

2019

## "A Woman Stumps Her State": Nellie G. Robinson and Women's Right to Hold Public Office in Ohio

Elizabeth D. Katz

Follow this and additional works at: <https://ideaexchange.uakron.edu/akronlawreview>



Part of the [Civil Rights and Discrimination Commons](#), [Constitutional Law Commons](#), and the [Legal History Commons](#)

Please take a moment to share how this work helps you [through this survey](#). Your feedback will be important as we plan further development of our repository.

---

### Recommended Citation

Katz, Elizabeth D. (2019) "'A Woman Stumps Her State': Nellie G. Robinson and Women's Right to Hold Public Office in Ohio," *Akron Law Review*. Vol. 53 : Iss. 2 , Article 2.

Available at: <https://ideaexchange.uakron.edu/akronlawreview/vol53/iss2/2>

This Article is brought to you for free and open access by Akron Law Journals at IdeaExchange@Uakron, the institutional repository of The University of Akron in Akron, Ohio, USA. It has been accepted for inclusion in Akron Law Review by an authorized administrator of IdeaExchange@Uakron. For more information, please contact [mjon@uakron.edu](mailto:mjon@uakron.edu), [uapress@uakron.edu](mailto:uapress@uakron.edu).

**“A WOMAN STUMPS HER STATE”:  
NELLIE G. ROBINSON AND WOMEN’S RIGHT TO HOLD  
PUBLIC OFFICE IN OHIO**

*Elizabeth D. Katz\**

Abstract .....	314
I. Introduction.....	314
II. Scholarship on Women’s Right to Hold Public Office.....	317
III. Women’s Officeholding Rights in Ohio and the Nation.....	320
A. Early Advocacy for Women’s Officeholding Rights .....	320
B. Ohioan Women Lawyers’ Fight for Notarial Appointments for a “Better Income” .....	326
C. The “New Woman” and Presidential Politics .....	334
D. Robinson’s Personal, Professional, and Political Ventures .....	340
E. Ohio’s Constitutional Conventions and Efforts to Expand Women’s Political Rights.....	345
IV. Reflections on the Centennial of the Nineteenth Amendment.....	356

---

\* Associate Professor of Law, Washington University in St. Louis. For helpful conversations, I especially thank Paula Monopoli, Reva Siegel, Tracy Thomas, Mae Quinn, and other participants at the University of Akron School of Law’s conference on “The 19<sup>th</sup> Amendment at 100: From the Vote to Gender Equality.” This essay also draws from discussions at the Stanford Center for Law and History’s conference on “Legal Histories and Legacies of the Nineteenth Amendment,” and a presentation as part of Washington University School of Law’s Faculty Speaker Series, “150 Years of Women at WashULaw.” Susan Appleton, Nancy F. Cott, and Zachary D. Kaufman shared detailed suggestions, and Laurel McFarland and Callista Accardi provided excellent research assistance.

## ABSTRACT

*In recognition of the centennial of the Nineteenth Amendment, this essay provides an introduction to a largely overlooked yet essential component of the women's movement: the pursuit of women's legal right to hold public office. From the mid-nineteenth century through ratification of the federal suffrage amendment in 1920, women demanded access to appointed and elected positions, ranging from notary public to mayor. Because the legal right to hold office had literal and symbolic connections to the right to vote, suffragists and antisuffragists were deeply invested in the outcome. Courts and legislatures varied in their responses, with those in the Midwest and West generally more willing than those in the Northeast and South to construe or create law permitting women to hold office. This account centers on the experiences of Nellie G. Robinson, a pioneering woman lawyer whose efforts to secure public office in Ohio received nationwide attention in the years surrounding the turn of the twentieth century. To contextualize Robinson's successes and failures, the essay expands to consider the parallel efforts of other women lawyers from the period, as well as the broader history of women's officeholding in Ohio—a state with laws and politics reflecting the major trends and tensions in the national women's officeholding movement.*

