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Clearing the Bar: Catharine Waugh McCulloch and Illinois Legal Reform

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**CLEARING THE BAR: CATHARINE WAUGH McCULLOCH AND ILLINOIS
LEGAL REFORM**

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ABSTRACT:

Catharine Waugh McCulloch was one of the first women admitted to practice law in Illinois, and the 18th woman admitted to practice in front of the U.S. Supreme Court. After graduating from law school and passing the bar, she experienced difficulty finding a legal position in Chicago, so she opened an office in Rockford, Illinois, where she often took on destitute women clients. She initiated the shared writing among women attorneys, which became the Equity Club. She ran for Attorney General in 1888 and was active in many women's groups. After marrying a classmate from law school, the two formed a partnership in law and marriage; they wrote briefs, tried cases and published legal documents together.

McCulloch drafted a bill which changed guardianship laws, and another which raised the age of consent for girls from 14 to 16, both of which were passed into law. After an Illinois case gave women the right to vote in school elections, McCulloch recognized the significance of this ruling. Together with the Illinois Equal Suffrage Association, she and other suffragists toured the state by auto, speaking and handing out flyers and pamphlets. She drafted a bill by which Illinois women could vote in municipal and presidential elections, and every year, for 20 years, she and others went to Springfield to testify and lobby for her bill; it passed in 1913, and this Illinois suffrage law was instrumental in the passage of the Nineteenth Amendment. Not satisfied, McCulloch worked with the Chicago charter revision committee to have women's suffrage included; she fought to have the Illinois Constitution revised to include women's suffrage; she was successful in both efforts.

Meanwhile, in 1907, McCulloch was the first woman elected to a judicial position, Justice of the Peace, in Evanston, Illinois, and by all men. She was appointed Master in Chancery of the Cook County Superior Court for four, two-year terms. She was selected the first woman elector to the State Democratic Convention in 1916. While practicing with McCulloch & McCulloch, she had one case which used contract law to set public policy regarding wholesomeness of food; this case later was incorporated into one portion of today's Uniform Commercial Code. Since much of their practice dealt with probate and estates, the McCulloch's co-authored *A Manual of the Law of Will Contests in Illinois*.

With the National League of Women Voters, McCulloch fought for years, again using print media, speeches and women's groups, to have women on juries, and to make the laws concerning women uniform throughout the U.S.

Always committed to utilizing law to reform the legal status of women and children, McCulloch wrote plays, essays, legislative bills, speeches, pamphlets, and used the power of print media to convince the public; her plays were still being produced in the 1990s.

After their many years of legal practice and innovation, in 1940 both McCulloch and her husband were named “Senior Counselors” of the Illinois Bar Association. But her legacy is far more reaching; when any woman votes, retains custody of children or property in a divorce, or serves on a jury, it is because of the vision and relentless legal work of Catharine Waugh McCulloch and her peers.

In track and field, clearing the bar indicates that the person has exceeded expectations and is ready to face even more difficult ones. McCulloch did not just pass the bar; because women entering the legal profession was in its infancy, and due to the bulk and import of her legal contributions, McCulloch cleared the bar with room to spare.

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I. INTRODUCTION:

When Jane Addams died in 1935, she was much beloved by Chicagoans and well-known throughout the country for her humanitarian work, and because she was the first female recipient of the Nobel Peace Prize.² The public eulogy to Addams, which was one of the first to be broadcast by radio throughout the nation, was written and delivered by Catharine Waugh McCulloch, a classmate of Addams at Rockford Female Seminary and lifelong friend.³ Addams had expressed her vision of helping others through the settlement house movement. McCulloch had used the law, ultimately becoming one of the best known, most prolific, and successful advocates for legal reform, suffrage, and issues involving women and children, in Illinois history.

II. OVERVIEW

A quick overview reveals that Catharine Waugh McCulloch, lawyer and suffragist, was the first woman in the United States to be elected to a judicial office:⁴

² JAMES WEBER LINN, JANE ADDAMS: A BIOGRAPHY 390 (2000).

³ *Will Honor Jane Addams: Radio Broadcast Friday to Mark Birthday by the National Broadcasting Company*, N.Y. TIMES (Sept. 2, 1935), <https://www.nytimes.com/1935/09/02/archives/will-honor-jane-addams-radio-broadcast-friday-to-mark-birthday-by.html?smid=url-share>.

⁴ McCulloch herself seems to dispute this claim in her March 27, 1907, pamphlet, *Women May be Justices of the Peace*, in which she mentions another Illinois woman who was elected Justice of the Peace, saying, “Miss Amelia Hobbs of Jersey county (sic), Illinois, was elected and held her office without question, although she only defeated her rival by twenty-six votes.” Catharine Waugh McCulloch, *Women May be Justices of the Peace*, 3-4 (1907), reprinted in UIC archives, *Catharine Waugh McCulloch Papers*, UIC Special Collections, Daley Library, Jane Addams Memorial Collection at <http://www.uic.edu/depts/lib/specialcoll/services/rjdfindingaids/CMcCullochf.html>, Finding aid [hereinafter Catharine Waugh McCulloch Papers]. See also Catharine Waugh McCulloch's personal and professional papers have been microformed on CATHARINE GOUGER (WAUGH) MCCULLOCH PAPERS, 1862-1945, ser. VI, in *Women's Suffrage: The Midwest and Far West* (Radcliffe College Women's Studies Manuscript Collections, Congressional Info. Serv.) [hereinafter McCulloch Papers]. The Finding Aid for this pamphlet is at M-133, reels E29-34; MC 378 McCulloch, Catharine Waugh, b. 1862. Papers, 1877-1983: A Finding Aid, reprinted in <http://oasis.lib.harvard.edu/oasis/deliver/~sch00730>. Further research has shown that although Miss Amelia Hobbs was elected Justice of the Peace in Jersey County, the Illinois Attorney General refused to allow her to serve. See <http://www.jerseycounty.org/facts.htm> for additional information; see also CHI. TRIB. (Dec. 31, 1869), and CHAMPAIGN CTY. UNION & GAZETTE, (Feb. 23, 1870), which support this position.

Justice of the Peace,⁵ in 1907, in Evanston, Illinois.⁶ McCulloch won the election by securing more than 1,300 votes over her male opponent. Since women were not yet enfranchised, she was elected by all men, both in 1907 and 1909, and served as Justice of the Peace until 1911.⁷ Before she was officially sworn into the office, lawyers attempted to block her appointment, saying that “electing a woman to even the smallest judicial office was an unwise precedent,”⁸ but they were unsuccessful. McCulloch used the election to inform the public about women’s suffrage, to illustrate women’s abilities, and to frame herself as a wife, mother, and attorney.⁹ However, once elected, McCulloch immediately created a stir by performing marriage ceremonies without the word “obey”, which was front page news in the *Washington Post*.¹⁰ A few days later, a similar article appeared in *The Chicago Daily Tribune*, showing McCulloch in the library of her home in Evanston, IL, ready to perform her duties as Justice of the Peace.¹¹ In regard to the vows in an upcoming marriage ceremony, McCulloch remarked about the groom-to-be, “When he comes I shall tell him I will refuse to put the word ‘obey’ in the ceremony. I never promised my husband to obey, and the requirement is not in vogue at present

⁵ Newspaper clipping, ST. LOUIS REPUBLIC (Apr. 20, 1909), as cited in Julia Wilson, Women’s Legal History, Professor Barbara Babcock, *Catharine Waugh McCulloch: Attorney, Suffragist and Justice of the Peace* (1988),

<http://womenslegalhistory.stanford.edu/papers/cwc.final.pdf>. [hereinafter Wilson].

⁶ See Wilson, *supra* note 4, at 11; NORGREN, *supra* note 4, at 153.

⁷ *Catharine Waugh McCulloch*, EVANSTON WOMEN’S HIST. PROJECT, <https://evanstonwomen.org/woman/catharine-mcculloch/>; see also *Catharine Waugh McCulloch (1862-1945)*, JANE ADDAMS, <https://digital.janeaddams.ramapo.edu/items/show/3133>.

⁸ Catharine Waugh McCulloch, *Autobiography*, SCHLESINGER LIBR., RADCLIFFE INST., HARVARD UNIV., CAMBRIDGE, MA. (Last visited Apr. 21, 2024), <https://iiif.lib.harvard.edu/manifests/drs:461820176>.

(McCulloch Papers)[hereinafter McCulloch Autobiography], cited in Julia Wilson, *supra* note 4, at 13, who states, “McCulloch wrote this autobiography in the third person, clearly reflecting her desire that someone document her life and work. Not only did this rough autobiography give a clearer picture of her childhood, it also served as excellent insight into her view of her legal career and her family life. Finally, the existence of the autobiography reveals that McCulloch must have been aware of the great impact her work had on Illinois’s history.”

⁹ Wilson, *supra* note, at 14.

¹⁰ *She Will Omit Obey*, WASH. POST (Apr. 6, 1907) at A1.

¹¹ *Woman Justice of Peace in Her Courtroom*, THE CHI. DAILY TRIB., Saturday, Apr. 27, 1907, at 5.

except among old fogies.”¹² Inspired by McCulloch’s successful election, other women were encouraged to run for office.¹³

McCulloch’s use of her law degree for social benefit began prior to 1907. For example, earlier, in 1888, before she married, Waugh (McCulloch) was nominated as the Prohibition Party’s candidate for Illinois States Attorney as part of the Party’s state and national ticket. Although she was unsuccessful, she “ran 200 votes ahead of the party ticket.”¹⁴ Then, in 1916, McCulloch was also the first woman, selected by the State Democratic Convention, to serve as a presidential elector;¹⁵ she voted for Woodrow Wilson.¹⁶

Despite all her accomplishments, McCulloch remained humble, almost deferential. In a letter to her daughter when she was eighty-one, McCulloch, contemplating her vast and impressive legal career, stated, “[s]ome people have long lists of important honors shown them, but mine are mostly being elected for jobs that no one else would accept.”¹⁷ Her self-deprecation is reminiscent of Jane Addams, who described herself as “a very simple person, so often wrong.”¹⁸

The lifelong friends were both mistaken, and McCulloch’s self-characterization is markedly incorrect, since she was an formidable legal force, an active member of legal, civic, suffrage, temperance, civil rights, peace, intercultural and trade organizations throughout her life.¹⁹ She also maintained a lifelong dedication to, and was an active advocate for, her alma mater, Rockford College. She endowed

¹² *Id.*

¹³ See NORGREN, *supra* note 4, at 153; Wilson, *supra* note 4, at 16. Florence Allen told McCulloch she was inspired to run for judgeship on the Court of Common Pleas due to McCulloch’s success. Allen was the first female to be confirmed, in 1934, as a federal appellate judge.

¹⁴ See VIRGINIA G. DRACHMAN, *WOMEN LAWYERS AND THE ORIGINS OF PROFESSIONAL IDENTITY IN AMERICA* 177 (1993), *citing* McCulloch’s letter to the Equity Club dated April 26, 1888.

¹⁵ See *Evanston Women’s History Project: Lifting As We Climb* (Mar. 6, 2024) at 1, <http://evanstonwomen.org/2010/03/06/catherine-waugh-mcculloch/>.

¹⁶ Wilson, *supra* note 4, at 12; NORGREN, *supra* note 4, at 154. See also Letter from Catharine Waugh McCulloch to Catharine McCulloch Spray (November 1, 1943) (McCulloch Papers) *supra* note 3, at 36.

¹⁷ *Letter from Catharine Waugh McCulloch to Catharine McCulloch Spray (November 1, 1943) in MCCULLOCH PAPERS.*, *supra* note 3, at 36.

¹⁸ LINN, *supra* note 1, at 425.

¹⁹ See Wilson, *supra* note 4, at 2; McCulloch Autobiography, *supra* note 7.

the school with a student union,²⁰ was active in annual fundraisers,²¹ spoke at Chicago Rockford College Association meetings²² and at College commencements,²³ served as a trustee,²⁴ and was awarded an honorary degree from the institution.²⁵

In addition, McCulloch was an active member of a variety of social and legal organizations, including the Women's Christian Temperance Union,²⁶ the ACLU, the Women's International League for Peace and Freedom, The Woman's Bar Association,²⁷ the Free Trade League, the Latin-American Cultural Relations Committee, the Illinois Council of Social Action of the Congregational and Christian Churches, the Civil Service Reform Association, the Anti-Narcotic League, the League of Women Voters,²⁸ the Filipino Social Center, the Woman's Clubs of Chicago and of Evanston, as well as a trustee of the Chicago Church Federation and the Anti-Saloon League. She was president and legal counsel for the Illinois Equal Suffrage Association,²⁹ and several grassroots suffrage

²⁰ Undated letter inviting people to participate in The Rockford Relays, Autumn, 1949, to raise fund for The Catharine Waugh McCulloch Student Union Building and Faculty Endowment. *Rockford Female Seminary: Clippings about, correspondence from, and tribute to Catharine Waugh McCulloch*, in MCCULLOCH PAPERS, SCHLESINGER LIBR. RADCLIFFE INST., 6 (Last visited Apr. 29, 2024), [https://iif.harvard.edu/manifests/view/drs:461819865\\$2i-4i](https://iif.harvard.edu/manifests/view/drs:461819865$2i-4i). [Hereinafter Rockford Female Seminary].

²¹ See Rockford Female Seminary, *supra* note 19, at 6.

²² News clipping dated Chicago, November 11, 1925, newspaper unknown, stating that "Housekeeping, a Profession" was the topic for Catharine Waugh McCulloch at the annual dinner of the Rockford College Assn., held at the Chicago Athletic Association. See also Photo of McCulloch, Jane Addams, and others, entitled "Reunion Class of 1881 in 1931; McCulloch biography, *supra* note 7.

²³ Rockford Female Seminary, *supra* note 19, at 2.

²⁴ See Wilson, *supra* note 4, at 2-3. See McCulloch Autobiography, *supra* note 6, at 11.

²⁵ Mary M. Terryberry, *Kittie Waugh---Pert, Pretty and Picturesque*, Rockford College Alumna, Vol. XVIII, No. 3, June 1942, at 3-4. This article explains that McCulloch was valedictorian; it discusses her 22 years of suffrage work as chairman of the IL Equal Suffrage Assn., her donations, fundraising, speeches, honorary LL.D. degree, bestowed in 1936, and proposed Student Union in her name.

²⁶ TRACY A. THOMAS & TRACY JEAN BOISSEAU, *FEMINIST LEGAL HISTORY: ESSAYS ON WOMEN AND LAW* 33-50 (2011).

²⁷ Paul Boyer, in Edward T. James, ed., *NOTABLE AMERICAN WOMEN, 1607-1950: A BIOGRAPHICAL DICTIONARY*, 458-460 (1971) at 459 [hereinafter Boyer in James].

²⁸ See also Boyer in James, *supra* note 26 at 459.

