But frontier people worked hard and lived hard. In general, the amounts in dispute were considered fortunes at the time. How hard would it be for Saunder to pay that \$7.00 he owed to Stacy? According to Lawrence H. Officer's and Samuel H. Williamson's calculating tool for converting dollar values in 1844 to the equivalent dollar values in 2005, \$7.00 converted at the unskilled wage rate is equal to the amount of work or the relative time required to earn \$1,416.00.¹⁰² For the lower-income population of either era, this sum is large; having to pay it out or lose it to a bad credit risk could be debilitating economically. Certainly for some in Hannibal at the time of Clemens' court, fighting for these amounts was a momentous event in frontier life. In some court terms, plaintiffs filed numerous complaints to get their money back on accounts.¹⁰³ For a man like Kirby, \$13.45 was so out of his reach that he could pay only by surrendering his freedom.¹⁰⁴

CONCLUSION: THE IMPORTANCE OF RECOVERING CLEMENS' LAW LEDGER

Mark Twain scholars and enthusiasts may celebrate the recovery of Judge John Marshall Clemens' law ledger as a connection between the real-life Judge Clemens and the models of transient jurists and boosters whom Twain used for his characters, such as Squire Hawkins in *The Gilded Age*, York Driscoll in *Pudd'nhead Wilson*, and Judge Thatcher in *The Adventures of Tom Sawyer* and *The Adventures of Huckleberry Finn*. They may be excited to read the real courtroom drama and identify

⁹⁹*Bennett & Crocker v. Duding*, J.M. Clemens Law Ledger, 1844–1846 (June Term, June 14, 1845).

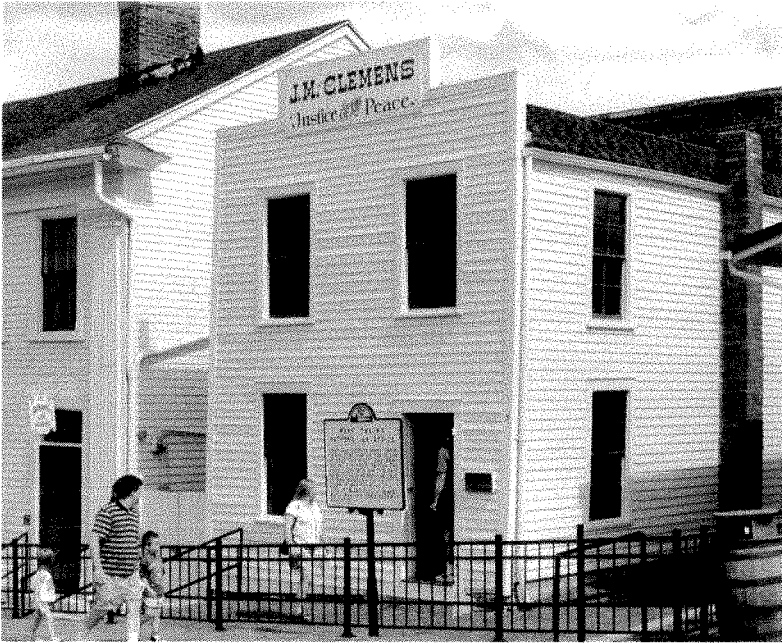
¹⁰⁰*Purdain v. Smith*, J.M. Clemens Law Ledger, 1844–1846 (September Term, September 13, 1845).

¹⁰¹*Stacy v. Saunder*, J.M. Clemens Law Ledger, 1844–1846 (June Term, June 14, 1845).

¹⁰²Lawrence H. Officer and Samuel H. Williamson, *Measuring Worth Is a Complicated Question*, at <http://www.measuringworth.com/index.html> (accessed April 4, 2007).

¹⁰³In the September Term of 1845, Purdain filed six separate complaints, each against a different defendant, for recoveries on notes totaling \$53.13. J.M. Clemens Law Ledger, 1844–1846 (September Term, September 13, 1845).

¹⁰⁴*State v. Kirby & Justin*, at note 70.