## I. INTRODUCTION

In 1895, Nellie G. Robinson completed all the prerequisites to be commissioned as a notary public, but Ohio Governor William McKinley rejected her application on the basis that women were ineligible for the position.<sup>1</sup> A recent graduate of the Cincinnati Law School, Robinson was the only woman practicing law in that city.<sup>2</sup> She, like many women and men who worked in law or adjacent fields in these years, recognized that becoming a notary would facilitate her work and provide opportunities for networking.<sup>3</sup> Undeterred by the setback, Robinson sued McKinley to demand the right to hold public office.<sup>4</sup>

Though Robinson's litigation has not featured in the rich and significant scholarship on the Nineteenth Amendment, it is emblematic of

---

1. See *infra* Part III.B.

2. For representative coverage of Robinson's early years, see *Uncle Sam: Gracefully Gives Miss Robinson Permission to Practice Law*, CIN. ENQUIRER, Oct. 6, 1893, at 4. On her being the sole woman lawyer practicing in Cincinnati, see *The Gov.*, CIN. ENQUIRER, Nov. 22, 1895, at 8. On women lawyers in this period, see VIRGINIA G. DRACHMAN, SISTERS IN LAW: WOMEN LAWYERS IN MODERN AMERICAN HISTORY 3–38 (1998).

3. See *infra* Parts III.A and B.

4. See *infra* Part III.B.

a sustained yet largely overlooked component of the women's movement. Beginning in the mid-nineteenth century, professional and educated women, especially in law-related fields, repeatedly pressed for access to public offices.<sup>5</sup> Leaders of the women's movement emphasized the importance of officeholding rights, both for the sake of women's economic betterment and because of practical and symbolic connections to suffrage.<sup>6</sup> Opponents of the women's movement similarly recognized that legal and political ties between women's suffrage and officeholding could inform their arguments against both.<sup>7</sup>

Around the turn of the twentieth century, women increasingly won the right to hold public offices, especially in the Midwest and West.<sup>8</sup> This regional pattern somewhat followed the spread of women's suffrage,<sup>9</sup> which generally proceeded from West to East because of a complex array of factors including demographics, literacy rates, the presence of educated and professional women, the policies of neighboring states, the influence of political machines, and connections to other reform movements such as temperance.<sup>10</sup> One reason women's officeholding partly tracked women's suffrage was that some states' constitutions or statutes specified

---

5. See *infra* Part III.A.

6. For example, both suffragists and antisuffragists were deeply invested in a proposed amendment to the Massachusetts constitution that would permit women to serve as notaries public because they saw it as "a straw indicating the sentiment of the Commonwealth on the question of equal suffrage." *City Vote Against Women Notaries*, BOS. GLOBE, Nov. 17, 1913, at 5.

7. See, e.g., *id.*; *Declares Against Woman Suffrage*; *W.J. Bacon Fights Bill to Make Women Notaries Public*, NASHVILLE TENNESSEAN, Feb. 1, 1911, at 9.

8. For representative discussion of regional variation, see *Laws for Women: Recent Legislation Concerning Their Legal Status and Rights*, ST. LOUIS POST-DISPATCH, Apr. 23, 1893, at 12; *Just Like Men: Women Hold Office as Well as Ride Bicycles*, MORNING DEMOCRAT (Davenport, Iowa), Sept. 29, 1895, at 2; H.G. Cutler, *Why Do Women Want the Ballot*, FORUM, June 1915, 711, 720.