²⁹ Meg Gorecki, *Legal Pioneers: Four of Illinois' First Women Lawyers*, ILL. BAR J., 514 (Oct. 1990), https://effinghamcountymuseum.org/sites/default/files/legal_pioneers_Ada_Kepley_at_Effingham.pdf.

organizations,³⁰ and served as legal advisor for the National American Woman Suffrage Association (NAWSA) from 1904- 1911, and as first vice president (1910-1911).³¹ She chaired committees in Woman’s City Club and Chicago Woman’s Club on the Illinois Constitutional Convention.³² In her legal career, McCulloch was a member of the American, Illinois State, Woman’s and Chicago Bar Associations,³³ as well as the Equity Club and Chicago Commons.³⁴ McCulloch was legal advisor to the National Woman’s Christian Temperance Union; she was a partner in the law firm of McCulloch & McCulloch;³⁵ and she was the eighteenth woman admitted to practice in front of the U. S. Supreme Court.³⁶ McCulloch was appointed for four terms of two years each by the Judges of the Superior Court of Cook County, Master in Chancery Court, 1917-1925;³⁷ she and her husband co-authored many short briefs,³⁸ and “A Manual of the Law of Will Contests in Illinois”, a comprehensive treatise about Illinois wills and probate, in 1929.³⁹ To show its appreciation in recognition of fifty years of service to the legal community, McCulloch and her husband were ultimately recognized by the Illinois legal community by being named “Senior Counselors” by the Illinois Bar Association in 1940.⁴⁰

III. EARLY LIFE

Born in the midst of the Civil War to Abraham Miller Waugh and Susan Gouger Waugh on June 4, 1862, in Ransomville, New York, Catharine was the oldest child

³⁰ Catharine McCulloch: Illinois Suffragist and Lawyer, ILL. HIST. AND LINCOLN COLLECTIONS, (Mar. 14, 2019), <http://publish.illinois.edu/ihlc-blog/2019/03/14/catharine-mcculloch-illinois-suffragist-and-lawyer/>. See also Elsie G. Holzwarth, Member Spotlight: WBAI Leadership Persevered for Ratification of 19th Amendment, WOMEN’S BAR ASSON OF ILLINOIS (last visited Apr. 21, 2024).

³¹ Boyer in James, *supra* note 26, at 459-460.

³² DURWARD HOWES, AMERICAN WOMEN, 1935-1940: A COMPOSITE BIOGRAPHICAL DICTIONARY 1 (1981).

³³ Boyer in James, *supra* note 26 at 459.

³⁴ *Id.* at 460.

³⁵ *Id.* at 459.

³⁶ Mary L. Clark, *First Members of the Supreme Court Bar*, 36 SAN DIEGO L. REV. 87, 88 (Winter 1999). See also Karen Berger Morello, *The Invisible Bar: The Woman Lawyer in America; 1638 to the Present* at 223 (1986), and Supreme Court Attorney Rolls, Vols. 3-5, 1870, Term-1916 Term, National Archives.

³⁷ Boyer in James, *supra* note 26, at 460. See also MCCULLOCH PAPERS, *supra* note 3, at 10.; HOWES, *supra* note 31, at 588.

³⁸ See Wilson, *supra* note 4, at 11.

³⁹ CATHARINE WAUGH MCCULLOCH & FRANK H. MCCULLOCH, A MANUAL OF THE LAW OF WILL CONTESTS IN ILLINOIS (1929).

⁴⁰ Boyer in James, *supra* note 26, at 460.

and only girl of her family.⁴¹ Abraham Waugh was a farmer, and in 1867 moved his family to New Milford, IL.⁴² The farm was located a few miles south of Rockford, IL,⁴³ and the family stayed on that farm until 1893; at that time they moved into the city of Rockford.⁴⁴

Abraham Waugh, although not trained in the law, often helped his neighbors with their legal disputes. Catharine was inspired by her father, and although “My mother believed that a child should be taught to yield unquestioning obedience . . . I was my father’s ‘little lawyer’ and he aided and abetted me in my fatal tendency.”⁴⁵ But Catharine described her mother as having “a thirst for knowledge” and admits that the Waugh household had more books in it than the average farmhouse.⁴⁶ According to Wilson, “It also appears that Catharine’s father fostered her sense of independence and her unconventional attitudes.”⁴⁷ For example, Catharine often fought with the boys at the New Milford School. This deeply distressed Catharine’s mother, who would tell Catharine that if she could make a lady out of her, she would deserve a medal; Catharine’s inevitable reply was: ‘I hate ladies. I shall never be one as long as I live.’⁴⁸

In contrast, her father never scolded her for fighting with boys.⁴⁹ Instead, he encouraged her unconventional behavior. Catharine remembered that her father ‘reported with glee’ that a neighbor had told him that Kitty had been observed ‘chasing a boy and hitting him with a broom’ in defense of a play house she and the other girls at the New Milford school had created.”⁵⁰ In another incident recounted

⁴¹ *Id.*

⁴² *Id.*

⁴³ Wilson, *supra* note 4, at 38 n.5, notes that, “McCulloch wrote this autobiography in the third person, clearly reflecting her desire that someone document her life and work. Note only did this rough autobiography give a clearer picture of her childhood, it also served as excellent insight into her view of her legal career and her family life. Finally, the existence of the autobiography reveals that McCulloch must have been aware of the great impact her work had on Illinois’s history.”

⁴⁴ *Id.*

⁴⁵ CHI. TRIB., Sept. 9, 1934, as cited by Boyer in James, *supra* note 26, at 459. 59. Paul Boyer, in Edward T. James, ed., NOTABLE AMERICAN WOMEN, 1607-1950: A BIOGRAPHICAL DICTIONARY, 458-460 (1971) at 459 [hereinafter Boyer in James].

⁴⁶ Luke Fredrickson, *Women’s History Month: Who was Catharine Waugh McCulloch?*, ROCKFORD REG. STAR (Mar. 15, 2024 4:17 AM), <https://www.rrstar.com/story/news/local/2024/03/15/womens-history-month-who-was-catharine-waugh-mcculloch/72943004007/>.

⁴⁷ Wilson, *supra* note 4, at 3.

⁴⁸ *Id.* at 4.

⁴⁹ *Id.* at 3-4.

⁵⁰ *Id.*

in her memoirs, McCulloch describes a young man who liked to tease the young girls and throw snowballs at them; she indicates that, in frustration, she “...threw him down and washed his face in the snow so thoroughly that he ceased his teasing,”⁵¹ and although the two later became good friends, these episodes reveal both McCulloch’s spirited, feisty personality and her unconventional attitudes about gender interactions, both of which she maintained throughout her lifetime. In addition, the unwavering support of her father, even in unconventional behavior and attitudes, plus her mother’s love of learning undoubtedly influenced McCulloch in her life, as she attempted to assume roles formerly closed to women.

IV. EDUCATION

After graduation from Rockford Female Seminary in 1882, Waugh (McCulloch) took and passed the exam for a teaching certificate, but she never taught.⁵² Instead, she set out as a temperance speaker for about eighteen months.⁵³ This was a commitment she continued throughout her life, both personally and through her legal career. Next, she took work at the law firm of Marshall and Taggart in Rockford, IL in the fall of 1884,⁵⁴ but decided that just reading the law would not provide her with the feedback or critical thinking skills that law school would provide.⁵⁵ She decided to attend the Union College of Law (now Northwestern University Law School) in 1885.⁵⁶ Admitted to the Illinois bar in 1886,⁵⁷ Waugh set out to find work in a legal firm. She had developed a mentor-mentee relationship with Myra Bradwell,⁵⁸ who published the following article in Chicago Legal News shortly before Waugh graduated:

“Miss Catherine G. Waugh is a talented, modest, retiring, womanly young lady, now in the senior class of the Union College of Law of

⁵¹ *Id.*

⁵² McCulloch Biography, *supra* note 3, at 6.

⁵³ DRACHMAN, *supra* note 13, at 252. Later, McCulloch was involved in the temperance movement through the WCTU, the Anti-Saloon League, and even ran as a Prohibitionist candidate in elections.

⁵⁴ *Id.* at 254. *See, e.g.,* Richardson v. Gregory, 126 Ill. 166, 18 N.E. 777 (1888). This is a Marshall & Taggart case from around the time in which McCulloch was working there in Rockford that deals with partnership and equitable dissolution of assets.

⁵⁵ McCulloch Biography, *supra* note 3, at 6.

⁵⁶ Boyer in James, *supra* note 26, at 459.

⁵⁷ Charlotte Adelman, *A History of Women Lawyers in Illinois*, 74 ILL. BAR J., 424-428, at 425 (1986).

⁵⁸ *See* Caroline K. Goddard, *Law, Women’s Rights, and the Organization of the Legal Profession in the Gilded Age: Myra Bradwell’s Chicago Legal News, 1865-1890* (2002) (a Ph. D. dissertation, University of Michigan)(on file in Ann Arbor, Michigan).

this city. She graduated from the Rockford Seminary in the class of 1882, and also took a post graduate course in that institution. Miss Waugh commenced her legal studies in the office of one of the oldest Rockford firms, that of Marshall & Taggart. She is a farmer's daughter, not afraid of work, writes a good hand and wants to become familiar with the practice of law in all its details. With this end in view she would like a place in some good law office of this city. We can recommend Miss Waugh to any law firm needing such help as in every way competent and worthy 6/5/86.”⁵⁹

In a follow-up article shortly after the first article, Bradwell published that Waugh, "was recently appointed by Judge Gresham special examiner to take testimony in an important suit pending in the United States Circuit Court. Miss Waugh has already spent several days in taking testimony and performed her duties to the satisfaction of attorneys on both sides. She is a capable young lawyer" 6/19/86.⁶⁰

Despite the assistance from Myra Bradwell, Waugh met severe resistance when she attempted to obtain employment as an attorney in Chicago. In her article, "Women as Law Clerks," Waugh describes her experience seeking a position. She contrasts the experience in her law classes to her attempts to ply her trade in Chicago. In class, she says that, "At first it certainly was quite a trial to recite before all those young men who would pause in the midst of throwing paper wads and slinging overshoes to see if either of the women knew enough to answer questions. This critical scrutiny soon changed to kindly approval..."⁶¹ Urged by her friends to settle in Chicago, Waugh attempted to find a clerkship with a well-known firm; to this end, she obtained recommendations from two judges and some professors and set off.

Women made slow headway into the legal profession, primarily because, "From 1875 through 1879, one woman was admitted to the bar each year. In 1880 and 1881, two women were admitted. In 1882 one woman was admitted; in 1884 through 1887, two were admitted each year."⁶² Waugh (McCulloch) soon

⁵⁹ Myra Bradwell, CHI. LEGAL NEWS, A Journal of Legal Intelligence, (June 5, 1886), <https://books.google.com/books?id=21A0AQAAMAAJ&q=Waugh#v=snippet&q=Waugh&f=false>.

⁶⁰ *Id.* at 663.

⁶¹ Catharine W. McCulloch, *Women as Law Clerks* in SERIES VI OF THE MARY EARHART DILLON COLLECTION, 1869-1945. SCHLESINGER LIBR. RADCLIFFE INST. 1-10 (last visited Apr. 23, 2024), <https://nrs.lib.harvard.edu/urn-3:rad.schl:518358>. [hereinafter *Women as Law Clerks*].

⁶² Adelman, *supra* note 56, at 425.

discovered that each firm had a “reason” why she could not be hired as a law clerk: it was the wrong season for hiring; a woman’s sphere was in the home; or women can’t stand the racket of the courts. One man simply said, “I would prefer to find a place for my daughter in someone’s kitchen and I advise you to rather go home and take in sewing. I am opposed to women practicing law.”⁶³ McCulloch remarked, “Take in sewing at 60 cents a dozen for fine shirts? No thank you. He can make shirts himself. I’d never make shirts for him if he had to wrap himself in burlap instead.”⁶⁴

Undaunted, Waugh continued to respond to advertisements for law clerks, and discovered that interviewers were amazed and unsettled, not by her lack of qualifications, but simply that she was a woman and they wanted a man. She argued with them, but to no avail.⁶⁵ One elderly man told her that because of a woman’s constitution, she should guard against dying of overwork. Another gentleman promised her work, agreed easily to her terms, but she learned that he had been twice divorced and was looking for a third wife; thus, she did not attend that interview.⁶⁶ Still armed with recommendations, she went to one of the judges who had written a letter for her. Soon thereafter, she was surprised to see a small note in the *Legal News* about herself, thanks to the judge, but nothing came of it. Next, she tried an influential woman who had heard of her from her professor, who feigned affection and promised to help—but again, nothing became of it. She tried enlisting the help of her cousin, but even those interviewers told her plainly that they wanted a man.⁶⁷

In her examination of Waugh’s article, “Women as Law Clerks,” Nancy Cott reiterates Waugh’s frustration and points out that no precedent existed for female barristers in the 1800s. Women had no property or contractual rights at that time and were often treated with scorn and derision by most legal practitioners and staff. A loophole existed: women were able to educate themselves in the law by working with male family members and pass the bar without attending law school. However, state laws were interpreted against women’s admission to the bar on the bases of reproductive duties, common law interpretations regarding women’s “place”, natural female mental inferiority, and irrationality.⁶⁸

⁶³ *Women as Law Clerks*, *supra* note 60, at 4.

⁶⁴ *Id.* at 2.

⁶⁵ See comments in DRACHMAN, *supra* note 13, at 98, 119.

⁶⁶ *Women as Law Clerks*, *supra* note 60, at 4-5.

⁶⁷ *Id.* at 7-10.

⁶⁸ Nancy F. Cott, *Women as Law Clerks: Catharine G. Waugh*, in *THE FEMALE AUTOGRAPH* 160-162 (Domna C. Stanton et al. eds.) (1987). See also LINDA KERBER, *NO*

Of special interest in Illinois, a primary example would be Myra Bradwell, who studied law with her husband, passed the bar examination in 1869, but was refused admission to the bar by the Illinois Supreme Court because she was a woman.⁶⁹ Undaunted, Bradwell attempted to have the decision overturned by the U.S. Supreme Court based upon the “Privileges and Immunities Clause” of the Fourteenth Amendment.⁷⁰ Since she could not represent herself, she hired a male attorney to represent her interests, but the Supreme Court rejected her appeal, arguing that citizenship did not control the right to practice law and thus was not protected by the Fourteenth Amendment.⁷¹ In 1868, Bradwell responded by founding the *Chicago Legal News*, and with her husband's legal help, was able to serve as both editor and business manager of the paper. This Illinois publication became the most widely circulated legal newspaper in the United States.⁷²

Meanwhile, in 1872, the Illinois Legislature passed a law which gave all people freedom of occupation,⁷³ thereby opening the door for Catharine G. Waugh to attend law school and pass the bar. However, after her frustrating experience of obtaining employment in Chicago, she returned to Rockford, Illinois, which then had a population of less than 25,000 people. She opened a law practice in a rented room and lived with her parents until her marriage. She had enough paying clients who “kept her from debt.”⁷⁴

In Rockford, most other attorneys were generally helpful and would gladly lend her legal texts. The judges were friendly, the clerks helped her decipher materials in the vaults, and even the custodial staff was pleasant. She summarized:

“I don’t mean to insinuate that they all prostrate themselves at my appearance or any such nonsense, but they treat me just the way I like to be treated and just as respectfully as tho (sic) my whole time

CONSTITUTIONAL RIGHT TO BE LADIES 3-28 (1998), where under common law, women were held to have “No political relation to the state”.

⁶⁹ *In the matter of the application of Mrs. Myra Bradwell, for a license to practice law*, 55 Ill. 535; 1876 Ill. LEXIS 537 (1869). The case was finally heard in the September term, 1869, but was omitted from its proper place in the reporting of cases decided during that term.

⁷⁰ *Bradwell v. Illinois*, 83 U. S. (16 Wall.) 130, 21 L. Ed 442 (1873). See also U.S. CONST. amend. XIV § 1.

⁷¹ *Id.*

⁷² Susan Gluck Mezey, *Myra Colby Bradwell*, AM. NAT’L BIOGRAPHY 1 (Feb. 2020), <http://www.anb.org/articles/11/11-00095.html>.

⁷³ Boyer in James, *supra* note 26, at 225. After denying Myra Blackwell admission to the bar, the Illinois General Assembly basically claimed state jurisdiction over women engaging in various occupations. In 1872 the law was passed that gave all persons, regardless of sex, freedom to select an occupation.