The Mark Twain Museum in Hannibal moved Judge Clemens' justice of the peace office onto the museum mall on Hill Street in 1955, restored its structure and appearance, and recreated the courtroom inside. (Courtesy of the Mark Twain Boyhood Home & Museum, Hannibal, Missouri)

the river-town characters that are mimetically reproduced in *Tom Sawyer*; *Tom Sawyer, Detective*; *Huckleberry Finn*; and *Life on the Mississippi*.¹⁰⁵ Surely what makes Clemens' law ledger initially and popularly attractive is that it is a connection to Mark Twain. Thanks to Twain scholarship, Judge Clemens' biography has been preserved and gives us a glimpse into a particular frontier settler's struggle to make a living and improve his community in a disorganized and speculative environment.

Jurists and legal historians may also celebrate Clemens' law ledger. Historians claim that American frontier jurists comprised an essential element of the American experience because they organized, disciplined, and brought process to frontier life. This ledger proves just that. Moreover, the ledger documents some of the daily concerns and disputes in a frontier town and adds to our understanding and knowledge of the jurist's applica-

¹⁰⁵Powers, *Dangerous Water*, 29. Accord Alvin Wagoner and Philip S. Dak, "Mark Twain and the Lawyers," *Missouri Bar Journal* 6 (January 1935): 39.

tion of the law to everyday life on the frontier. The details of Clemens' cases provide an understanding of what justice meant to some on the frontier and how justice was out of reach for others. Together, Twain scholarship and legal history studies have given this once discarded manuscript a new life in the national consciousness as an important historical document of the American frontier.

BOOK REVIEWS

The Billy the Kid Reader, edited by Frederick Nolan. Norman: University of Oklahoma Press, 2007; 384 pp.; illustrations, source list, index; \$29.95 cloth.

What a pleasure to read this well-documented and informative work, made more enjoyable because the author is a fine writer. For more than fifty years, editor and writer Frederick Nolan has committed to accurate documentation of Billy the Kid's life and times. His fastidious research on this subject is unparalleled, making him the present-day authority on New Mexico during the Lincoln County War (1879–81). Nolan's interest began when his attention turned to a fellow Englishman, John Tunstall, a key figure in that war and Billy the Kid's employer. His biography of Tunstall was published in 1965, and, more recently, in 1998, the University of Oklahoma Press published his highly praised *The West of Billy the Kid*.

The Kid (a.k.a. William Bonney) became involved in a conflict between two factions locked in a struggle for control of cattle range that included profits from supplying goods to the surrounding region and the U.S. army. The federal government held responsibility for legal organization and law enforcement in the territory, but during the Lincoln County War there was little honest law enforcement. The region descended into anarchy. Many were killed, and in the end no one could claim victory.

Only six weeks after his death, the Kid captured public attention when *The True Life of Billy the Kid* appeared as a popular five-cent novel in *The Wide Awake Library*. Six months later, Pat Garrett's ghostwritten *Authentic Life of Billy the Kid* followed. From that time, the Kid's legacy evolved to include hundreds of books and articles, as well as ballads, poetry, music, ballet, a scenic byway, and internet sites that include genealogies and discussion boards.

In the present work, author Nolan selected "the most seminal, the most influential . . . writings" (p. xi) for this critical survey. The twenty-six selections illustrate the evolution of the egregious myths that surround the Kid's legendary life, along with more recent efforts to present factual histories. *The Billy the Kid Reader* presents accurate accounts and exposes misconceptions, inventions, and outright lies in the selected readings. The book is a treasure for Billy the Kid aficionados;

many of the readings are out of print, and never-before-published information is included. Each selection is prefaced by a critique by Nolan.

The readings are presented in two parts. Part One, "The Legend," includes writings from the period when myth and fabrication dominated published material. Nolan traces the origins of these books and articles and their influence on the evolving saga. Part Two, "The Legend into History," presents the more recent effort to give a factual view of the Kid's life and the events surrounding the Lincoln County War.

The first selection, *The True Life of Billy the Kid*, appeared six weeks after the Kid's death. It reads like a melodrama and gave birth to the notions that the Kid's last name was McCarthy, that his birthplace was New York, and that he had a sister. Misinformation continued in the early twentieth century, as writers continued to emphasize the Kid's violent and questionable character. Emerson Hough's "Billy the Kid: The True Story of a Western Bad Man" (1901) reinforced the myth that the Kid had killed a man for every year of his life. Arthur Chapman's "Billy the Kid: A Man All Bad" in the 1905 *Outing Magazine* branded the Kid a "wild beast and soulless youth." Twenty years later, a resurgence of interest in the Kid arose following publication of Walter Noble Burns' 1925 book *The Saga of Billy the Kid*. New books, magazine and newspaper articles, and movies appeared for popular consumption.