9. In chronological order, women were granted full suffrage prior to the Nineteenth Amendment in Territory of Wyoming (1869), Territory of Utah (1870), Territory of Washington (1883), Territory of Montana (1887), Wyoming (1890), Colorado (1893), Utah (1896), Idaho (1896), Washington (1910), California (1911), Arizona (1912), Kansas (1912), Oregon (1912), Territory of Alaska (1913), Montana (1914), Nevada (1914), New York (1917), Michigan (1918), Oklahoma (1918), and South Dakota (1918). In the 1910s, several states (mostly in the Midwest) granted women the right to vote for president. *Map: States Grant Women the Right to Vote*, NAT'L CONST. CTR., [https://constitutioncenter.org/timeline/html/cw08\\_12159.html](https://constitutioncenter.org/timeline/html/cw08_12159.html) [<https://perma.cc/FXJ8-QWVR>]. See also Christina Dando, "The Map Proves It": *Map Use by the American Woman Suffrage Movement*, 45 CARTOGRAPHICA 221 (2010).

10. On the reasons for geographic variation in women's suffrage, see ALEXANDER KEYSSAR, *THE RIGHT TO VOTE: THE CONTESTED HISTORY OF DEMOCRACY IN THE UNITED STATES* 166–70 (2009); AKHIL REED AMAR, *AMERICA'S CONSTITUTION: A BIOGRAPHY* 419–24 (2005); JO FREEMAN, *A ROOM AT A TIME: HOW WOMEN ENTERED PARTY POLITICS* 49–52 (2000); Holly J. McCammon et al., *How Movements Win: Gendered Opportunity Structures and U.S. Women's Suffrage Movements, 1866 to 1919*, 66 AM. SOCIOLOGICAL REV. 49, 61, 66 (2001).

that officeholding was open to “electors.”<sup>11</sup> But suffrage and officeholding were not always paired. In other jurisdictions, the pertinent constitutional text, statutes, or court opinions permitted women to hold at least some offices prior to voting.<sup>12</sup> Following ratification of the Nineteenth Amendment in 1920,<sup>13</sup> women across the nation finally secured a legal basis to demand the right to hold all public offices, though political and social impediments remained.<sup>14</sup>

This essay provides an introduction to women’s efforts to secure the right to hold public office, focusing on Ohio during the half-century prior to the Nineteenth Amendment. Ohio provides an ideal starting point for a nationwide history because the state’s laws and politics reflected the major trends and tensions in the women’s officeholding movement. Moreover, nationwide press covered Ohio women’s efforts to secure officeholding rights, demonstrating how the successes and failures of a single jurisdiction—and indeed a single notable woman—could influence strategies in other states.<sup>15</sup> The Ohio woman who received the most publicity in her pursuit of office was Robinson because of the novelty of her actions and her apparent savviness in courting the press. Robinson’s professional and personal battles illuminate intersecting political, legal, and social impediments to women’s equality at the turn of the twentieth century.<sup>16</sup>

By excavating the history of women’s pursuit of the legal right to hold public office, this account identifies crucial yet understudied tactics of the women’s movement and offers important context for interpreting the Nineteenth Amendment’s scope today. Part II of this essay provides an overview of extant scholarship on women’s officeholding. Part III expands upon that limited pool. Using Robinson’s life as an exemplar, it explores the reasons women lawyers sought public office and analyzes the legal challenges they faced. This Part also examines attempts to alter

11. Ohio’s constitution and statutes provide a representative example. *See infra* Part III.B.

12. *See, e.g., “Missouri Best State for Women”—Daisy D. Barbee*, ST. LOUIS POST-DISPATCH, Dec. 2, 1902, at 8 (“Although women cannot vote in Missouri, they are eligible to some of the highest offices in the state.”); *Woman Can Be Governor: Nebraska Supreme Court’s Decision Makes Fair Sex Eligible for State’s Highest Office*, COLFAX CHRON. (La.), May 28, 1910, at 7 (“Women, although not permitted to vote, are qualified and eligible to hold any office in Nebraska within the gift of the voters.”).

13. “The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.” U.S. CONST. amend. XIX.

14. *See infra* Parts III.E. and IV.

15. The author also selected Ohio for this essay in appreciation of the University of Akron School of Law’s hosting of the conference, “The 19<sup>th</sup> Amendment at 100: From the Vote to Gender Equality,” and this related symposium.