⁷⁴ Wilson, *supra* note 4, at 6.

was devoted to petting a poodle, embroidering purple and green cats and dogs on red, blue and yellow canvas and giving Germans and card parties and perhaps more so.”⁷⁵

Not all the attorneys were so kind. One remarked:

“Let me once meet Miss Waugh in a case and I will wipe the floor with her’. We met and he didn’t and we met again and still he didn’t either literally or figuratively. Then he became kindly and to my disgust referred to me in open court several times as ‘Kitty’ so that an outsider would have thought us great friends. I told him with intense coldness that when he found it necessary to address me, he should call me Miss Waugh, as only my family and friends were privileged to call me by my home name.”⁷⁶

Between 1887 and 1890, women in the legal profession stayed in communication through letters, which evolved into the Equity Club.⁷⁷ Through letters, these legal pioneers, aged from their mid-twenties to mid-fifties,⁷⁸ shared both professional and private insight, educational and training experiences, friendship, and advice of various kinds.⁷⁹ McCulloch was an avid member of the Equity Club⁸⁰ and one of its founders,⁸¹ having written to women at the University of Michigan in 1885 and 1886, urging their participation in the group.⁸²

It was also at this time that Waugh (McCulloch) began what became a lifelong habit of assisting women who could not afford to pay for legal services. In an 1889 letter to the Equity Club letter, McCulloch explains, “When the client is a poor woman who cannot afford to pay anything I call that a free dispensary case and rejoice that I had an opportunity to learn some new point there.”⁸³ Additionally, in her Equity Club letters, Waugh (McCulloch) urged other women to take up law

⁷⁵ *Women as Law Clerks*, *supra* note 60, at 11.

⁷⁶ DRACHMAN, *supra* note 13, at 175-76.

⁷⁷ Julia Steele, *All the allies of each: Lelia Robinson’s portrait of early women lawyers in America*, for Barbara Babcock, *Women’s Legal History*, STANFORD UNIV. 2-3 (1998), <http://wlh-static.law.stanford.edu/papers/RobinsonL-steele98.pdf>.

⁷⁸ DRACHMAN, *supra* note 13, at 19.

⁷⁹ *Id.* at viii and ix.

⁸⁰ NORGREN, *supra* note 5, at 141, 144, 148, 149.

⁸¹ *Id.* at 11. *See also* 84, 98, 119, 269-70.

⁸² *Id.* at 25, 77.

⁸³ *Letter from Catharine Waugh (McCulloch) to Equity Club, April 26, 1889*, in DRACHMAN, *supra* note 13, at 174, and her letter in DRACHMAN, *supra* note 13, at 25, regarding providing free legal services to poor women.

despite the difficulties. She suggested that the way for women to be healthy was “exercise, diet, and sensible clothing;”⁸⁴ adding that the law was the perfect job for women, since few emergencies arose (compared to medicine) and women attorneys could reschedule cases and “be sick in comfort.”⁸⁵

While residing and practicing law in Rockford, Waugh went back to Rockford Female Seminary and completed her thesis, “Women’s Wages”, which was published in 1888 and earned both her B.A. and M. A. from the institution.⁸⁶ Her thesis was in response to a paper, *Political Economy*, written by Reverend Aaron Chapin of Beloit College, in which he detailed the reasons that women’s wages were below those of men.⁸⁷

In her thesis, Waugh (McCulloch) argued that men’s “reasons” for paying women less money were merely excuses.⁸⁸ The thesis was divided into three sections: “Excuses for Inequality in Wages”, “Real Reasons”, and “Remedies”. Overall, she pointed out that women had less access to training facilities; many professions were not open to women, leaving them such work as domestic labor; and that the government did not seem interested in women being employed.⁸⁹ Under “Remedies” she suggested short-term cures such as, “homes for fallen women, reform schools for girls, cheap boarding places, and employee organizations for women,” while permanent solutions included suffrage and open participation for women in all professions.⁹⁰ Despite their differing viewpoints, Dr. Chapin allowed her thesis as satisfying the conditions for her degree, which was bestowed in 1888.⁹¹ The local papers reviewed her thesis with mostly favorable results.⁹²

⁸⁴ *Id.* at 35.

⁸⁵ *Id.*

⁸⁶ *Rockford Female Seminary: "Woman's Wages," by Catharine Waugh McCulloch, 1881, in MCCULLOCH PAPERS, SCHLESINGER LIBR., RADCLIFFE INST., (last visited Apr. 26, 2024),* <https://id.lib.harvard.edu/ead/c/sch00730c00009/catalog>

⁸⁷ Boyer, in James, *supra* note 26, at 458-460.

⁸⁸ *Woman's Wages, supra* note 85, at 5.

⁸⁹ *Id.* at iv.

⁹⁰ *Id.* at iii.

⁹¹ Boyer in James, *supra* note 26, at 459.

⁹² See MCCULLOCH PAPERS, *supra* note 3, especially Catharine W. McCulloch, *Series VI of the Mary Earhart Dillon Collection, 1869-1945*, SCHLESINGER LIBR. RADCLIFFE INST., Call No.: A-68. Folder 59. <http://nrs.harvard.edu/urn-3:RAD.SCHL:518358?n=15>. In this folder are advertisements and several reviews of McCulloch's book, "Woman's Wages" (published in 1888), the typewritten copy of a poem written by McCulloch; and clippings from *The Farmer's Voice* and other newspapers of an article she wrote expressing her views on women's rights.

Also in 1888, McCulloch served on a committee examining the relationship between women and the bar associations at the local, state, and national level for the Equity Club;⁹³ she was a member of all three and felt such affiliation to be advantageous for women in the legal profession.⁹⁴ In the same year, McCulloch became active in the Prohibitionist Party. She wrote several anti-alcohol publications, and was nominated by the Party as State's Attorney of Illinois,⁹⁵ The news media immediately declared her candidacy invalid due to her gender, and when she was scheduled to speak, she urged the reporters that,

“...it was the most unkindest cut of all to declare in the presence of all the handsome bachelors of the county that a certain unmarried young woman was not eligible. It might ruin my chances in a way they had not intended if somebody should not understand that they only referred to my eligibility for office, but that there were votes enough to elect me, no one need worry about my eligibility for I should qualify for office or know the reason why even if it had to go up to the supreme court...”⁹⁶

Once again, McCulloch used her sharp wit and speaking abilities to spoof and diffuse what could have been a difficult experience.

Ironically, less than a year later, in 1898, McCulloch **was** admitted to practice in front of the United States Supreme Court.⁹⁷ Nevertheless, letters to the Equity Club prove that Waugh's second year in private law practice was challenging. Although she made enough money to pay her bills, she decided to teach a law class at Rockford Business College in 1889 to supplement her income.⁹⁸ Overall, however, the type of humor McCulloch exhibited, both in her speeches⁹⁹ and writings would serve her well throughout her life. In totality, her plays, poetry, legal

⁹³ DRACHMAN, *supra* note 13, at 84.

⁹⁴ *Catharine Waugh McCulloch*. WIKIPEDIA, (Mar. 17, 2024), https://en.wikipedia.org/wiki/Catharine_Waugh_McCulloch. *See Also* McCulloch Autobiography, *supra* note 7, at 11.

⁹⁵ DRACHMAN, *supra* note 13, at 176- 177, citing (McCulloch's letter to Equity Club dated April 26, 1888).

⁹⁶ *Id.* at 176.

⁹⁷ Clark, *supra* note 35, at 88. *See also* Clark's Table I, which includes the first twenty women admitted to practice in front of the United States Supreme Court; McCulloch is included.

⁹⁸ McCulloch Autobiography, *supra* note 7, at 7.

⁹⁹ Jill Weiss Simins, *Suffrage Up In The Air: The Equal Suffrage Association's 1912 Publicity Campaign*, at 1 (June 8, 2020), <https://blog.history.in.gov/suffrage-up-in-the-air-the-equal-suffrage-associations-1912-publicity-campaign/>.

pamphlets, legal treatises, drafts of legislation, and speeches show an Illinois woman who employed humor, satire, and a vast legal knowledge to seek equal rights and protection for women and children, and to dissolve some of the common law barriers which diminished women's legal status per se, and as female attorneys. After a few years of practicing law, McCulloch seemed persuaded that women and their children would only be truly safe if women were fully enfranchised. She directed many of her legal efforts to that end throughout her legal career.

V. MARRIAGE AND LEGAL PARTNERSHIP

On May 30, 1890, Catharine Waugh married former law school classmate Frank Hathorn McCulloch.¹⁰⁰ The two met in law school, and she recalled that he was an outstanding scholar; further, during a debate, she had once heard him remark that women should receive the vote.¹⁰¹ Interestingly, they were married by Reverend Anna Howard Shaw, a famous temperance and suffrage leader, who performed the ceremony without using the word “obey” in the vows.¹⁰² The two managed to forge an equal partnership, both in law and marriage,¹⁰³ for over fifty years. McCulloch commented in a letter to the Equity Club that by marrying she would not be leaving the legal profession, as was common,¹⁰⁴ but would “step into a wider field of work.”¹⁰⁵ Their honeymoon was spent on a suffrage campaign through South Dakota because Catharine had already set up speaking engagements and had promised Susan B. Anthony that she would speak,¹⁰⁶ so Frank McCulloch obviously supported his wife's commitment to both her legal career and the suffrage movement and encouraged her work with the Illinois Equal Suffrage Association.¹⁰⁷ For example, in 1918, when legislation was pending to amend the Illinois Constitution to provide women full suffrage, his article, entitled “Some Questions for Woman Suffragists From a Mere Man” encouraged women

¹⁰⁰ Gorecki, *supra* note 28, at 514. *See also* Herman Kogan, *Myra Bradwell: Crusader of Law* 3 CHI. HIST. 3 (Fall, 1974), as well as MCCULLOCH PAPERS *supra* note 3 and Adelman, *supra* note 56.

¹⁰¹ McCulloch Autobiography, *supra* note 7, at 25-26.

¹⁰² IDA HUSTED HARPER, *THE HISTORY OF WOMAN SUFFRAGE* 6 (1922). Dr. Anna Howard Shaw was both Vice President-at-Large (1892-1904) and President (1904-1915) of National American Woman Suffrage Association. *See also* Boyer in James, *supra* at 26 at 459.

¹⁰³ *See* Letters from Frank McCulloch to Catharine Waugh McCulloch, June 4, 1890, and July 29, 1890, regarding the founding of the law firm of McCulloch & McCulloch, and where the offices should be located. McCulloch Papers, *supra* note 3.

¹⁰⁴ RONALD CHESTER, *UNEQUAL ACCESS: WOMEN LAWYERS IN A CHANGING AMERICA*, 117-119 (1985); *see also* Gorecki, *supra* note 28, at 510 and 513.

¹⁰⁵ DRACHMAN, *supra* note 13, at 191 containing Letter to the Equity Club dated May 30, 1890.

¹⁰⁶ *Id.* *See also* Harper, *supra* note 101, discussing Susan B. Anthony.

¹⁰⁷ DRACHMAN, *supra* note 13, at 253.

throughout Illinois to lobby legislators to support the suffrage bill.¹⁰⁸ Their partnership in law and in marriage was that of equals, and very uncommon for the time,¹⁰⁹ but Frank's support in both legal and family matters enabled Catharine to diligently and relentlessly support women's legal issues for over fifty years.

The couple had four children, and Catharine and Frank forged a law partnership in which she was free to select cases of interest, research, and write about legal issues concerning women and children, handle cases for indigent women, and be mother and wife as well. She was especially focused upon "temperance, suffrage, jury duty and women's custody rights."¹¹⁰ During the time when the four children were small, she stayed home, researched and wrote, and Frank was primarily responsible for court appearances;¹¹¹ after the children were older, they both resumed courtroom appearances.¹¹² The family moved from Chicago to Evanston in 1894.¹¹³

First and foremost, however, McCulloch was an attorney. As mentioned above and below, she drafted legislation that was passed into Illinois law. Just as important, McCulloch recognized the usefulness of contract law when applied to matters of public policy. In this way she helped to shape today's Uniform Commercial Code through her law practice in the following case with the intent of providing families with safe food.

At this time, in the late 1800s, the government practiced a laissez-faire attitude toward the marketplace:

"Ideas of the freedom and sanctity of contract resulted...in the rejection of any idea that a general warranty accompanied the sale of goods. At the same time, however, courts recognized the need to create exceptions to the rule of *caveat emptor* to protect buyers from harm in specific situations...[T]his led courts to hold that, even in the absence of fraud or an express warranty, an 'implied warranty of merchantability' or an 'implied warranty of fitness for a particular

¹⁰⁸ Frank H. McCulloch, *Some Questions for Woman Suffragists From a Mere Man, 1918?*, in MCCULLOCH PAPERS, *supra* note 3.

¹⁰⁹ See Wilson, *supra* note 4, at 11.

¹¹⁰ DRACHMAN, *supra* note 13, at 25.

¹¹¹ *Id.* at 29.

¹¹² Boyer in James, *supra* note 26, at 460. See also *Women May Be Justices of the Peace*, *supra* note 3, at 1.

¹¹³ Wilson, *supra* note 4, Bibliography at 4. See also Evanston Women's History Project, *supra* note 14, which contains much information about McCulloch's life in Evanston, as Justice of the Peace, and other commitments, and includes a mannequin dressed like McCulloch.

purpose' accompanied the sale of some products. These implied warranties began the movement (that culminated with the adoption of strict liability in the 1960s) toward focusing on the dangerous condition of products themselves rather than on any fault in the process of manufacturing or selling them."¹¹⁴

In a keynote case that employed contract law to protect the consumer, both Frank and Catharine joined forces to argue in an appeal from the lower courts in front of the Illinois Supreme Court, which reversed the lower courts' holdings. In the case of *Wiedeman v. Keller*, on July 11, 1886,¹¹⁵ Mrs. Wiedeman bought a quantity of pork for her family to eat. Mr. Keller knew she was buying it for immediate consumption by her family, and warranted to her that the meat was sound and healthy. In reliance upon the seller's warranty, Mrs. Wiedeman cooked the meat that day and fed it to her family. They became very ill from the meat because it was neither wholesome nor fit to eat. She filed an action against Keller, who sold her the meat. Both the trial court and appellate court held for Keller, but on appeal to the Illinois Supreme Court, the McCulloch's used contract law, and argued that there was an implied warranty of fitness and wholesomeness for consumption in any sale by a retailer of meats or food for immediate domestic use. The Court agreed, reversed and remanded, holding that imposing such a warranty was based on public policy, saying:

"Where . . . articles of food are purchased from a retail dealer for immediate consumption, the consequences resulting from the purchase of an unsound article may be so serious and may prove so disastrous to the health and life of the consumer that public safety demands that there should be an implied warranty on the part of the vendor that the article sold is sound and fit for the use for which it was purchased."¹¹⁶

Despite success in the courtroom, McCulloch re-wrote Illinois history by becoming the first woman elected Justice of the Peace in Evanston, Illinois, in 1907, by an all-male electorate.¹¹⁷ During two terms in that office, she was able to serve as a role model for other women and focus attention upon some of the inequities

¹¹⁴ THE DEVELOPMENT OF PRODUCTS LIABILITY LAW, Chapter 1, (Mar. 30, 2006), <http://www.lexisnexis.com/lawschool/study/understanding/pdf/ProdsLiabCh01.pdf>.

¹¹⁵ *Wiedeman v. Keller*, 171 Ill. 93; 49 N.E. 210; 1897 Ill. LEXIS 1053. (Dec. 22, 1897).

¹¹⁶ *Wiedeman v. Keller*, 49 N.E. 210, 211 (Ill. 1897).

¹¹⁷ See *supra* notes 4-6. McCulloch was elected to two terms as Justice of the Peace in Evanston by an all-male electorate over a male candidate; she won by over 1,300 votes.

for women under common law. However, despite her election success in Evanston, McCulloch stayed active in the joint law practice with her husband Frank.