Then, in the 1950s, Frederick Nolan began extensive research for his biography of Tunstall, the Kid's sometime employer. About the same time, two American researchers began uncovering new information about the Kid. Philip J. Rasch and R.N. Mullin's cogent findings appear in Part Two. Accurate and recent research dominates this section, and includes Mullin's conclusion that the Kid "was no better and no worse than many another of that era—he was, in fact, a rather normal boy of the Southwestern frontier" (p. 215). Most, but not all, of Lincoln County's inhabitants regarded the Kid as "simpatico." Nolan balances this section by including an unsympathetic personal appraisal written by one of the Kid's contemporaries, Lily Casey Klasner.

A map of the Kid's West and thirty-six illustrations and photographs add to the reader's understanding and enjoyment. As a whole, the book's many selections show how one small figure in western legal history has been both mythologized and then deconstructed.

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Ballots and Bullets: The Bloody County Seat Wars of Kansas, by Robert K. DeArment. Norman: University of Oklahoma Press, 2006; 272 pp.; illustrations, notes, bibliography, index; \$29.95 cloth.

In *Ballots and Bullets*, Robert DeArment documents the numerous "county seat wars" that erupted in western Kansas during the late 1880s and early 1890s. In the process he sheds light on conflicts that have heretofore remained obscure. Moreover, by focusing on battles for county seat status as a whole, the author links relatively better known events—such as the 1889 gunfight in Cimarron and the 1888 Hay Meadow Massacre—that at first glance might seem unrelated.

With the Civil War over and the western Indian conflicts winding down, homesteaders began settling the far reaches of western Kansas during the mid-1880s. With them came land speculators and town promoters. The creation of towns begat county formation—and that's when the trouble began in western Kansas. Much of American criminal and civil law was administered by officials elected at the county level. As a result, towns that became county seats were perceived to have many advantages. Because they served as headquarters for most county officials and were the locales that judges, defendants, and witnesses visited when the law was administered, county seats attracted numerous businesses that supported the justice system. Moreover, many boosters believed that county seats had an edge when railroads were planning their routes. In addition, towns that became county seats attracted people willing to pay premium prices for land that, not long before, was essentially worthless, and this, of course, was a prime motivator for land speculators. In many cases, to be or not to be a county seat meant the life or death of a town.

Complicating matters was the fact that elections were held to determine which towns would become seats. These affairs were extremely prone to corruption, and leaders from towns that lost a given election would often stop at nothing to overturn the results. As DeArment notes, from 1885 to 1892, conflicts over county seat status led to at least twelve deaths, including one mayor and two elected sheriffs. Twenty or more individuals were injured by gunplay, and on six occasions Kansas governors called on the National Guard to bring order.

To provide a larger context for some of the more notorious seat wars, DeArment first focuses on five struggles that were non-lethal. These examples set the pattern for the more deadly disputes. In most cases there were multiple, disputed elections followed by lawsuits challenging the validity of the elections. Often the end result was the disappearance of the losing town, as was the case when Eustis lost to Goodland in the fight for the Sherman County

seat. As DeArment writes, "Losing the seat meant that Eustis went from boom to bust in the space of a month" (p.18).

The remaining chapters focus on struggles that led to deadly violence, with perhaps the most famous being the battle between Ingalls and Cimarron in Gray County. During this and other disputes, outside influences and strong personalities significantly increased the likelihood of bloodshed. Gray County's troubles emerged when Hop Bitters mogul Asa T. Soule arrived in Kansas looking for somewhere to invest his considerable fortune. He almost single-handedly created the town of Ingalls, for the "express purpose of becoming the seat of the newly formed Gray County" (p. 36). This despite the fact that Cimarron was already well-established and had been chosen as county seat during a special election.

Similar hubris led to the outbreak of violence in Stevens County, when Sam Wood, an ambitious and pugnacious lawyer, politician, and journalist, established the town of Woodsdale to compete with Hugoton. The ill will generated during this conflict led to the Hay Meadow Massacre, in which five men were killed.