16. *See infra* Part III.

Ohio's statutes and amend its constitution to permit women's officeholding and suffrage, capturing the interplay between these related yet distinct goals. In Part IV, the essay sketches the implications of thinking more seriously about officeholding advocacy in the movement for women's rights.

## II. SCHOLARSHIP ON WOMEN'S RIGHT TO HOLD PUBLIC OFFICE

The centennial of the Nineteenth Amendment has prompted a flurry of new and exciting work about the history of the women's movement and its modern import. Scholars with expertise in women's history have productively assessed classic and recent literature. These discussants persuasively maintain that securing the right to vote was just one of the women's movement's many goals in the late nineteenth through early twentieth centuries.<sup>17</sup> Building on this insight, legal scholars have argued that the movement's capacious reform agenda could inform modern constitutional interpretations and legal advocacy.<sup>18</sup> Indeed, the University of Akron School of Law's "19<sup>th</sup> Amendment at 100: From the Vote to Gender Equality" conference and this related symposium demonstrate the vibrancy of this discourse.<sup>19</sup>

For example, Professor Reva Siegel's influential article "She the People: The Nineteenth Amendment, Sex Equality, Federalism and the Family"—which many conference participants cited as inspiring their own scholarship—observes that a crucial facet of the debate over women's voting rights was to challenge traditional conceptions of family life.<sup>20</sup> Antisuffragists claimed that male heads of household provided "virtual representation" for their family members and warned that women's suffrage would destroy family unity, introduce marital conflict,

---

17. For a particularly enlightening example, see *Interchange: Women's Suffrage, the Nineteenth Amendment, and the Right to Vote*, 106 J. AM. HIST. 662, 668, 671, 675–76, 682–83 (2019) (conversation between Ellen Carol DuBois, Liette Gidlow, Martha S. Jones, Katherine M. Marino, Leila J. Rupp, Lisa Tetrault, and Judy Tzu-Chun Wu).

18. See, e.g., Reva Siegel, *The Nineteenth Amendment and the Democratization of the Family*, 129 YALE L.J.F. 450 (2020) (providing extended version of remarks delivered at "The 19<sup>th</sup> Amendment at 100: From the Vote to Gender Equality").

19. See Conference Program, Ctr. for Constitutional Law at Akron, 19<sup>th</sup> Amendment at 100: From the Vote to Gender Equality (Sep. 20, 2019), <https://www.uakron.edu/law/constitutionallaw/docs/FinalProgram19thAConferenceUA.pdf> [<https://perma.cc/VP7U-P77V>].

20. See generally Reva B. Siegel, *She the People: The Nineteenth Amendment, Sex Equality, Federalism, and the Family*, 115 HARV. L. REV. 947 (2002) (Siegel cites to and builds upon classic scholarship on this point, including AILEEN S. KRADITOR, *THE IDEAS OF THE WOMAN SUFFRAGE MOVEMENT, 1890–1920*, at 17, 24 (1965); W. William Hodes, *Women and the Constitution: Some Legal History and a New Approach to the Nineteenth Amendment*, 25 RUTGERS L. REV. 26, 49 (1970)).

and disrupt gender norms.<sup>21</sup> The suffragists responded to the virtual representation argument by drawing from the nation's revolutionary history and proclaiming a right to self-government.<sup>22</sup> In ratifying the Nineteenth Amendment, Siegel maintains, Americans "were breaking with understandings of the family that had organized public and private law and defined the position of the sexes since the founding of the republic."<sup>23</sup> One of the lessons Siegel draws from this history is that "equal citizenship for women includes freedom from subordination in or through the family."<sup>24</sup> Siegel contends that if the Fourteenth and Nineteenth Amendments were read together and informed by the sociohistoric account of the women's suffrage movement that she details, the Constitution might be understood in a manner that would better protect women against sex discrimination.<sup>25</sup>