Both the McCulloch's argued cases in front of the Illinois Supreme court, especially in matters concerning wills and estates.¹¹⁸ After years of arguing issues of probate in both lower courts and the Illinois Supreme Court,¹¹⁹ Catharine and Frank McCulloch co-authored one major legal work, *A Manual of the Law of Will Contests in Illinois*, in 1 *Illinois*, in 1929¹²⁰ as well as several smaller ones. In this major treatise, the McCullochs trace the common law history of property transfer and types of estates; they outline the various issues arising from the execution of wills, and the proper way in which wills should be executed in Illinois; they discuss proper probate and issues of contestation; they discuss the various courts in which probate issues should be filed and argued; they even provide elementary forms for attorneys to use when executing, probating and contesting wills in Illinois. This comprehensive treatment of the topic helped to codify the laws regarding wills and probate in Illinois as of 1929.¹²¹

Although Catharine McCulloch claimed that her husband was the valuable member of the law firm,¹²² she remained an active practitioner,¹²³ drafted copious

¹¹⁸ See, e.g., *Parker v. Ruley*, 317 Ill. 441; 148 N.E. 308; 1925 Ill. Lexis 1038, argued in front of the Ill. Sup. Ct. in 1925 (this was a will contest between a widow and sister-in-law); *Gay v. Kohlsaet et al.* 223 Ill. 260; 79 N.E. 77; 1906 Ill. LEXIS 2498, Ill. Sup. Ct., (Oct. 23, 1906) (property rights of an auxiliary association); *Hathaway v. the Merchants' Loan and Trust Co.*, 218 Ill. 580; 75 N.E. 1060; 1905 Ill. LEXIS 2851, Ill. Sup. Ct., Dec. 20, 1905 (change in statute allowing only one year to file claims against an estate); *Daniel Kochersperger, v. Josephine C. Drake, et al.*, 167 Ill. 122; 47 N.E. 321; 1897 Ill. Lexis 2348, Ill. Sup. Ct., May 11, 1897 (whether a succession tax, An Act to Tax Gifts, Legacies and Inheritances in Certain Cases, and to Provide for the Collection of the Same, approved June 15, 1895, was inconsistent with the Illinois Constitution); *The People v. James W. Hill*, 163 Ill. 186; 46 N.E. 796; 1896 Ill. LEXIS 1743, Ill. Sup. Ct., Nov. 9, 1896 (forcing a brother to help county support an infirm sister); *Siddons v. Cockerell et al.*, 131 Ill. 653; 23 N.E. 586; 1890 Ill. LEXIS 1197, Ill. Sup. Ct., Jan. 21, 1890 (rights of widow under a will which had an entailment clause). Other cases are also available in LexisNexis.

¹¹⁹ *Id.* (lists legal cases involving property and estates)

¹²⁰ CATHARINE WAUGH MCCULLOCH & FRANK H. MCCULLOCH, *supra* note 38.

¹²¹ *Id.* at 8-605. This nearly 800-page treatise has been cited as recently as 1980, in *Gertrude R. Williams v. Jerald A. Crickman, Ex'r, et al.*, 81 Ill. 2d 105; 405 N.E. 2d 799; Lexis 342; 39 Dec. 820. Filed May 30, 1980, regarding Statutory Requirements for a Valid Written Will Case Law.

¹²² *Questionnaire form*, in BUREAU OF VOCATIONAL INFORMATION PAPERS, SCHLESINGER LIBR., RADCLIFFE INST. (Last visited Apr. 22, 2024), <https://id.lib.harvard.edu/ead/sch00055/catalog>.

¹²³ See *supra* note 114 and *infra*, where the McCulloch's often practiced in front of the Illinois Supreme Court, co-authored briefs, and wrote a treatise on wills and probate in Illinois entitled, "A Manual of the Law of Will Contests in Illinois" in 1929.

legislation which she presented to Illinois legislators, was instrumental in obtaining the right for Illinois women's suffrage in 1913, was active in the National American Woman Suffrage Association as its legal advisor, national officer, and speaker (see, *infra*, regarding auto suffrage tours). At the local and state levels, McCulloch worked to gain an equal foothold for women in civil, legal, and family affairs.

McCulloch's feminist legal goals primarily stemmed from breaking with common law tenets that severely limited or totally denied rights to women on basic issues, such as where the family lived; treatment and guardianship of children; the right of a woman to her own property and wages; the legal age of females vs. males; raising the age of consent for girls;¹²⁴ equal wages; and jury duty for women. According to letters exchanged through the Equity Club, women attorneys acknowledged "that the question of *the relations of women attorneys to the existing Bar Associations, local, state and national*, is of vital importance to those members who are in active practice...to appoint five *practitioners* to consider the subject in all its bearings and report";¹²⁵ McCulloch was named a member of the special committee. After years of publishing pamphlets, giving speeches, holding rallies, imploring legislators, and seeking change through court cases, McCulloch became convinced that women would never see equal treatment without the right to vote. Beginning around 1890, McCulloch and the other many women's organizations first set about procuring passage of a bill giving women suffrage in municipal and presidential elections. Later, they worked to change the Illinois Constitution so that women in Illinois would have full suffrage.

A. *Turning Point*¹²⁶

The break the women's organizations had been awaiting occurred in 1891.¹²⁷ Suffragist lobbyists won passage of a law granting women the right to vote in school district elections. The statute was challenged as unconstitutional, but the Illinois Supreme Court upheld it, stating that the legislature could extend suffrage for any

¹²⁴ Catharine Waugh McCulloch, *Illinois Laws Concerning Women* 15 (1912) (this article also appeared in *The Woman's National Weekly*).

¹²⁵ DRACHMAN, *supra* note 13, at 84.

¹²⁶ Regarding municipal suffrage between 1890 and 1920. See Maureen Flanagan, *Charter Reform in Chicago* 83-86 (Carbondale, Ill. 1987); Arthur Holcombe, *State Government in the United States* 89 (NY, 1926), People ex rel.

Tilden v. Welsh, 70 Ill. App. 641 (Ill. App. 2Dist. 1896), People ex rel. Ahrens v. English, 29 N.E. 678 (Ill. 1892), Scown v. Czarnecki, 106 N.E. 276 (Ill. 1914), People ex rel. Jurgensen v. Czarnecki, 107 N.E. 184 (Ill. 1914), Franklin v. Westfall, 112 N.E. 974 (Ill. 1916). See also ALEXANDER KEYSSAR, *THE RIGHT TO VOTE: The Contested History of Democracy in the United States* 448 (2000). See *infra* note 143 for additional information.

¹²⁷ Laws of Illinois, 37 G.A. (1891), Archive.org/details/lawssofarfill1891illi.

offices not established by the state constitution. That Supreme Court decision gave Catharine Waugh McCulloch, an attorney and the legislative chair of IESA, the idea for a bill which would list all of the offices for which the state legislature could grant suffrage.¹²⁸

McCulloch, recognizing the potential of this new law, drafted a bill which would allow for women's suffrage in presidential and some local elections that were not specifically limited to male voters by the Illinois Constitution. Each year, from 1893 to 1913 when it was finally passed, she and others would travel to Springfield¹²⁹ and testify on the bill's behalf and try to elicit support from Illinois legislators.¹³⁰ George Fitch, a legislator for the Progressive Party in Peoria, called McCulloch's bill, "the most revolutionary in the history of the legislature,"¹³¹ and when it finally passed, through twenty years of persistence, Carrie Chapman Catt remarked that the result of the Illinois victory was truly amazing, and that, "suffrage sentiment doubled over night" as a result.¹³² The passage of this bill by the Illinois General Assembly, granting Illinois women the right to vote in local and presidential elections, was a pivotal point in national women's suffrage, established a model for other states, and was a fulcrum for the passage of the Nineteenth Amendment.¹³³

Pleased but not satiated, McCulloch continued to point out the double standard that existed between legal rights for men and women through essays, pamphlets,

¹²⁸ Adade Mitchell Wheeler, *Conflict in Illinois—Woman's Suffrage Movement of 1913*. 95 J. OF ILL. STATE HIST. SOC'Y 97 (Summer 1983), where she says that the Supreme Court decision is explained in *William J. Scown v. Anthony Czarnecki: Woman's Suffrage Decision 6* (Springfield, 1914); see *supra* note 125. The pamphlet was prepared by Illinois Attorney General P. J. Lucey, who noted that "this decision of the Supreme Court of Illinois is probably as important, if not the most important, decision of a constitutional question ever present to the Court for consideration," at 1.

¹²⁹ Mark W. Sorensen, *Ahead of Their Time: A Brief History of Woman Suffrage in Illinois* (Feb. 9, 2010),

http://www.historyillinois.org/Links/Illinois_History_Resource_Page/suff.html.

¹³⁰ Boyer in James, *supra* note 26, at 459. See also Julia Wilson, *Catharine Gouger Waugh McCulloch (1862 - 1945): First Woman Justice of the Peace in Illinois Timeline 2* (1988), <http://womenslegalhistory.stanford.edu/papers/cwc.final.pdf>. [Hereinafter First Woman Justice]

¹³¹ George Fitch, *The Noiseless Suffragette*, COLLIER'S 6 (Aug. 9, 1913).

¹³² CARRIE CHAPMAN CATT & NELLIE ROGERS SCHULER, *The First Victory, in WOMAN SUFFRAGE AND POLITICS* 192 (N.Y. 1923). See also Wheeler, *supra* note 127, at 95; CHI. RECORD-HERALD 1 (Aug. 13, 1913) (Women's Voters Edition).

¹³³ Wheeler, *supra* note 127, at 95; see also *Selected Writings in the History of American Feminism, in AILEEN KRADITOR, UP FROM THE PEDESTAL* 6 (1968) and CATT & SHULER, *supra* note 131, at 188-195. This topic will be examined again in this article, *infra*.

and plays that illustrated women's fundamental lack of rights, poems, and hundreds of articles that were published through the WCTU, Illinois Equal Suffrage Association (legislative superintendent, 1890-1912), NAWSA or other groups.¹³⁴

Possibly in order to motivate elected officials to grant some protections to women and children, in 1899 McCulloch published *Mr. Lex*, and sent a copy to all Illinois legislators.¹³⁵ The book analyzed the legal status of women in Illinois, especially concerning guardianship of children.¹³⁶ However, the book also explained that, in Illinois in 1899, women could not bequeath anything to their children that was not specifically in their own names, even though Illinois statutes allowed married women the control of their earnings and property.¹³⁷ The father could disinherit a child in his will; select all the children's clothing; decide punishments for the children; dictate what church they attended; choose medical treatment and burial locations for children; keep the wages of the children; disown a child at age twelve and cast him/her onto the street; and basically make every decision about a child in Illinois, to the total exclusion of the wife and mother.¹³⁸ This book was well-publicized, and McCulloch, in 1901, drafted a bill that was passed that year by the Illinois General Assembly¹³⁹ which granted equal guardianship.¹⁴⁰

Illustrating the inequitable position of women from another angle, McCulloch addresses the issue of taxpaying women and their lack of voting rights in an article

¹³⁴ Gorecki, *supra* note 28, at 514. *See also* Wilson, *supra* note 4, at 14.

¹³⁵ Boyer in James, *supra* note 26, at 459.

¹³⁶ Wheeler, *supra* note 127, at 97-98.

¹³⁷ CATHARINE WAUGH MCCULLOCH, MR. LEX, OR THE LEGAL STATUS OF MOTHER AND CHILD 12 (1899).

¹³⁸ *Id.* at 12-81.

¹³⁹ *Illinois Senate Journal*, 42 G.A., 1901, at 226 and 336; *Illinois House Journal*, 42 G.A., 1901, 292, 513. *See also* Catharine Waugh McCulloch, *Chronology of Woman's Rights Movement in Illinois*, EVANSTON WOMEN AND THE FIGHT FOR THE VOTE (Last visited May 1, 2024), <https://evanstonandthe19th.omeka.net/exhibits/show/evanstonwomen/item/52>.

¹⁴⁰ *Id.* at 306. *See* Catherine Waugh McCulloch, *Guardianship of Children*, SCHLESINGER LIBR. RADCLIFFE INST., 219 (Last visited Apr. 29, 2024), [https://iif.lib.harvard.edu/manifests/view/drs:461919163\\$219i](https://iif.lib.harvard.edu/manifests/view/drs:461919163$219i). (*reprinted* from Chicago Legal News, January 12, 1912.) McCulloch gives a short history of guardianship, sites states which have equal guardianship and the statute numbers, then prints the draft of the proposed bill. *See also* Boyer, in James, *supra* note 26, at 459.

in *Chicago Legal News* in 1902.¹⁴¹ Citing examples from states all over the U. S.,¹⁴² which give the states' legislatures "unlimited power in prescribing restrictions on the right of franchise and in making extensions of this right in elections of statutory officers not named in the constitution,"¹⁴³ McCulloch argues that the Illinois courts have given this same power to the Illinois legislature.¹⁴⁴ She cites cases to support her position, and even expands the scope: in some states non tax-paying women also enjoy suffrage. Using examples from New York, Delaware, South Carolina, Louisiana and Iowa,¹⁴⁵ she drives home her point: Illinois women taxpayers deserve to vote. She concludes by saying, "Are not the women tax-payers of Illinois as worthy of confidence and honor as their sisters in the neighboring states?"

¹⁴¹ Catherine Waugh McCulloch, *Tax-Paying Women and the Ballot*, *CHI. LEGAL NEWS*, (May 24, 1902), [https://iif.harvard.edu/manifests/view/drs:461919163\\$75i](https://iif.harvard.edu/manifests/view/drs:461919163$75i).

¹⁴² *Id.* McCulloch references state Supreme Court cases from Michigan, Kansas, Nebraska, Ohio, Georgia, Iowa, New Jersey, as well as several Western and U. S. Supreme Court cases in the body of the article. MCCULLOCH PAPERS, *supra* note 3.

¹⁴³ MCCULLOCH PAPERS, *supra* note 3.

¹⁴⁴ *Id.* citing *People v. English*, 139 Ill. 631; *Plummer v. Yost*, 144 Ill. 68; *Ackerman v. Henck*, 147 Ill. 514; *Dorsey v. Brigham*, 177 Ill. 256; *Davenport v. Drainage Com.*, 25 Ill. App. 92; *People v. Welsh*, 70 Ill. App. 641; and *People v. Nelson*, 133 Ill. 565. *Plummer v. Yost* is especially pertinent. In that case, "women candidates sought review of a judgment of the County Court of Jefferson County, Illinois, that found in favor of contestant male candidates. The trial court held that the ballots cast by female voters, in an election for the offices of members of the board of education of a school district, were invalid. The trial court's conclusion that the contestants had been duly elected was based upon its holding that only the ballots cast by male voters were legal. On appeal, the court held that the trial court erred in holding that the women who voted at the election were not entitled to vote or have their ballots counted. The only ground upon which the women's right to vote was questioned was that they were not "male citizens of the United States," according to the literal interpretation of the language used in Ill. Const. art. 7, as referred to in an Illinois statute that entitled women to vote at any election held for the purpose of choosing any officer under the general or special school laws of the state. The court held that the qualifications prescribed in Ill. Const. art. 7 were adopted, except the one relating to sex. If the statute had adopted the sex qualification an absurd result would have been that women were entitled to vote provided they were males. The women who voted at the election were entitled to do so and their ballots were properly counted in favor of the female candidates. It followed that they were legally elected to the offices of members of the board of education." From Lexisnexisonline, *Martha E. Plummer et al. v. Oscar Yost et al.*, Supreme Court of Illinois, 144 Ill. 68; 33 N.E. 191; 1893 Ill. LEXIS 1112.

¹⁴⁵ Here she cites, e.g., *People v. English*, 139 Ill. 631; *Plummer v. Yost*, 144 Ill. 68; *Ackerman v. Henck*, 147 Ill. 514; *Dorsey v. Brigham*, 177 Ill. 256; *Davenport v. Drainage Com.*, 25 Ill. App. 92; *People v. Welsh*, 70 Ill. App. 641; and *People v. Nelson*, 133 Ill. 565.