Ballots and Bullets is an ideal source for readers looking for factual accounts of these little-known conflicts. It would be strengthened, however, by increased analysis of the conflicts. Western Kansas seems to have had a particular propensity toward violence during these county seat battles—why was that the case? In addition, the author could have given more emphasis to the importance of county government in the maintenance of law and order. As DeArment documents throughout, in the midst of these conflicts many of the counties were in a state of anarchy. Civil and criminal proceedings were either corrupted by the conflicts or nonexistent.

Despite these minor flaws, I highly recommend *Ballots and Bullets*. DeArment is to be commended for his painstaking attention to detail and his conscientious attempts to sort out the numerous conflicting accounts of the county seat wars in western Kansas.

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Negotiating Tribal Water Rights: Fulfilling Promises in the Arid West, by Bonnie G. Colby, John E. Thorson, and Sarah Britton, with a foreword by David H. Getches. Tucson: University of Arizona Press, 2005; 192 pp.; illustrations, appendices, notes, index; \$35.00 paper.

Tribal Water Rights: Essays in Contemporary Law, Policy, and Economics, edited by John E. Thorson, Sarah Britton, and

Bonnie G. Colby. Tucson: University of Arizona Press, 2006; 291 pp.; notes, bibliography, index; \$50.00 cloth.

Mirroring the team approach and cast of thousands common to today's complex water rights negotiations, coauthors Bonnie G. Colby, John E. Thorson, and Sarah Britton have marshaled both resources and personnel to give readers a broad overview of current Indian water settlements. *Negotiating Tribal Water Rights: Fulfilling Promises in the Arid West* is a useful guide for those involved in the process and for interested observers. The companion volume edited by the same three authors in 2006, titled *Tribal Water Rights: Essays in Contemporary Law, Policy and Economics*, is an in-depth textbook treatment for those more closely concerned with the subject.

The authors are leading practitioners in the field. Colby is a University of Arizona professor whose research covers economics and public policy issues associated with natural resources and the environment. Thorson served for ten years as the special master in Arizona's general stream adjudications and is currently an administrative law judge for the state of California. Britton graduated from the University of Arizona College of Law, where she was active in water issues. She is now an attorney practicing in California.

Much of the impetus for the project stemmed from Thorson's involvement as a cofounder of the Dividing the Waters venture, a collaborative network for judges, special masters, and arbiters involved in water rights litigation. The authors received financial support from a number of granting agencies, including the National Science Foundation, the U.S. Geological Survey, and the National Endowment for the Humanities.

Colby, Thorson, and Britton assembled a formidable array of talent who assisted them by writing sidebars and essays for *Negotiating Tribal Water Rights*. Contributors to this project include many prominent individuals now working on western water issues. Authors include Barbara Cosens, John Ecohawk, Robert J. Glennon, Ramsey Laursoo Kropf, James B. Merchant, and M. Evelyn Woods. For the textbook *Tribal Water Rights*, additional writers include Jerilyn DeCoteau, Lucy Moore, Michael C. Nelson, Steve Snyder, and Rebecca Tsosie.

The sourcebook *Negotiating Tribal Water Rights* is divided into four parts that gradually pilot the reader from an understanding of past tribal water rights settlements to contemplation of future negotiations. Part One covers the historical and legal background of Indian water rights in the American West. Part Two outlines the perspectives of current participants in the process, accompanied by first-person accounts and interviews. The specific detail of how settlements are made is

described in Part Three. The final section of the book covers lessons learned from both successful and unsuccessful efforts.

Although the concept of a federal reserved water right for Native American tribal reservations dates back nearly a century to the U.S. Supreme Court decision in *Winters v. United States*, 207 U.S. 564 (1908), it was the more recent decision in *Arizona v. California*, 373 U.S. 546 (1963), that finally provided a mechanism to quantify Indian claims to water. When combined with the civil rights activism of the 1960s, this ushered in a new era for native peoples, who asked that the nation honor its longstanding promise of providing water resources needed to fulfill the purpose of the reservations.

Tribes pressed their claims to water through the federal courts, but by virtue of the 1952 McCarran Amendment, Congress expressed its intent to have federal water rights settled in state courts through a process of general adjudications. Congress waived federal sovereign immunity for its own claims, and later the U.S. Supreme Court extended that waiver to Indian reserved rights held in trust by the federal government. This gave rise to the creation of general adjudications in nearly every western state.