Conference-convenor Professor Tracy A. Thomas builds on Siegel's article and other scholarship in her contribution, "More than the Vote: The Nineteenth Amendment as Proxy for Gender Equality."<sup>26</sup> Thomas explains that women's push for the ballot was a proxy for a broader social reform agenda.<sup>27</sup> She explores how participants in the early women's rights movement were motivated by economic concerns and sought changes to laws and social norms regulating marriage, property, and labor.<sup>28</sup> The vote was the "enforcement mechanism and the entry point for women's rights," she argues, not the sole or even primary goal.<sup>29</sup> Based on this historical context, some judges initially interpreted the Nineteenth Amendment "as an emancipatory change . . . granting women comprehensive political and civil rights."<sup>30</sup> Though this conceptualization did not survive in the courts, Thomas concludes, it provides historical grounding for the pursuit of gender equality today.<sup>31</sup>

In the illuminating body of scholarship framing and interpreting the Nineteenth Amendment's legacy, women's right to hold public office has

---

21. Siegel, *She the People*, *supra* note 20, at 980–81, 994–95, 997.

22. *Id.* at 987–92.

23. *Id.* at 951.

24. *Id.*

25. *Id.* at 1022–24.

26. Tracy A. Thomas, *More than the Vote: The Nineteenth Amendment as Proxy for Gender Equality*, STAN. J. C.R. & C.L. (forthcoming May 2020).

27. *Id.*

28. *Id.* at 2. See also Reva B. Siegel, *Home as Work: The First Woman's Rights Claims Concerning Wives' Household Labor 1850–1880*, 103 YALE L.J. 1073, 1158 (1994).

29. Thomas, *supra* note 26, at 16.

30. *Id.* at 19.

31. *Id.* at 22–23.

been a surprisingly minor component.<sup>32</sup> Only a few works directly address legal impediments to women's officeholding prior to 1920, and these contributions devote little attention to women's advocacy in securing this right.<sup>33</sup> Scholarly analysis of women's officeholding rights after 1920 has been nearly as limited.<sup>34</sup> Some treatments assume or claim that the Amendment clearly encompassed or inevitably built toward political rights including officeholding.<sup>35</sup> A few canonical texts have recognized, albeit briefly, that there was uncertainty about whether the Amendment's text necessarily guaranteed that women could hold office. In Siegel's noted article, for instance, one paragraph describes several cases that arose in the immediate aftermath of the Nineteenth Amendment that probed the suffrage-officeholding connection.<sup>36</sup> The publications that address

---

32. There has been far greater attention to political impediments to elective officeholding. For an excellent treatment that focuses on the years following the Nineteenth Amendment, see KRISTI ANDERSEN, *AFTER SUFFRAGE: WOMEN IN PARTISAN AND ELECTORAL POLITICS BEFORE THE NEW DEAL* 111–39 (1996).

33. See SANDRA F. VANBURKLEO, "BELONGING TO THE WORLD": WOMEN'S RIGHTS AND AMERICAN CONSTITUTIONAL CULTURE 206 (2001) (providing two paragraphs on the right to hold office before and after the Nineteenth Amendment, especially as related to interpretation of the Fifteenth Amendment); Kathryn A. Lee, *Law in the Crucible of Change: Women's Rights and State Supreme Court Policymaking, 1865–1920*, 174–212 (1988) (unpublished Ph.D. dissertation, Johns Hopkins University) (on file with the author) (analyzing state supreme court opinions on women's officeholding in one chapter); Thomas, *supra* note 26, at 10, 19 (describing how leaders of the early women's movement believed suffrage would secure other political rights, such as officeholding and jury service); Deborah M. Thaw, *The Feminization of the Office of Notary Public: From Feme Covert to Notaire Covert*, 31 J. MARSHALL L. REV. 703, 710–27 (1998) (discussing women's eligibility to serve as notaries public and arguing that as the position was "democratized" and therefore less professional, it became feminized).