Taxation without representation is tyranny in Illinois to-day (sic) as much as it was in the time of King George.”¹⁴⁶

Even though McCulloch was involved both statewide and nationally with the suffrage movement,¹⁴⁷ her speeches often resounded with the same messages as her publications. At the National American Convention of 1903, speaking on Women’s Privileges, and later at the state conventions, McCulloch pointed out that women, without the right to vote, were equivalent to property controlled by a husband, who could capriciously control her and the entire household. Further, high-paying appointed positions were closed to women because they lacked the power to influence appointments due to lack of suffrage. She said,

“One of the principal reasons why women do not obtain the ballot is because there is rooted in the popular mind the notion that now the laws in all respects are so favorable to women and grant them such great privileges that they would gain nothing more by a vote but instead might lose these privileges. A careful investigation of laws relating to women's property, earnings, rights of action, eligibility to paying positions, selection of family home, guardianship of children and many others where women's interests are involved shows that these so-called privileges usually give women less than men enjoy in the same States and that the vote in their own hands is the only assurance of equal privilege...¹⁴⁸ Women need the ballot not only for the honor of being esteemed peers among freemen, but they want it for the practical value it will be in protecting them in the exercise of a citizen's prerogatives...But, it is asked, ‘Have not women had some sort of protection without the ballot?’ Yes, but it has been only such protection as the caprice or affection of the voting class has given, gratuities revocable at will. The man of wealth or power defends his wife, daughter or sweetheart because she is his, just as he would defend his property. His own opinions, not her views, decide him concerning the things from which she should be

¹⁴⁶ *Id.*

¹⁴⁷ McCulloch was president of the Illinois Equal Suffrage Association in 1899; for NAWSA, she was auditor, first- vice-president (1910-11) and legal advisor (1904-1911); she was often a delegate or speaker at national suffrage gatherings and was sought after for her speaking abilities. See SUSAN B. ANTHONY & IDA HUSTED, 4 HISTORY OF WOMAN SUFFRAGE 459, 598, 602, 630, 697, 989 (1902). See also Husted, *supra* note 101, at 17 (auditor), 70, 266, 310, and 397.

¹⁴⁸ Husted, *supra* note 101, at 70.

protected. Should she ever need protection against ‘her protector,’ there is no one to give it...

Entrance into remunerative employments in many instances has been denied women. In many of the States the professions of law, medicine, dentistry and all the elective offices are closed by statute. Appointive positions, also, which women might legally hold are practically withheld from them because of their lack of the ballot. The appointing power - president, governor, mayor, judge or commissioner - all owe their own positions to voters who expect some minor appointment in acknowledgment of service.”¹⁴⁹

Meanwhile, the women’s groups were still focused upon the lack of women’s rights, especially regarding their children. In 1905, McCulloch and other women of similar concerns, through their various organizations,¹⁵⁰ had solicited legislators to enact six bills, three of which were drafted by McCulloch herself. Women from several groups traveled to Springfield, Illinois, hoping to convince legislators to pass laws that protected women and children. Remember: women were still disenfranchised. In “Women and the Legislature”¹⁵¹ McCulloch reported on the results of the General Assembly session in Springfield. She says that at first the woman suffrage bill seemed successful from committees from the Senate and the House. Fifteen women from all over Illinois, representing different organizations

¹⁴⁹ ANTHONY & HUSTED, *supra* note 146, at 378-79, 679, 989.

¹⁵⁰ *Printed articles and pamphlets by Catharine Waugh McCulloch re: suffrage and other topics, undated in MCCULLOCH PAPERS 1, SCHLESINGER LIBR., RADCLIFFE INST.* (Last visited May 1, 2024), [https://iif.lib.harvard.edu/manifests/view/drs:461412132\\$1i](https://iif.lib.harvard.edu/manifests/view/drs:461412132$1i) [Hereinafter McCulloch Suffrage] In the body of the publication, McCulloch mentions that the Illinois Equal Suffrage Association supported the suffrage and age of consent bills, while the WCTU supported these same two bills plus other “reform measures.”

¹⁵¹ *Id.* This publication first appeared in 1905 when the age of consent was raised to 16 and circulates prior to and during 1913 when the suffrage bill passed the Illinois General Assembly. McCulloch had personally drafted over half of the suggested bills; she and members of the IESA, NAWSA, WCTU, and other smaller groups distributed them to legislators and women in various supporting organizations. *See also* Boyer, in James, *supra* note 26, at 459; McCulloch was a prolific writer of personal correspondence, legal documents, drafts of potential bills for legislators, poems, plays and articles, all of which sought to illustrate the legal position of women and children, especially without suffrage. She often wrote for the Illinois Equal Suffrage Association, and at the end of every publication, McCulloch would include “Chronology of the Woman’s Rights Movement in Illinois,” *supra* note 138, in which she would trace the status of women’s rights from old English common law to the time of that particular publication. *See* Catharine Waugh McCulloch Papers, *supra* note 3, especially publications from the Illinois Equal Suffrage Association (1905-1913).

and nationalities, spoke on behalf of the bill, which was the best-attended meeting committee meeting. Unfortunately, the bill was ultimately defeated.¹⁵²

The bills that came to vote by the Illinois legislature concerned traveling libraries, training for nurses, a forestry bill, an age of consent for girls bill,¹⁵³ the women's suffrage bill, and an omnibus bill entitled "Crimes Against Children Bill."¹⁵⁴ McCulloch, reporting on the status of these proposals, said that only the "Crimes Against Children Bill" was passed as she had drafted it. The library bill failed for lack of financial support. The nurses bill failed, probably, she reasoned, because few men were nurses. While the forestry bill as drafted failed, the legislature did pass a weaker forest preserve bill.

Tongue-in-cheek, McCulloch, somewhat bitterly reports on some bills which legislators did pass, including laws to stop the live shooting of pigeons; to prevent divorcees from marrying within one year; and one to raise the marriage age of girls to 16 and boys to 18.¹⁵⁵

A critical bill drafted by McCulloch which did not pass involved raising the age of consent for girls from age from fourteen to eighteen, and the women's groups had been especially supportive of that bill. At common law, the age of consent for girls was ten years old;¹⁵⁶ the women's groups wanted it to be at least eighteen. Twenty-eight Senators had pledged their support and only twenty-six votes were needed for passage. Seven of these Senators were on the committee needed to pass the bill before a total vote could be taken. However, on the day the bill was presented, all seven Senators were absent.¹⁵⁷ After much political maneuvering and the addition of two "obnoxious amendments"¹⁵⁸ which were attached, the age of consent for girls was raised to sixteen, not eighteen as promised by the Senators.

"One of these amendments exempts from punishment, under certain circumstances, boys of 17 no matter how young the girl. Illinois can now have the unenviable distinction of making vice easier for boys than any other State in the Union. Some call this 'protection of

¹⁵² McCulloch Suffrage, *supra* note 149, at 12.

¹⁵³ *Id.*

¹⁵⁴ *Id.*

¹⁵⁵ *Id.* at 13.

¹⁵⁶ RONALD HAMOWY. MEDICINE AND THE CRIMINATION OF SIN: *Self Abuse* " in 19th Century America. 231 (1977).

¹⁵⁷ McCulloch Suffrage, *supra* note 149, at 12.

¹⁵⁸ *Id.* at 12.

boys,' but it is nothing more than invitation to vice by guaranteeing immunity from punishment.”¹⁵⁹

The other “obnoxious amendment” stopped the prosecution for men who raped or abused girls if they then married the girl. McCulloch pointed out that with the new age of marriage for girls raised to sixteen, some interesting cases might arise when men abused girls under that age and sought to marry them to avoid punishment. She also suggested that facts had shown that a husband, forced to marry to avoid prosecution, often deserted the raped wife and child.¹⁶⁰ Remembering that McCulloch had drafted several of these bills, in terms of this latter situation she suggests a bill that read, “Every man who shall marry any woman for the purpose of escaping prosecution for rape or seduction and shall afterward desert her without good cause shall be imprisoned in the penitentiary for not less than two years and not more than twenty years,” which mirrored laws in another state.¹⁶¹

Overall, in this article, McCulloch suggests that women’s groups continue to fight for laws which raise the age of consent for girls to eighteen; “concern conveyances between husbands and wives; divorce...dower...kindergartens; tuberculosis sanitariums; treatment of rabies; suppression of bribery; gambling and mobs; plumbing inspection; stale food in metallic cans; insanity as cause for divorce”¹⁶² and other issues of special importance to women. Fortunately, bills repealing school suffrage for women and relaxing child labor laws were defeated.¹⁶³ She concluded that, “The moral of all this is: the ballot is the most important thing. Therefore, get the ballot, and with it all the lesser rights. But if you fail again, ask for all the small fragments of justice to women, and get what you can.”¹⁶⁴

McCulloch again used the press in her race for Justice of the Peace in Evanston, Illinois, in 1907. Using her role as wife and mother, she stressed to the *Evanston Press* that, “as I am the mother of little children and must be near them I shall be in Evanston most of the time during the next two years, and thus be at hand to perform any judicial duties necessary.”¹⁶⁵

¹⁵⁹ *Id.* at 13.

¹⁶⁰ *Id.*

¹⁶¹ *Id.*

¹⁶² *Id.* at 14.

¹⁶³ *Senate Journal*, 38 G.A. (1893) 194, 495; *House Journal*, 38 G.A. (1893) at 608, 845 and 1183-1184.

¹⁶⁴ McCulloch Suffrage, *supra* note 149, at 14.

¹⁶⁵ *Evanston Press*, March 30, 1907, as cited in Gorecki, *supra* note 28, at 514.

Apparently not satisfied that the emotional appeal would win the election, McCulloch used logic and history to sell her case. Prior to the election, she published “Women May Be Justices of the Peace”,¹⁶⁶ which traces the history of that office. She refers to a Justice of the Peace as, “the humblest judicial official in the jurisprudence of Illinois.”¹⁶⁷ In tracing the common law history of this position, she cited Edward III in 1344, who set no gender qualification on the office, instead focusing up the character and reputation of the person. She pointed out that under Edward I, “many women were entered as holding courts of Frank-pledge,” of which she gave several examples.¹⁶⁸ She mentioned that in “the famous Anne Clifford’s Diary, written during the seventeenth century, were many references to keeping her courts” and “an old charter...which gave Aliva Mowbray...’all manner of jurisdictions’¹⁶⁹ including judgeships; she cited other historical examples of women who had judicial powers, qualifying that they were the exception but did, in fact, exist. McCulloch also pointed out that in Oliver Goldsmith’s “She Stoops to Conquer”, he referred to Justices of the Peace who were women, and in Illinois, a woman was elected Master in Chancery, which is a much more powerful position than a mere Justice of the Peace.¹⁷⁰

She pointed out that judges of the circuit and supreme courts are only required to be “citizens” and “residents”, and the U. S. Supreme Court had held that women are both citizens and people.¹⁷¹ Statutes contain no gender requirement, nor does the oath of office. She contrasted the qualifications for holding office with those of voting, which specifically stated “male citizens.”¹⁷² Since women were qualified and able to hold these positions, the only reason a woman had not been elected in Evanston was because the people had not elected one yet. She concluded by saying, “The thought of a woman justice need not amaze an Evanstonian, because perhaps many of our fair-minded, justice-living voters might trace back their descent a century or more to some of the early women justices of the peace in the mother country.” In this way, McCulloch paved the way for her own election by citing

¹⁶⁶ *Women May Be Justices of the Peace*, *supra* note 3, at 1.

¹⁶⁷ *Id.* at 1.

¹⁶⁸ *Id.* at 2.

¹⁶⁹ *Id.* at 3.

¹⁷⁰ *Id.* at 4. Later, McCulloch was named Master of Chancery in Cook County Superior Court; *see* Boyer, in James, *supra* note 26, at 460.

¹⁷¹ U. S. CONST. amend. XIV, § 1: “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.” *See also* KATHLEEN S. SULLIVAN, *Women and Rights Discourse in Nineteenth Century America*, in CONSTITUTIONAL CONTEXT 93- 180 (2007); *see also* Kerber, *supra* note 67, at 189, 221.

¹⁷² *Id.* at 2.

historical precedent, and urging progressive, logical-thinking males to vote for her. As mentioned above, McCulloch was elected to two terms as Justice of the Peace in Evanston—by all male voters.¹⁷³

Then in 1909, McCulloch published “Mayors of Five States—Recommend Municipal Suffrage for Women.”¹⁷⁴ To write this pamphlet, she sent letters containing ten questions regarding women’s voting habits to mayors throughout five states whose women had been enfranchised with statehood through the constitutions. She then quoted mayors from cities in Wyoming, Colorado, Idaho, Utah and Kansas; all supported women’s suffrage and participation.¹⁷⁵ Charts revealed the results, and in her summary at the end, McCulloch states: “The laws of a State are a sure index of its degree of civilization. Notice how ideally women and children are protected by law in Wyoming, Colorado, Utah and Idaho, where women vote on the same terms as men.”¹⁷⁶ She then does a short analysis of women’s rights in these states, showing that women and children are better protected when women have the vote. She concludes by saying, “I challenge the discovery of four man-suffrage states or countries where women and children are equally protected.”¹⁷⁷ In keeping with the same theme, in “A Chicago Fable,”¹⁷⁸ McCulloch creates a clever story of U. S. and worldwide visitors to Chicago, all of which have female suffrage, questioning why Chicago women are not enfranchised. Using *reductio ad absurdum*, the arguments of “Average Chicago Man” become ridiculous, and he offers to join the Chicago Men’s Equal Suffrage League!¹⁷⁹

The same theme of women’s disenfranchisement and helplessness appears in different forms in many other McCulloch publications.¹⁸⁰ One of the most famous and popular is the play, “Bridget’s Sisters or The Legal Status of Illinois Women in

¹⁷³ See *supra* notes 4 and 5.

¹⁷⁴ Catharine Waugh McCulloch, *Mayors of Five States Recommend Municipal Suffrage for Women*, EVANSTON AND THE FIGHT FOR THE VOTE (1909).

¹⁷⁵ Remember that in 1869, William Bright had sponsored a bill for full women’s suffrage before the Wyoming Territorial Legislature and the governor signed the bill. Then, in 1890, when Wyoming was admitted as a state, women there already had full suffrage and had been able to vote since 1870. See *Facts Stronger Than Fiction*, EVANSTON WOMEN’S HIST. PROJECT (Jan. 1, 1909), <https://evanstonandthe19th.omeka.net/items/show/55>.

¹⁷⁶ Catharine Waugh McCulloch, *Mayors of Five States Recommend Municipal Suffrage for Women*, EVANSTON AND THE FIGHT FOR THE VOTE (1909).

¹⁷⁷ *Id.*

¹⁷⁸ Catharine Waugh McCulloch, Special Collections and University Archives, A Chicago Fable, 1-4 (n.d.).

¹⁷⁹ *Id.* at 4.

¹⁸⁰ See e.g., Catharine Waugh McCulloch, *Some Wrongs of Michigan Women, 1850-1908*: [from an address before the Michigan Constitutional Convention, January 8, 1908] (1908).