But, like the never-ending case of *Jarndyce v. Jarndyce* in Dickens' *Bleak House*, progress in most general adjudications was painfully slow. Litigation released a stream of paper, but only a trickle of water. Participants gradually turned to negotiation instead. The settlement process started slowly and has stayed slow, but the authors document twenty-one settlements that could be considered "complete" by 2004. Some additional settlements have been finalized since research for the book was finished, but many more claims await resolution. The record of achievement is uneven for both litigation and negotiation. The authors express the hope that the 2008 centennial of the *Winters* decision will provide reflection about past achievements while spurring additional efforts to fulfill the promise this once-obscure case represents for Native peoples.

The textbook *Tribal Water Rights* is an in-depth scholarly treatment of crucial issues in Indian water rights law. The editors divided the work into four areas covering relations between different levels of government, water quantification, the settlement process, and water management once the settlement has been reached. The result is an exhaustive discussion of current issues facing those working in the Indian water rights field. While much has been learned over the past twenty-five years of negotiation and settlement, the process has become so specialized that participants might benefit from new thinking. Specifically, the editors offer the example of the mediation approach used in labor-management disputes as a possible template for the solution of long-running but slow-moving water conflicts.

Taken together, the two books provide a comprehensive examination of the many challenges faced by participants and stakeholders in the tribal water rights settlement process. Viewed broadly, that audience covers just about everyone in the West, because we are all dependent on limited water resources. *Negotiating Tribal Water Rights* is a valuable guide for managers and policy advisors working in the environmental arena. For those directly involved in negotiations, it contains essential advice, recommendations, and strategy. Decision makers more removed from the process will find it a simple, non-technical overview that will serve as an analysis of successful strategies and a guide to new ideas. Although the more academic companion volume *Tribal Water Rights* will appeal to the same audience, it will have a stronger application for practitioners working daily in the field. It is destined to find an audience among lawyers and judges involved in negotiation and litigation on an ongoing basis. The useful summaries of recent cases and issues it contains make for required reading among that group.

Because the subject is, in essence, a moving target, some of the information contained in the books is already somewhat dated. Even so, the two books contain the only recent compilation of completed and proposed settlements. Another problem is the difficulty of figuring out who are the authors of some of the essays in *Negotiating Tribal Water Rights*. Much of this difficulty stems from the magazine style of presentation, designed to break up the text and introduce different perspectives. It is a successful approach and adds interest to the work, but some additional clarification of authorship would be welcome. The same style is extended to *Tribal Water Rights*, but here each contributor is clearly identified. These minor drawbacks do not detract from the value of both works as comprehensive resources for those concerned with water and the environment. If you have an interest in western natural resources, one (or both) of these books should be on your shelf.

Douglas E. Kupel
Phoenix

David Hackett Souter: Traditional Republican on the Rehnquist Court, by Tinsley E. Yarbrough. New York: Oxford University Press, 2005; 311 pp.; illustrations, bibliographic note, notes, index; \$29.95 cloth.

In 1990, after a period of bruising political fights wherein President Ronald Reagan's Supreme Court nominee, Robert Bork, had been rejected during the Senate confirmation process

and another nominee, Douglas Ginsberg, had withdrawn his name from consideration, newly elected President George H.W. Bush nominated to the court David Souter, a recent appointee to the First Circuit Court of Appeals, to replace retiring Justice William Brennan. Little known outside of his home state of New Hampshire, the nominee was variously dubbed by the press as the "stealth candidate" and "Justice Who." The fifty-year-old Souter was extensively vetted by the media. During the confirmation process, senators debated whether Souter would vote to overturn *Roe v. Wade*, which then, as now, constituted a significant issue for any nominee to the high court. After a lengthy hearing, Souter was confirmed by a ninety-to-nine vote, while declining to accede to a "litmus test" on the abortion issue.

On October 9, 1990, the new justice was the seventh Republican appointee to the court. Critics of the Warren Court gleefully anticipated that Souter would join the "constitutional counter-revolution," which would roll back what they perceived as that court's liberal agenda. As the author of this biography points out, that hope did not pan out.

Tinsley E. Yarbrough had a difficult task in producing this biography of the taciturn David Hackett Souter. The East Carolina University professor points out in a bibliographic note, "Justice Souter is a very private person. He declined to be interviewed for this book, as did his law clerks." Nonetheless, Professor Yarbrough was able to fashion a most readable biography of this Harvard-trained Rhodes Scholar by interviewing people from Souter's early childhood as well as researching Souter's work in the New Hampshire attorney general's office under his mentor, Warren Rudman. When Rudman won election to the U.S. Senate in 1980, he advocated for Souter to replace him as attorney general. In no small measure, Rudman was helpful in Souter's nomination to the Supreme Court.

David Souter's judicial career began in 1978 with a lifetime appointment to New Hampshire's superior court. In 1983 he was elevated to the state's supreme court. The author, using comments from and interviews with Souter's many friends, coworkers, and attorneys who appeared before him, fleshes out the person in the black robe and the process through which he became an associate justice. Yarbrough describes how this "New England Yankee" came to embody the phrase *a judicial conservative, not a political conservative* and, in turn, disappointed many who saw in Souter's appointment to the U.S. Supreme Court an opportunity, as previously noted, to roll back many of the Warren Court's decisions.

Those who demanded a general review of the Warren Court would not be entirely disappointed by the opinions and votes of

Justice Souter, who has generally been considered a moderate. Justice Souter could usually be counted on to affirm lower court decisions that supported the government, especially those involving the conduct of police officers. The opinions and votes of the New Hampshire Supreme Court jurist were previews of how he would rule as a U.S. Supreme Court justice.

Professor Yarbrough has written about other Supreme Court matters¹ and, as ever, writes knowingly and with authority. For a reader interested in how childhood and other early experiences shaped Justice Souter, the recollections of friends and neighbors are helpful. Through Yarbrough's descriptions of Souter as a student at Harvard and as a Rhodes Scholar, we get a preview of work habits and expectations that Souter held for himself and others. As for his rulings, it should be noted that this book was published while William Rehnquist was still chief justice and before Samuel Alito filled the vacancy created when Justice Sandra Day O'Connor retired.

Professor Yarbrough contends that although Souter is sensitive to civil rights and due process, he has established a traditional Republican record on the court. Political conservatives may disagree with this analysis, but Yarbrough makes efforts to justify his view by analyzing Souter's Supreme Court opinions and votes in significant detail, noting in closing that "Souter's common law jurisprudence has prompted him to forge a record that is relatively liberal by any measure and certainly by Rehnquist Court standards."

Justice Souter himself would probably disagree with the liberal label. Yarbrough relates a conversation that took place between Souter and a friend wherein Souter responds to the liberal label with an old New England joke: When asked "How's your wife?" the farmer responds with "Compared to what?" Souter asks his friend—"If I'm liberal, compared to what?"

Justice Souter, a New England Yankee with traditional Republican roots, thus sums up his judicial philosophy as one in which respect for precedent and a commitment to civil liberties play a central role in his judicial decisions.

James P. Spellman
Long Beach, California

¹See review of *The Rehnquist Court and the Constitution* in *Western Legal History* 15:2 (Summer/Fall 2002), 221-23.

ARTICLES OF RELATED INTEREST

Below we list articles recently published in journals of history, law, political science, and other fields that we believe may be of interest to readers. Although comprehensive, the list is not definitive, and the editor would appreciate being informed of articles not included here.

Alexander, Thomas G. "Carpetbaggers, Reprobates, and Liars: Federal Judges and the Utah War, 1857–58." *Historian* 70:2 (2008).

American Indian Law Review 32 (2007–2008). "Conference Transcript: The New Realism: The Next Generation of Scholarship in Federal Indian Law."

Arinaga, Esther K., and Caroline A. Garrett. "A Murder, a Trial, a Hanging: The Kapea Case of 1897–1898." *Hawaiian Journal of History* 42 (2008).

Baumler, Ellen. "Justice as an Afterthought: Women and the Montana Prison System." *Montana* 58:2 (Summer 2008).

Bradshaw, Gilbert. "Who's Black, Who's Brown, and Who Cares? A Legal Discussion of *Hernandez v. Texas*." *Brigham Young University Education and Law Journal* 2007:2.