1868,”¹⁸¹ which was published by the Illinois Equal Suffrage Association in 1911 and was actually part of the genesis for that organization.¹⁸² Seeing the power of legislation for the protection of women, Myra Bradwell and her like-minded contemporaries founded the Illinois Equal Suffrage Association.¹⁸³

This play was designed to reveal the legal inequities between the genders, as well as the advantages of female enfranchisement, but in a palatable form, amenable to a mixed audience at this time. In the introduction to "Bridget's Sisters," which is set in 1868, Chicago, Illinois, McCulloch explains that an incident transpired in Myra Bradwell's life that she has used as an allegorical analogy in the play.¹⁸⁴ McCulloch based the plot and main character upon Myra Blackwell's experience—in which she was summoned to court to relinquish the wages of her housekeeper to a creditor of the housekeeper's husband. In the play, McCulloch illustrated that under prevailing Illinois law women had nothing other than what their husbands chose to provide, and all decisions regarding their children were made by the husband. Further, the wives' wages belonged to the husband,¹⁸⁵ and could be seized by creditors to settle husbands' bills, which formed the premise of this play.¹⁸⁶

First, McCulloch explains that Bradwell, being a legal scholar, would not have asked the type of questions that the women in the play posit. Further, the other women in the play, "...represent the different types of women, who, with a common sisterly spirit, saw their own duty toward their helpless women neighbors."¹⁸⁷ The

¹⁸¹ See CATHARINE WAUGH MCCULLOCH, BRIDGET'S SISTERS, OR THE LEGAL STATUS OF ILLINOIS WOMEN IN 1868, SCHLESINGER LIBR., RADCLIFFE INST. (1911), [https://iif.harvard.edu/manifests/view/drs:2574306\\$1i](https://iif.harvard.edu/manifests/view/drs:2574306$1i) (a paper copy of this play).

¹⁸² See Mary Lee Sargent, *Women's Rights in Illinois*, (Oct. 1998), http://www.maryleesargent.org/papers/Womens_Rights_in_Illinois.html. (A speech presented to the Champaign Business and Professional Women's Club). See also Mark Sorenson, *Ahead of Their Time: A Brief History of Woman Suffrage in Illinois*, <https://www.lib.niu.edu/2004/ih110604half.html>.

¹⁸³ *Id.*

¹⁸⁴ See Frances Olsen, *From False Paternalism to False Equality: Judicial Assaults on Feminist Community, Illinois 1869-1895*, 84 MICH. L. REV. 1518, 1523-24 (1986).

¹⁸⁵ Gorecki, *supra* note 28, 511. Gorecki says, "Because she managed the *Chicago Legal News*, Bradwell often found herself in from of the Illinois Legislature. In 1869, she "drafted the law giving married women their own earnings; she became the first and only woman in the world to possess her own earnings by special act of the Illinois Legislature." See Kerber, *supra* note 67, at 29-49, regarding the status of women as property.

¹⁸⁶ *Bridget's Sister*, *supra* note 150, at Introductory Note 31.

¹⁸⁷ *Id.*

men represent just “average men”, some of whom recognize the need for legal action after hearing the facts of the play.¹⁸⁸

A saloonkeeper sues Mrs. Bradley, representing Myra Bradwell, for wages she has paid her housekeeper, Bridget, in order to satisfy the bar tab Bridget’s husband has accumulated. The husband is a drunkard and beats the family according to “the rule of thumb”. Although Bridget admits that her husband’s “thumb is thick,” the beatings aren’t as bad as seeing her children cold and hungry.¹⁸⁹ Mr. and Mrs. Bradley appeal to the court, but the judge must follow existing Illinois law and not a moral law, so Bridget must relinquish the money to her husband’s creditor, the saloonkeeper.

Mr. Bradley, who has accompanied his wife to court to speak for her, brings up the concept of “separate estate” from a law passed in 1861, and argues that under that law, Bridget’s wages are her own.¹⁹⁰ The Justice explains that the 1861 law merely allows a father to set aside some money in trust for his daughter prior to her wedding. Further, the law of curtesy allowed the husband lifelong use of his wife’s land, and thus, her wages.

Bradley argues that Bridget’s wages are being held in trust by his wife, who is morally bound to keep it safe, but the Justice rules that the court must honor the common law which still prevails,¹⁹¹ not morality or emotions. The wife’s wages must be used to pay the bills of her husband, despite the hardships upon the children.¹⁹² If the law is to be changed, it must be done in the legislature, not in his courtroom. Further, he states that if women could vote, the legislature might listen to female voters and make changes to common law.¹⁹³

In the play’s beginning, both Mr. and Mrs. Bradley oppose suffrage, but subsequently change their minds after the court’s decision.¹⁹⁴ Other characters

¹⁸⁸ *Id.*

¹⁸⁹ *Bridget’s Sisters*, *supra* note 150, at 6.

¹⁹⁰ *Id.* at 14-16. *See* McCulloch, *supra* note 115, at 5-7. *See also* Kerber, *supra* note 67, at 60-80 regarding women and work under common law.

¹⁹¹ *Bridget’s Sisters*, *supra* note 150, at 16.

¹⁹² *Id.* at 15-16.

¹⁹³ *Id.* at 18.

¹⁹⁴ *Id.* at 7-8. *See also* McCulloch, *supra* note 115 regarding the status of Illinois laws concerning women generally.

include Mrs. Adoremien,¹⁹⁵ Mrs. Pious,¹⁹⁶ Mrs. Equity,¹⁹⁷ Mrs. Bitter,¹⁹⁸ Mrs. Takerights,¹⁹⁹ all representations of women's viewpoints regarding suffrage. However, after seeing the limitations of women under the law and how the court has treated Bridget, they all become "Bridget's Sisters" and vow to join forces and establish Illinois Equal Suffrage Association to change the laws.²⁰⁰

Although by today's standards, such a play would seem too simplistic, Mrs. McCulloch presented the play at least once to an audience of women at the North Shore Country Club who "manifested sympathy as the action of the play unrolled a story of masculine tyranny."²⁰¹ Despite the obvious nature of the play, it brings to light the legal situation of women in 1868. People of this time period enjoyed plays of this nature, and "Bridget's Sisters" was performed frequently--amazingly, this "striking suffragist play", written in 1911, was performed in the Midwest, with the last performance in 1990.²⁰²

From a national viewpoint, over time McCulloch felt that NAWSA represented primarily the East. In 1912, she and others created the Mississippi Valley Conference, which held annual conventions for Midwestern women devoted to the suffrage cause.²⁰³ Then, in the early 1900s, two revisions were proposed to the charter of Chicago. Women used this opportunity to try to attain suffrage.²⁰⁴ "A

¹⁹⁵ *Id.* at 18-19. Her general position is that men should retain the power and make all decisions because men are generally fair.

¹⁹⁶ *Id.* at 18-19. Mrs. Pious argues that unlimited power in any hands leads to abuse.

¹⁹⁷ *Id.* at 18. She points out that Abigail Adams probably was thinking of women when she asked John Adams to provide equal rights for women because, "A class politically disenfranchised must be legally, socially, and industrially helpless."

¹⁹⁸ *Id.* at 19-20. Mrs. Bitter alleges that men always have power over women and use it badly.

¹⁹⁹ *Id.* at 19-20. She says that during the first year of marriage, she explained to her husband that she would be a full partner in the relationship in every sense, and thereby earned his respect.

²⁰⁰ *Id.* at 27-31. The incident actually spurred Bradwell to form the Illinois Equal Suffrage Association. *See supra*

note 147, which published this play for McCulloch.

²⁰¹ *See* Newspaper clipping, *Suffragist Reads a Play Picturing Brutal Man* (1911); McCulloch Papers, *supra* note 3. *See also* Wilson, *supra* note 4, at 28.

²⁰² David Radovich, *Center Stage: Midwestern Plays and Playwrights* (May 2004) <http://castle.eiu.edu/~agora/May04/Radall.htm>

²⁰³ Boyer in James, *supra* note 26, at 459.

²⁰⁴ *See* Catharine Waugh McCulloch, *To the Chairman and Members of the Charter Convention of the City of Chicago* 1-2 (n.d.), and *Mayors of Illinois on Chicago Woman's Suffrage*, *supra* note 173, at 1-4. Both Frank and Catharine Waugh McCulloch testified for women's suffrage at the charter hearings. She lists the women's organizations who want the new Chicago charter to include suffrage for women (at 1), benefits of having Chicago women voting (at 2-4), and opinions of Mayor Edward F. Dunne, plus mayors of Dixon, Golconda, and Lincoln, IL, all supporting women's suffrage in the new charter. *See also* Wheeler, *supra* note 127, at 99.

woman's suffrage page was started in one of the daily newspapers, and the first women quoted were Jane Addams and Catharine Waugh McCulloch."²⁰⁵ This was the genesis of the "auto suffrage movement."²⁰⁶

McCulloch and other members of the Illinois Equal Suffrage Association would travel in groups²⁰⁷ throughout Illinois by automobile.²⁰⁸ They would notify the mayors, church and town leaders in advance, then speak in public places in support of Illinois and national suffrage.²⁰⁹ McCulloch commented:

"We endured martyrdom other than that caused by dust, heat, mud, or rain...The leading club women in the vicinities visited opened hospitable homes and gave the speakers the backing of their social prestige...Earnest attention, courteous approval, and enthusiastic applause met us"²¹⁰

The women distributed over 500,000 handouts,²¹¹ they raised money for scholarships to certain colleges for the best essays on women's suffrage; they even paid a dollar for 100 legitimate signatures on pro-suffrage petitions.²¹² In short, the women used the current technology and innovative thinking to press for enfranchisement.

Another issue the suffragists faced was women who might have religious reservations about voting. To assuage their concerns, McCulloch wrote, "The Bible on Women Voting." While many suffragists used Galatians 3:28 to support

²⁰⁵ LINN, *supra* note 1, at 267.

²⁰⁶ *Id.* See also Hulsted, *supra* note 101, at 129. See also Catharine W. McCulloch, *The 1910 Illinois Suffrage Auto Tours*, MARY E. DILLON COLLECTION, SCHLESINGER LIBR., RADCLIFFE COLL., CAMBRIDGE, MA. [hereinafter cited as *The Suffrage Auto Tours*]. See also VIRGINIA SCHRAFF, *TAKING THE WHEEL: WOMEN AND THE COMING OF THE MOTOR AGE* 79-81, 192, 216 (1991).

²⁰⁷ McCulloch often traveled with Ella Stewart, an Illinois suffragist and professional lecturer. See Wheeler, *supra* note 127, at 101-103. Stewart was president of Illinois Equal Suffrage Association from 1906-1912.

²⁰⁸ Catharine Waugh McCulloch, *How to Conduct Automobile Trips*, THE WOMAN'S J. 121 (July 30, 1910).

²⁰⁹ ANNE FIROR SCOTT & W. K. BOYD, *GRASSROOTS WOMEN'S ORGANIZATIONS*, RESEARCH COLLECTIONS IN WOMEN'S STUDIES, DUKE UNIV.(1989). See also Adelman, *supra* note 56, at 425.

²¹⁰ *The Suffrage Auto Tours*, *supra* note 203, 34-35.

²¹¹ *Why Illinois Women Should Vote*, Chicago: Illinois Equal Suffrage Association, with handwritten note from Catharine Waugh McCulloch, saying, "We distributed 500,000 of these in our suffrage auto tours" (n.d). See also Holzwarth, *supra* note 29. (Photograph of Rockford College graduates embarking on auto tour, Evanston, IL: J.D. Toloft, photographer).

²¹² *The Suffrage Auto Tours*, *supra* note 203.

suffrage,²¹³ in this pamphlet McCulloch displays both her vast Biblical and historic knowledge and applies it to modern situations, such as women voting:

“He said that He came to the poor, to heal the broken-hearted, to preach deliverance to the captives, to set at liberty them that were bruised. Women knew that they were poor, were broken-hearted and bruised. They were bound by custom, were captives of greed and lust and were the most powerless of human beings²¹⁴...Ten Commandments directed the honoring of mothers as well as fathers²¹⁵...With Christ’s example before us, with Paul’s words that there is neither male nor female in Christ Jesus, but that we are all one...We must first admit that Christianity has been the inspiration which has already partly lifted women out of the degradation of heathenism and the bondage of the dark ages. But it has not yet brought woman full freedom for self-development and helpfulness. It has not yet made her man’s political equal...”²¹⁶

During this time, McCulloch wrote a questionnaire that was distributed by the League of Women Voters which asked women questions about their legal status.²¹⁷ As explained above, she also personally authored several bills that would allow women to vote in municipal and presidential elections,²¹⁸ one of which was passed in 1913. Further, as president of the National League of Women Voters, she drafted an amendment to the Illinois Constitution that would permit women to vote on state issues.²¹⁹ Optimistic, she wrote an article for the State Central Committee of

²¹³ Alvera Mickelsen, ed., *Women, Authority & the Bible* 161-179 and 42-50 (1986).

²¹⁴ Catharine Waugh McCulloch, *Women and the Bible*, in MCCULLOCH PAPERS, SCHLESINGER LIBR., RADCLIFFE INST., HARVARD UNIV., CAMBRIDGE, MA. 6 (Last visited May 1, 2024), [https://iif.lib.harvard.edu/manifests/view/drs:461412132\\$6i](https://iif.lib.harvard.edu/manifests/view/drs:461412132$6i). See also Norgren, *supra* note 4, at 153-155.

²¹⁵ *Id.* at 4.

²¹⁶ *Id.* at 9.

²¹⁷ *Questionnaire on Woman’s Legal Status*, *supra* note 126. This questionnaire was published through the National League of Women Voters.

²¹⁸ Catharine Waugh McCulloch, *Is It Fair*, in PRINTED ARTICLES AND PAMPHLETS BY CATHARINE WAUGH MCCULLOCH RE: SUFFRAGE AND OTHER TOPICS, (Last visited Apr. 28, 2024), [https://iif.lib.harvard.edu/manifests/view/drs:461412132\\$64i](https://iif.lib.harvard.edu/manifests/view/drs:461412132$64i). This pamphlet was published by the Legislative Committee of Illinois Federation of Women’s Clubs and shows a breakdown of countries and states that have women’s suffrage, a list of clubs and associations which support suffrage, and then the draft of a bill that was introduced in the Illinois Senate on January 26, 1905.

²¹⁹ Catharine Waugh McCulloch, *Woman Suffrage Amendment to the Constitution of the State of Illinois for Full Suffrage for Women*, (n.d.) In this proposed amendment, published in Chicago by the North Shore Press, McCulloch mentions a joint resolution for a suffrage amendment to the Illinois Constitution, which was introduced March 11, 1915.

Suffrage Amendment Alliance, saying that the amendment she had drafted stood a “better chance of success than ever before” in front of the Constitutional Amendment Committee of the Illinois Senate, November 1918.²²⁰ An interesting portion of that article reports that “876,700 women...voted for President,”²²¹ and that Illinois, unlike other states, had women judges and clerks of elections and poll watchers, so “No other of these states had election laws as carefully guarded against fraud.”²²² In a more ominous note, which reflected the conflict within the suffrage movement, McCulloch notes that “National Suffrage President Mrs. Carrie C. Catt, favored the Illinois Constitutional Convention as the best way of securing suffrage for Illinois women,”²²³ but in a letter sent to the Suffrage Amendment Alliance dated Feb. 7, 1917, Catt did not pick a side about the best way to succeed. McCulloch remarks, “This is the proper attitude. When the National organization is not asked for money help, it should keep its hands off.”²²⁴ This statement reflected some internal friction within the Illinois Equal Suffrage Association between McCulloch, and Grace Trout of Oak Park, Illinois.²²⁵

Although there may have been some divisiveness about how best to achieve suffrage, McCulloch and the Illinois Equal Suffrage Association continued to lobby legislators, obtain signatures on petitions, gain support from prominent politicians and attorneys, and pass out pro-suffrage flyers, pamphlets and articles. One of most clever of these articles was published by McCulloch for the Mississippi Valley Suffrage Conference in which she turned the tables, using the same arguments men had given against women voting on men. In this piece, Mrs. Libertas et Justitia, who is the Chairman of the Elections Committee on the Oligarchy-of-Women State, is listening to arguments about whether MEN should be enfranchised. She says, “Really, gentlemen, I have my doubts whether your sex as a whole has the intellectual strength necessary for voting. I once saw a man idiot your sex as a whole has never produced a Frances E. Willard, a Susan B. Anthony, a Jane Addams ...”²²⁶ She argues that men are too emotional, saying, “I have observed it

²²⁰ Catharine Waugh McCulloch, *Suffrage Amendment Success* 1 (1917 or 1918) This article was written for the State Central Committee of Suffrage Amendment Alliance, 112 W. Adams St., Chicago, IL. The content suggests it was published in 1917 or 1918. *See also* McCulloch Autobiography, *supra* note 7.