Caldas, Stephen J., and Carl L. Bankston III. "A Re-Analysis of the Legal, Political, and Social Landscape of Desegregation from *Plessy v. Ferguson* to *Parents Involved in Community Schools v. Seattle School District No. 1*." *Brigham Young University Education and Law Journal* 2007:2.

Casas, Martha. "An Historical Analysis of the United States Supreme Court and Its Adjudication of *Gong Lum v. Price* (1927) and *Keyes v. Denver School District No. 1* (1973)." *Journal of Thought* 41 (Winter 2006).

Castro, Robert Francis. "After the Slavers: Law, Liberation and Captive-taking in the New Mexican Borderlands." *Slavery and Abolition* 28 (December 2007).

Clay, T.A. "A Call to Order." *Montana* 58:3 (Autumn 2008).

Colbert, Thomas Burnell. "'The Lion of the Land': James B. Weaver, Kansas, and the Oklahoma Lands, 1884–1890." *Kansas History* 31:3 (Autumn 2008).

Festa, Matthew J. "Applying a Usable Past: The Use of History in Law." *Seton Hall Law Review* 38:2 (2008).

Fletcher, Matthew L.M. "The Original Understanding of the Political Status of Indian Tribes." *St. John's Law Review* 82 (Winter 2008).

Flint, Richard. "La Salina of the Estancia Valley, New Mexico: Community Use and Private Ownership, 1830s to 1930s." *New Mexico Historical Review* 83 (Winter 2008).

Flores, Lori A. "A Community of Limits and the Limits of Community: MALDEF'S Chicana Rights Project, Empowering the 'Typical Chicana,' and the Question of Civil Rights, 1974–1983." *Journal of American Ethnic History* 27 (Spring 2008).

Hackler, Rhoda E.A. "'Earnest Persuasion but Not Peremptory Demand': United States Government Policy toward the Kingdom of Hawai'i, 1820–1963." *Hawaiian Journal of History* 42 (2008).

Hinger, Charlotte. "'The Colored People Hold the Key': Abram Thompson Hall, Jr.'s Campaign to Organize Graham County." *Kansas History* 31 (Spring 2008).

Hurtado, Albert L. "Empires, Frontiers, Filibusters, and Pioneers: The Transnational World of John Sutter." *Pacific Historical Review* 77 (February 2008).

Hyer, Joel R. "'It Was My Duty to Protect the Indians': Senator Thomas R. Bard and the Removal of the Cupeños from Warner's Ranch." *Journal of the West* 46 (Fall 2007).

Iber, Jorge. "'La Voz de los Otros': An Overview of the Life and Career of Eliud 'Pete' Suazo, Utah's First Hispanic State Senator, 1951–2001." *Utah Historical Quarterly* 76 (Spring 2008).

Jarvis, Kristopher Dale. "The Centennial Shuffle: *City of Enid v. Public Employees Relations Board*; How the Oklahoma Supreme Court Upheld a Century of Population-based Classifications while Foreshadowing Another Century of Confusion Concern-

ing the Laws That Govern Them." *Oklahoma Law Review* 60 (Spring 2007).

Journal of the West 47 (Winter 2008). Special Issue. "Archives on the West."

Kamphoefner, Walter D. "The Handwriting on the Wall: The Klan, Language Issues, and Prohibition in the German Settlements of Eastern Texas." *Southwestern Historical Quarterly* 112 (July 2008).

Kearns, Karen. "Murder Uncovered." *Idaho Landscapes* 1:1 (Winter 2008).

Kunesh, Patrice H. "Borders beyond Borders—Protecting Essential Tribal Relations Off Reservation under the Indian Child Welfare Act." *New England Law Review* 42 (Fall 2007).

Lang, Clarence. "Civil Rights Versus 'Civic Progress': The St. Louis NAACP and the City Charter Fight, 1956–1957." *Journal of Urban History* 34:4 (2008).

Lozano, Rosina A. "Brown's Legacy in the West: Pasadena Unified School District's Federally Mandated Desegregation." *Southwestern University Law Review* 36:2 (2007).

Mack, John N. "United We Stand: Law and Order on the Southeastern Kansas Frontier, 1866–1870." *Kansas History* 30:4 (Winter 2007/2008).

Marquadt, H. Michael. "Emily Dow Partridge Smith Young on the Witness Stand: Recollections of a Plural Wife." *Journal of Mormon History* 35 (Summer 2008).

Mason, Patrick Q. "The Prohibition of Interracial Marriage in Utah, 1888–1963." *Utah Historical Quarterly* 76 (Spring 2008).

McCammon, Holly J., et al. "Becoming Full Citizens: The U.S. Women's Jury Rights Campaigns, the Pace of Reform, and Strategic Adaptation." *American Journal of Sociology* 113 (January 2008).

McCorkle, Gerald S. "Busing Comes to Dallas Schools." *Southwestern Historical Quarterly* 111 (January 2008).

Miller, Worth Robert, and Stacy G. Ulbig. "Building a Populist Coalition in Texas, 1892–1896." *Journal of Southern History* 74 (May 2008).

Mullen, Kevin J. "Chinatown Squad: Part 4: Policing the Ethnic Underworld of San Francisco." *California Territorial Quarterly* 73 (Spring 2008).

Owen, Dave. "Law, Environmental Dynamism, Reliability: The Rise and Fall of CALFED." *Environmental Law* 37 (Fall 2007).

Pacific Northwest Quarterly 99:2 (Spring 2008). Documents from the Indian Fishing Rights Controversy in the Pacific Northwest.

Perales, Monica. "Fighting to Stay in Smeltertown: Lead Contamination and Environmental Justice in a Mexican American Community." *Western Historical Quarterly* 39 (Spring 2008).

Register, Cheri. "When Women Went Public: Feminist Reforms in the 1970s." *Minnesota History* 61 (Summer 2008).

Rifkin, Mark. "Debt and the Transnationalization of Hawai'i." *American Quarterly* 60 (March 2008).

Russell, Steve, and Terri Miles. "One-Sided Interest Convergence: Indian Sovereignty in Organizing and Litigation." *Wicazo Sa Review* 23 (Spring 2008).

Shermer, Elizabeth Tandy. "Origins of the Conservative Ascendancy: Barry Goldwater's Early Senate Career and the De-legitimization of Organized Labor." *Journal of American History* 95:3 (December 2008).

Somsen, Chelle. "Dakota Resources: The Charles Edmund DeLand Papers at the South Dakota State Historical Society." *South Dakota History* 18:1 (Spring 2008).

Sonenshein, Raphael J. "The Role of the Jewish Community in Los Angeles Politics: From Bradley to Villaraigosa." *Southern California Quarterly* 90 (Summer 2008).

Tanner, Karen Holliday, and John D. Tanner, Jr. "Scott White: Arizona Lawman." *Journal of Arizona History* 49 (Spring 2008).

Tidball, Eugene. "The Seminal Years of the Montana Legislative Council, 1957–1965." *Montana* 58 (Spring 2008).

Walston, Roderick E. "California Water Law: Historical Origins to the Present." *Whittier Law Review* 29 (Summer 2008).

Williams, Bradley B. "When California's Southern District Became Central: A Brief Look at the Historical Context of the Central District in 1966." *Southwestern University Law Review* 36:2 (2007).

Wu, Ellen D. "'America's Chinese': Anti-Communism, Citizenship, and Cultural Democracy During the Cold War." *Pacific Historical Review* 77 (August 2008).

Young, Ashley. "Continuing an American Legacy of Racial and Cultural Injustice: A Critical Look at *Bonnichsen v. United States*." *Journal of Art and Entertainment Law* 17 (Fall 2006).

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GRANTS, HONORARY, AND MEMORIAL CONTRIBUTIONS

10 PERCENT FOR HISTORY CAMPAIGN

U.S. Court of Appeals, Ninth Circuit
U.S. District Court, Central District of California
U.S. District Court, District of Alaska
U.S. District Court, District of Arizona
U.S. District Court, District of Idaho
U.S. District Court, District of Montana
U.S. District Court, District of Nevada
U.S. District Court, District of Northern Mariana Islands

NEVADA LEGAL ORAL HISTORY PROJECT

John Ben Snow Memorial Trust
State Bar of Nevada
U.S. District Court, District of Nevada
Washoe County Courthouse Preservation Society

HONORARY AND MEMORIAL CONTRIBUTIONS

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In honor of Judge James R. Browning

Cara W. Robertson, Esq.

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