²²¹ *Id.* at 2.

²²² *Id.* at 1.

²²³ *Id.* at 2-3.

²²⁴ *Id.* at 3.

²²⁵ *See* Wheeler, *supra* note 127, at 105-114. McCulloch left the IESA in 1914 to form the Woman’s Suffrage Alliance because of the rift in policy with Trout.

²²⁶ Catharine Waugh McCulloch, *Shall Men Vote?*, in ARTICLES AND PAMPHLETS BY CATHARINE WAUGH MCCULLOCH RE: SUFFRAGE AND OTHER TOPICS, SCHLESINGER LIBR.,

at football games and political conventions ... they howled like demons ... no woman's convention ever acted thus ... But neither crowd of women was as emotional as men."²²⁷ She points out that 106 boy babies are born for every 100 girls, but only about seventy of the boys survive; this means that men should relax and let women do the "heavy lifting" as men are too fragile. This piece takes every argument against women voting and turns it back onto men in a very satirical way that completely reverses the suffrage situation.²²⁸

Politically, despite the progress made with municipal and presidential suffrage, the revised Chicago charter and the Illinois Constitutional Amendment, McCulloch was still concerned with legal issues involving women's citizenship, especially after the passage of the Expatriation Act, March 2, 1907,²²⁹ which was upheld by the U. S. Supreme Court.²³⁰ In "Citizenship of a Wife,"²³¹ she explores the legal discrepancies that occurred when American citizens married citizens of other countries. She started with common law, in which the husband's view was basically that of the family. She wrote, "It is true that the Scripture provides that a man shall leave father and mother and cleave unto his wife, but the old English common law disregarded this command and the wife was obliged to do the 'cleaving'."²³² Further, if an American woman married a foreign man, she lost her citizenship; but, a foreign woman who married an American man automatically became a citizen.²³³ McCulloch discussed the problems in both scenarios.

RADCLIFFE INST., HARVARD UNIV., CAMBRIDGE, MA. (1912),
[https://iif.harvard.edu/manifests/view/drs:461412132\\$1i](https://iif.harvard.edu/manifests/view/drs:461412132$1i). This especially effective piece was published for the Mississippi Valley Suffrage Conference.

²²⁷ *Id.* at 2.

²²⁸ *Id.*

²²⁹ The Expatriation Act held that after March 02, 1907, any woman who was born in the United States and married an alien assumed the nationality of their husband, thus losing her U.S. citizenship. If this woman's husband subsequently became a U.S. citizen, she regained her U.S. citizenship (except if she had married someone whose race made her ineligible for repatriation). However, there were men who couldn't or didn't naturalize for one reason or another, and thus their wives would have to retain the nationality of their husband. *See Women and U.S. Naturalization Law: Naturalization Records, The Museum of Family History*, <http://www.museumoffamilyhistory.com/erc-ntz-wnl.htm>. *See also* Kerber, *supra* note 67, at 42.

²³⁰ The U.S. Supreme Court upheld the Expatriation Act of March 2, 1907, noting that "the identity of husband and wife is an ancient principle of our jurisprudence." (*Mackenzie v. Hare*, 239 U.S. 299, 311, 60 L. Ed. 297, 36 S. Ct. 106 (1915)).

²³¹ CATHARINE WAUGH MCCULLOCH, *Citizenship of a Wife*, in *THE WOMAN CITIZEN* 1324-1326 (May 29, 1920). [Hereinafter *Citizenship of a Wife in The Woman Citizen*]

²³² *Id.*

²³³ *Id.* at 1324.

Under the Expatriation Act, if the American woman married a non-citizen alien, in some states she could vote, run for office, or own real estate;²³⁴ but if the U.S. went to war with the alien's country, the woman then became an enemy, subject to deportation, internment, and close scrutiny by the U.S. government.²³⁵ Meanwhile, the alien woman who married a U.S. citizen did not have to be naturalized or swear a loyalty oath, prove she was of sound morals or even give up a title of nobility—in fact she could be an anarchist, but would be an immediate U.S. citizen!²³⁶ Even if the woman was a Communist, she was a citizen, protected by the Bill of Rights. McCulloch contrasted this treatment with that of returning soldiers, honorably discharged, who had to wait one year, rather than the usual five-year waiting period,²³⁷ to be granted citizenship.

In one particularly disturbing scenario, an American woman married a Spanish citizen in 1912, having the marriage certificate “legalized by the Spanish consul in New York,” where she also filed her divorce from her first husband. The man returned to Spain on family business, and wrote his wife that since Spanish law did not recognize divorce, they were not legally married and he was marrying another. The woman was left as a Spanish citizen, but not legally married or divorced, and not legally an American citizen.²³⁸ McCulloch and other suffrage groups urged the legislature for a bill by which women retained their citizenship upon marriage, regardless of the nationality of the husband,²³⁹ closer scrutiny of the women who married American men and gain immediate citizenship; McCulloch suggested the

²³⁴ *Mackenzie v. Hare*, 239 U.S. 299, 311; 60 L. Ed. 297; 36 S. Ct. 106 (1915).

²³⁵ *Citizenship of a Wife in The Woman Citizen*, *supra* note 228, at 1324.

²³⁶ *Id.*

²³⁷ *Id.*

²³⁸ *Id.*

²³⁹ In the matter of *Miller v. Albright*, 523 U.S. 420, (1998), the U.S. Supreme Court noted: “The statutory rule that women relinquished their United States citizenship upon marriage to an alien encountered increasing opposition, fueled in large part by the women's suffrage movement and the enhanced importance of citizenship to women as they obtained the right to vote.” In response, Congress provided a measure of relief. Under the 1922 Cable Act, marriage to an alien no longer stripped a woman of her citizenship automatically. But equal respect for a woman's nationality remained only partially realized. For example, in a U.S. Department of State Foreign Affairs Manual – Volume 7, a woman still lost her United States citizenship if she married an alien ineligible for citizenship; she could not become a citizen by naturalization if her husband did not qualify for citizenship; she was presumed to have renounced her citizenship if she lived abroad in her husband's country for two years, or if she lived abroad elsewhere for five years. A woman who became a naturalized citizen was unable to transmit her citizenship to her children if her non-citizen husband remained alive, and they were not separated. Thus, the Cable Act did not completely solve the problem of women losing their citizen if those chose to marry a non-American citizen.

draft of a bill to accomplish these goals. After passage of the Nineteenth Amendment in 1920, Congress later addressed this issue in 1922 with the passage of the Cable Act.²⁴⁰ Once again, McCulloch helped reveal legal inequities in the laws regarding women, and successfully pushed for a law that would provide equal protection and citizenship rights.²⁴¹

In spite of the progress in guardianship, age of consent, suffrage, and citizenship, huge disparities existed among women's legal rights throughout the country. These inequities inspired the National League of Women Voters (NLWV) in 1923 to recommend a standardization of women's legal rights throughout the U.S. In a publication of the Committee on Uniform Laws concerning the Legal Status of Women, McCulloch, as chairman, outlined the past, present, and potential future legal status of women as recommended by the NLWV.²⁴²

Included in the proposals were "removal of all common law disabilities of married women" including common law marriage; equal guardianship over both the person and property of children by both parents; jury duty for women; abolition of the "spoils system" for civil service positions; making family abandonment a criminal offense, with extradition for offenders; removal of all barriers for women being notaries, holding office, or signing petitions; and the removal of legal disabilities of women by specific, not "blanket laws".²⁴³ She then proposed a bill that would accomplish these goals.²⁴⁴

Part of the omnibus plan by the NLWV included the legal right for women to be able to serve on juries. The topic of women as jurors had been discussed as early as 1797, when Judith Sargent Murray expressed to a companion that, "I have

²⁴⁰ See *Women and U.S. Naturalization Law: Married Woman's Act (Cable Act) of Sept. 22, 1922*, MUSEUM OF FAM. HIST., <https://www.museumoffamilyhistory.com/erc-ntz-wnl.htm>.

²⁴¹ This closely followed the passage of the Nineteenth Amendment. It said that the right of any woman to become a naturalized citizen will not be denied or abridged because of her gender or due to marriage. It also changed the waiting period of aliens who married American men to three years before citizenship could be achieved. *Id.*

²⁴² See Catharine Waugh McCulloch, National League of Women Voters, *Standards recommended 1923 by the Committee on Uniform Laws concerning the Legal Status of Women*, 1-2 (1923), <https://images.socialwelfare.library.vcu.edu/items/show/165>. This article was published by the National League of Women Voters, Catharine Waugh McCulloch, Chairman. See also *Dedication for Catharine Waugh McCulloch at McCulloch Park*, EVANSTON ROUNDTABLE (Oct. 12, 2021), <https://evanstonroundtable.com/2021/10/12/dedication-for-catharine-waugh-mcculloch-at-mcculloch-park/>.

²⁴³ National League of Women Voters, *supra* note 239.

²⁴⁴ *Id.* at 4.

sometimes thought that we Women are hardly dealt by since strictly speaking, we cannot legally be tried by our Peers, for men are not our Peers, and yet upon their breath our guilt or innocence depends--thus our privileges in this [is], as in many other respects, tyrannically abridged I object to a male decision upon a female question."²⁴⁵ The topic had been discussed at the National American Convention in 1903, with Dr. Anna Howard Shaw saying that many women would like a chance to serve on juries--some would like to serve on trial of "sharks" who corrupt young men and women; others who do laundry six days a week for 75 cents a day would enjoy sitting down for a day and earning \$1.50 for their services.²⁴⁶ After the passage of the Nineteenth Amendment in 1920, women, now voters, became eligible to become jurors, but the application of this new duty was done on a state-by-state basis.²⁴⁷

The National League of Women Voters, seeking uniform legal rights for women throughout the United States, tackled the issue through its committee on Uniform Laws Concerning Women. Immediately after the passage of the Nineteenth Amendment, women in Illinois were still not allowed to serve on juries, so in a publication for that organization entitled, "Jury Women", McCulloch attempted to clarify the issues involved in women serving on juries,²⁴⁸ and suggested that a uniform set of laws concerning the legal status of women was the answer.²⁴⁹

First, McCulloch traced the history of trial by a jury of one's peers. She paused on its English roots, saying in "1215 A.D. King John in Article 39 of Magna Carta pledged to the barons that he would uphold the right of trial by jury of one's equals, 'Judicium parium,' judgment of one's peers."²⁵⁰ She defined a trial by jury as per the Bill of Rights, explained the different types of juries and their purposes. Next, she analyzed the states, to see which ones barred women from juries. If a state did not have a statute which barred women from being jurors,²⁵¹ then, under the Nineteenth Amendment, women were both voters and electors, and thus eligible

²⁴⁵ Kerber, *supra* note 67, at 131.

²⁴⁶ Harper, *supra* note 101, at 75, 239.

²⁴⁷ Catharine Waugh McCulloch, *Jury Women*, in PAPERS OF CATHARINE WAUGH MCCULLOCH 1877-1983: Loose notes, invitation, and printed material, (Last Visited May 1, 2024) [iiiif.lib.harvard.edu/manifests/view/drs:461918957\\$9i](https://www.iiiif.lib.harvard.edu/manifests/view/drs:461918957$9i).

²⁴⁸ *Id.* at 1-4.

²⁴⁹ National League of Women Voters, *supra* note 239, at 1-4.

²⁵⁰ *Jury women*, *supra* note 244 at 1. See also McCulloch's article in *Woman Citizen*, October 2, 1920, on this subject and ARTHUR C. TRAIN, COURTS AND CRIMINALS 148-175 (1922), and his article in *Saturday Evening Post* (Jan. 22, 1921).

²⁵¹ *Id.* at 2. When this pamphlet was printed, 22 states had the word "male" as being eligible for jury service.

for jury duty.²⁵² In states that barred women from jury duty, McCulloch suggested two recourses: either pass a bill which amended existing law, or file a “test case to get a ruling from the court on the present interpretation of the law... this can be done by mandamus action brought by some individual woman...”²⁵³ As seen below, both of these were done in the attempt to procure the right of women to serve on juries in Illinois.

One historical argument that had been advanced to prohibit women from serving on juries is from William Blackstone's *Commentaries*, who said that women were ineligible for jury service because of a "defect of sex."²⁵⁴ Another was that the jury might be sequestered overnight. With a bailiff or sheriff on duty, McCulloch argues, the jurors are safe, male or female.²⁵⁵ Another assertion was the notion that if women served on juries, they would then also have to serve in militias.²⁵⁶ These ludicrous arguments aside, the factors favoring women serving on juries were numerous. First, “women jurors are specially needed in cases involving women and girls and in cases affecting public morals,”²⁵⁷ and would be especially helpful in cases in which a woman’s sanity was in question. The Assistant City Physician of the City of Chicago, clearly expressed the need for women jurors when she said, “Many of the women were nervous wrecks, often physical wrecks with normal minds, many borderline cases to whom a jury of women was a comfort. It allayed their suspicions that they were maliciously prosecuted.”²⁵⁸

The NLWV was not the only organization focused upon the issue of women jurors. The Women’s Bar Association of Illinois (WBAI) had been investigating the topic as well: “Minutes of meeting of the Women’s Bar Association of Illinois dating back to the early 1930s document debates over tactics to achieve passage of the controversial Women’s Jury Bill.”²⁵⁹ McCulloch was on the Women Jury

²⁵² *Id.* Iowa and Michigan had automatically listed women as jurors; in New Jersey, Indiana, and Ohio, the Attorney General held that women were eligible for jury duty.

²⁵³ *Id.* at 2-3.

²⁵⁴ Kerber, *supra* note 67, at 130.

²⁵⁵ *Jury women*, *supra* note 244, at 3.

²⁵⁶ Paul S. Gillies & D. Gregory Sanford, *Records of the Council of Censors of the State of Vermont*, 680-681 (1991), Montpelier: Office of the Secretary of State, as cited in Gregory, Sandford, State Archivist, *From Ballot Box to Jury Box, Women and the Rights and Obligations of Citizenship* (June 23, 2000). The Vermont Judicial History Society, Middlebury, VT: Addison County Courthouse. *See also* Ella Stewart in Harper, *supra* note 101, at 138-139.

²⁵⁷ *Jury Women*, *supra* note, 244 at 3. *See also* McCulloch in *Woman Citizen*, *supra* note 228.

²⁵⁸ McCulloch, *supra* note 244 at 4, quoting Dr. Clara P. Seippel, the Assistant City Physician of the City of Chicago.

²⁵⁹ Adelman, *supra* note 56, at 426.

Information Committee of the Women’s Bar Association of Illinois,²⁶⁰ and through the work of early WBAI presidents, McCulloch and Esther Dunshee, a jury bill was introduced in the Illinois legislature in 1920.²⁶¹

Between 1920 and the enactment of the bill into law in 1939, the WBAI lobbied legislators and introduced bills (as they had for suffrage)²⁶² and filed test cases; they distributed over 1,000 copies of a short pamphlet in June of 1936, “in the nature of a rallying call to arms, not only to our members but to women in other organized groups throughout the state to enter the fray.”²⁶³ The WBAI set women’s jury duty as its primary objective, and urged members to speak to women’s groups, especially women attorneys, to push that one issue.²⁶⁴ In 1930, the Jury Bill Referendum won, but the Illinois Supreme Court declared it void.²⁶⁵ The next year, The WBAI lobbied the Illinois Legislature to pass a law for women on juries, but it failed to pass by a mere two votes. Over the next four years, lobbying by the WBAI continued on legislators in Springfield, and the WBAI reached out to hundreds of downstate women, urging them to lobby their legislators as well. Finally, in 1939, the Jury Bill passed, and was held constitutional by the Illinois Supreme Court.²⁶⁶

McCulloch continued her work for legal uniformity of laws concerning women. In “The Economic Status of a Wife Working at Home,”²⁶⁷ she contrasted the

²⁶⁰ Catharine Waugh McCulloch, *Jury Law Information* (Last Visited Apr. 26, 2024), [iiif.lib.harvard.edu/manifests/view/drs:461918957\\$9](http://iiif.lib.harvard.edu/manifests/view/drs:461918957$9). This was published through the Women’s Bar Association of Illinois. *See also* Herman Kogan, *The First Century: The Chicago Bar Association, 1874-1974*, 35, 63 (1974).

²⁶¹ *Jury’s In*, CHI. TRIB. (Dec. 31, 1989, 1:00AM). McCulloch served as president of the WBAI from 1916-1920; *see* Boyer in James, *supra* note 26 at 460.

²⁶² *See Women Lawyers Hold Annual Fall Outing at McCulloch House* (Last Visited Apr. 28, 2024), [iiif.lib.harvard.edu/manifests/view/drs:461819865\\$5i](http://iiif.lib.harvard.edu/manifests/view/drs:461819865$5i), showing women lawyers holding their annual fall outing at McCulloch’s house, Sept. 23, 1943, showing a photograph and a caption that explains that women attorneys “from all parts of Chicago” gathered at the McCulloch every fall to discuss issues and strategies.

²⁶³ *Jury’s in*, *supra* note 258.

²⁶⁴ *Id.* who explains that this work continued through the 1940’s as talks and leaflets continued, and the WBAI gave the federal court system the names of 1,000 voters “regardless of sex,” which enabled women in 9 counties who were eligible for jury duty to serve; each woman was sent a list of questions and 500 actually served on federal juries.

²⁶⁵ *Illinois Supreme Court History: Women and Juries* (Mar. 26, 2019), <http://www.wbaillinois.org/wbai/about/juries>.

²⁶⁶ *Id.*

²⁶⁷ Catharine Waugh McCulloch, *The Economic Status of a Wife Working at Home* (1924), <https://explore.chicagocollections.org/ead/uic/25/b882/>. This was published in Washington, D.C. for the National League of Women Voters.

situations of the eight million women working outside the home, whose hours, pay and work conditions are regulated by state or federal law with the woman homemaker who has none of these. The pamphlet was “limited to the pay, the financial returns, of the wife and mother who works in her house,” because despite improvements, homemakers do not have the same legal rights as women working outside the home.²⁶⁸ She cites two Seventh Circuit cases, including *Glover v. Alcott*, which held that the husband had the right to his wife’s earnings at the mill she owned, because her running the mill took her out of the home and “rendered her incompetent to perform the ordinary duties of the household;”²⁶⁹ and *Michigan Trust v. Chapin*, where a husband entered into a contract to pay his wife two hundred and fifty dollars per year for his upkeep. In this case, the court held that such a contract was “against public policy.”²⁷⁰

Although *Alcott* led to The Married Woman’s Act, which allowed a woman to keep her earnings, released her from liability for her husband’s debts, and gave her “complete, independent authority to dispose of her property,”²⁷¹ McCulloch points out the economic vulnerability of married women, saying, “In no state is a wife entitled to any pay for her service for the family.”²⁷² She gave fact patterns from several Illinois probate cases to illustrate where wives were left without dower rights. By far the most interesting case is that of *Blankenship v. Hall*.²⁷³ In that case, the Blankenships had built up a large farm through their joint efforts over a thirty-year period. Mrs. Blankenship was judged insane and spent six years in an asylum. During that time, Mr. Blankenship bought another forty acres and lived there with Mary Hall, with whom he had two sons. When Mrs. Blankenship was allowed to leave the asylum, her husband took her to a house on a lot he had purchased. He told her that she would live there alone.²⁷⁴ When he died, his will left everything to the two sons of Mary Hall, with whom he had made deeds to 120 acres each in the presence of a witness, and the small boys had given him a silver dollar as consideration. Thus, Mr. Blankenship sought to deny his wife her right to the property she had helped to work and acquire. Illinois law held that since the husband died testate and without children (the Hall children were not legally his

²⁶⁸ *Id.*

²⁶⁹ *Glover v. Alcott*, 11 Mich. 470 as cited in Lewis M. Miller, *Compiled Laws of the State of Michigan*, 1897, C.L. ’57 3293—C.L. ’71 4803—How. 6295, Act 168, 1855, at 420 App. Feb 13, at 2670, 2674-78, 2733.

²⁷⁰ *Michigan Trust v. Chapin*, 106 Mich. 384 (1895).

²⁷¹ Lewis M. Miller, *supra* at 266, at 2673.

²⁷² McCulloch, *supra* note 264, at 6.

²⁷³ *Blankenship v. Hall*, 233 Ill. 116; 84 N.E. 192 (1908) at 192.

²⁷⁴ *Id.* at 193.

offspring), the wife received in lieu of dower in the seized estate, one-half interest of real and personal interests. Illinois law also endowed Mrs. Blankenship with a widow's award and right of homestead. This included half of the entire estate, including the 240 acres her husband had tried to give to his illegitimate children. However, the court upheld the gifts to the boys, so the husband did not die "seized" and the 240 acres went to them.²⁷⁵ Mrs. Blankenship was entitled to half of the little house he had purchased for her, but the boys were entitled to half of that as well. Instead, her thousand dollars homestead right came out of the property on which her husband lived, as she was technically his wife although she lived elsewhere.²⁷⁶

The point of this pamphlet was to urge the Illinois legislature to establish community property rights that could be shared equally between husband and wife. She stresses the partnership necessary for a successful marriage and discusses the situation in the eight states that had already passed community property laws, ending with, "When laws are drafted by men only, who have only man's viewpoint, they are liable to work out unjustly. Women and men together can prepare a safer, more just, family-property law than can be found on the statute books of any state."²⁷⁷

In her later years, McCulloch and her husband traveled extensively, carefully documenting the laws of each country they visited, particularly in terms of legal rights of women and children.²⁷⁸ Back home in Chicago, with the Great Depression displacing hordes of men, women and children, civil rights allegations were rampant. In 1932, McCulloch was named to the committee that issued the Report of the Chicago Civil Liberties Committee Regarding Observance and Violation of Constitutional Rights in the Metropolitan Area, entitled simply, "Civil Rights in Chicago, 1932."²⁷⁹ This commission examined over 300 alleged violations of constitutional rights by Chicago Police just during the year 1932.²⁸⁰ Some of the cases were very disturbing, involving searches without warrants,²⁸¹ including homes and offices; small children and women being beaten and/or imprisoned;²⁸²

²⁷⁵ Blankenship, *supra* note 270, at 194-198.

²⁷⁶ *Id.*

²⁷⁷ *The Economic Status of a Wife Working at Home*, *supra* note 264, at 15.

²⁷⁸ See Wilson, *supra* note 4, at 12. See also *McCulloch's Address Book*, SCHLESINGER LIBR., RADCLIFFE INST. HARVARD UNIV., CAMBRIDGE, MA., 4 (Last visited Apr. 29, 2024), [https://iif.lib.harvard.edu/manifests/view/drs:461820176\\$5i](https://iif.lib.harvard.edu/manifests/view/drs:461820176$5i).

²⁷⁹ MACHINE-GUN FIRE WOUNDS EIGHT REDS, N.Y. TIMES (May 07, 1932), <https://www.nytimes.com/1932/05/07/archives/machinegun-fire-wounds-eight-reds-police-weapon-discharged-in.html>

²⁸⁰ *Id.* at 3.

²⁸¹ *Id.* at 6-7, 8.

²⁸² *Id.* at 5-6.

“crackdowns” on unions and left-wing organizers and meetings;²⁸³ intimidation of witnesses and spectators;²⁸⁴ false arrests without access to legal representation, and other unlawful behavior.

One incident that bears examination occurred in Melrose Park on May 6, 1932. A meeting was called by the International Labor Defense to protest former police brutality; this arose from an incident on May 1st, when a person was “taken for a ride” and had his skull fractured. Four others were brutally beaten in jail, and twenty more were attacked by police with baseball bats and gun butts.²⁸⁵ On May 6, 1932, a group of unemployed people gathered in a vacant lot in Melrose Park. The police put them up against a wall and searched them; no one resisted.²⁸⁶ The police called the fire department and hoses were turned on the mostly unemployed crowd, but it broke. The “prisoners” looked as if they might run, so a policeman opened fire with a submachine gun, shooting nine people: one was left with a bullet near his spine, one was hospitalized with gangrene of the leg, and two others were left permanently crippled.²⁸⁷ Fifty-eight others were arrested, but the police continued to pursue anyone who attempted to flee. A young lady who had been shopping stepped from the store and was shot in the leg.²⁸⁸ All fifty-eight were charged with rioting and were not allowed to present any testimony on their own behalf. At trial they were all acquitted without calling a witness, but the States Attorney refused to file charges against the officer who shot the crowd with the machine gun, nor did the judge censure the police’s actions.²⁸⁹

It was no surprise that McCulloch, with her vast legal experience and focus upon human rights was named a member of this commission, and its recommendations parallel her lifelong goals and activities. While other examples of police brutality and judicial tolerance are equally gruesome, the committee was especially was critical of judges who denied jury trials, denied defendants the right to have counsel or even present a defense, or other egregious charges. Further, recent legislative activity allowed a person to be deported without cause other than membership in a labor organization.²⁹⁰ The committee made a list of recommendations for “Defense of Victims” and “Proceedings Against Violators,”

²⁸³ *Id.* at 8, 10.

²⁸⁴ *Id.* at 10.

²⁸⁵ *Id.* at 10-11.

²⁸⁶ *Id.*

²⁸⁷ *Id.* at 11.

²⁸⁸ *Id.* at 11.

²⁸⁹ *Id.*

²⁹⁰ *Id.* at 12-13.

both of which involved “Mobilizing Public Opinion” and utilizing the Chicago Bar Association and other similar-minded organizations.²⁹¹

VI. CONCLUSION

Catharine Waugh McCulloch was a prolific writer of personal correspondence, legal documents, drafts of potential and actual bills for legislators, poems, plays and articles, all of which sought to illustrate the legal position of women and children, especially their need for suffrage. Over her fifty-year legal career, Catharine Waugh McCulloch saw women in every U. S. state admitted to the bar, and more equitable rights for wives in custodial arrangements for children. For example, she drafted and lobbied for a bill giving equal guardianship, and another that raised the age of consent for girls from fourteen to sixteen, and the age of marriage from sixteen to eighteen. She was instrumental in gaining the right for Illinois women to vote in municipal and presidential elections in 1913, seven years prior to the passage of the Nineteenth Amendment. Many influential people have said that this was the impetus needed to launch the Nineteenth Amendment into law. Next, with the other suffragists, she helped to change the language of the Chicago charter and Illinois Constitution so that women in Illinois had full suffrage.

First and foremost, however, McCulloch was an attorney, and her cases help to shape the Uniform Commercial Code, and later, women’s property rights and uniformity of women’s legal rights throughout the country. McCulloch was one of the first attorneys to see the value of publications, and she used them to her advantage for election in Evanston, and in every cause she supported. As Master in Chancery of the Cook County Superior Court and Justice of the Peace in Evanston, she instituted changes, such as the omission of the word “obey” in the wedding vows. She and the Illinois Equal Suffrage Association were quick to recognize the significance of a case that gave women the right to vote in school elections. Also seeing the advantages an automobile could bring, she and the IESA brought both to bear in their “auto suffrage tours,” which, combined with twenty persistent years of annual trips to Springfield to testify and lobby, helped push the passage of legislation she had drafted through the Illinois General Assembly in 1913. This allowed Illinois women the right to vote in municipal and presidential elections seven years prior to the passage of the Nineteenth Amendment and was a major impetus to its passage.

²⁹¹ *Id.* at 12-17. The City Club, an advocate of the progressive measures was located at 315 S. Plymouth Court, Chicago, and membership was open to all lawyers. This is now the home of The John Marshall Law School. See *Civil Rights in Chicago*, 1932 at 17. See About, CITY CLUB OF CHICAGO (Last Visited May 24, 2024), <https://www.cityclub-chicago.org/about>

After that victory, women suffragists fought for a modification in the Chicago charter and the Illinois Constitution, ultimately yielding full suffrage to Illinois women. The next issue was women on juries, as well as uniformity of property and other laws that affected women and children. McCulloch battled doggedly, personally and through various organizations, through legal cases, drafting proposed legislation, lobbying legislators, printing pamphlets and distributing flyers to achieve these changes.

Since much of the work she and her husband did was in the area of property law, they co-authored a treatise that completely outlined procedures for wills and probate in the state of Illinois that is still cited today. After suffrage was achieved, McCulloch and the IESA worked to have women on juries, and to standardize women's legal rights throughout the country. She was an active member of the Chicago Civil Liberties Committee, and advocated strongly for judicially-protected civil rights. She and her husband traveled throughout the world, and in each location, they documented the laws regarding social legislation and government participation,²⁹² especially affecting women and children; they then published their findings.²⁹³

Her many pamphlets, plays, flyers, speeches and correspondence show a vibrant woman who relentlessly pursued equal guardianship of children; raising the consent age for girls; total local, state and national suffrage for women; jury duty for women; uniformity of laws nationwide concerning women; and analysis of the laws of other countries worldwide to advance legal rights for women in the U.S. Further, her legal practice help advance public policy, including one case that helped form the basis for a section of today's Uniform Commercial Code; their many property and probate appearances in front of the Illinois Supreme Court prompted the McCulloch's to write a complete treatise on probate law and wills in Illinois.

Born into the midst of the Civil War and empowered by the Reconstruction Era laws and Amendments, including the ability to attend law school and practice in front of both Illinois and the U.S. Supreme Courts, McCulloch was swept up in the

²⁹² Boyer in James, *supra* note 26, at 459.

²⁹³ CATHARINE WAUGH MCCULLOCH, *SOCIAL WELFARE LEGISLATION AND GOVERNMENTAL PARTICIPATION IN BUSINESS IN NEW ZEALAND, AUSTRALIA, UNION OF SOUTH AFRICA, SOUTHERN RHODESIA, TANGANYIKA TERRITORY, KENYA COLONY AND PROTECTORATE* (1936). *See also Wilson, supra* note 4, at 12, which indicates that the McCulloch's traveled to Cuba in 1925, South America in 1928, Mexico in 1929 and 1934, Northern Europe and Russia in 1933. Catharine was intrigued with the role of women in the legal system of the Soviet Union, as cited in Boyer, in James, *supra* note 26, at 459.

Progressive Movement. The changes she envisioned occurred through her extensive understanding and use of the law; she chose to use this power and knowledge to help women, who at the time were powerless: they could not own property, make decisions to protect themselves or their children, or vote to make changes in these areas. In the overall picture of Illinois legal history, Catharine Waugh McCulloch was a major player, especially in the evolution of women’s legal rights in Illinois. As proof, in recognition for their many years of dedication and contributions to the practice of law in Illinois, both Catharine Waugh and Frank H. McCulloch were honored by the Illinois Bar Association in 1940 by being named “Senior Counselors.”²⁹⁴

However, the legacy of Catharine Waugh McCulloch lives on whenever a woman serves on a jury, casts a ballot, gains guardianship of her children in divorce proceedings, or receives a share of marital property—because before her efforts “broke the glass ceiling” on these and similar issues, women were as described in McCulloch’s play, “Bridget’s Sisters”—powerless and controlled by antiquated common law legal doctrines that left women at the mercy of others. McCulloch did not just pass the bar, she exceeded any possible expectations by clearing that bar with inches to spare.

²⁹⁴ Boyer in James, *supra* note 26, at 459.