34. Forthcoming scholarship is beginning to productively address this oversight. See, e.g., Paula Monopoli, *The Constitutional Development of the Nineteenth Amendment in the Decade Following Ratification*, 11 CONLAWNOW 61, 63–65 (2020) (describing CONSTITUTIONAL ORPHAN: GENDER EQUALITY AND THE NINETEENTH AMENDMENT (forthcoming 2020)).

35. See, e.g., Akhil Reed Amar, *The Bill of Rights as a Constitution*, 100 YALE L.J. 1131, 1202–03 (1991) ("[C]ould any law making women ineligible to hold office be reconciled with the Nineteenth Amendment? I think the answer is no, even though the Amendment does not explicitly speak of holding office."); Neil S. Siegel, *Why the Nineteenth Amendment Matters Today: A Guide for the Centennial*, 27 DUKE J. GENDER L. & POL'Y 235, 256 (2020) (relying on Amar's scholarship to conclude that the Nineteenth Amendment encompassed political rights other than voting, such as serving on juries and running for office). Scholars have been more attentive to debates surrounding the relationship between the Fifteenth Amendment and black men's officeholding rights. For example, see ALAN P. GRIMES, *DEMOCRACY AND THE AMENDMENTS TO THE CONSTITUTION* 55–58 (1978); Vikram David Amar, *Jury Service as Political Participation Akin to Voting*, 80 CORNELL L. REV. 203, 228–35 (1995).

36. Siegel, *She the People*, *supra* note 20, at 1019. See also J. STANLEY LEMONS, *THE WOMAN CITIZEN: SOCIAL FEMINISM IN THE 1920S* 68–69 (1973) (devoting two paragraphs to post-Nineteenth Amendment legal and political efforts for women to hold office); Reva Siegel, *Collective Memory and the Nineteenth Amendment: Reasoning about "the Woman Question" in the Discourse of Sex Discrimination*, in *HISTORY, MEMORY, AND THE LAW* 161–63 (Austin Sarat and Thomas Kearns ed.,



women's officeholding rights provide a meaningful starting point for recognizing the importance of this issue, but they leave many decades of revealing contestation largely unexamined.<sup>37</sup>

### III. WOMEN'S OFFICEHOLDING RIGHTS IN OHIO AND THE NATION

Women's pursuit of appointive and elective public offices was a persistent and vibrant component of the women's movement beginning in the mid-nineteenth century. Leaders of the women's movement seized on women's successes and failures in the officeholding context to argue that greater political rights—including through access to the ballot—were essential for women's equal citizenship. And individual women, with varying degrees of participation in the movement, pursued public offices to secure or enhance their professional and economic circumstances.<sup>38</sup> This Part centers on the remarkable life of one such woman, Nellie G. Robinson. Robinson was an unambiguous trailblazer for women's professional equality but a more complicated figure with regard to women's political rights. Her experiences and commentary, as well as those of other women lawyers traveling parallel paths, help capture motivations and influences pertinent to women's pursuit of public office.

#### A. *Early Advocacy for Women's Officeholding Rights*

Though there is evidence that a woman held elected office in the United States as early as 1853,<sup>39</sup> women's access to public posts first

---

1999) (discussing inconsistencies in state courts' treatment of women's political rights after the Nineteenth Amendment).

37. Scholarly attention to women's right to hold public office is greatly overshadowed by erudite treatments of another facet of women's political equality: the right to serve on juries. *See generally* LINDA K. KERBER, *NO CONSTITUTIONAL RIGHT TO BE LADIES: WOMEN AND THE OBLIGATIONS OF CITIZENSHIP* 124–220 (1998); HOLLY J. MCCAMMON, *THE U.S. WOMEN'S JURY MOVEMENTS AND STRATEGIC ADAPTATION: A MORE JUST VERDICT* (2014); Jennifer K. Brown, *The Nineteenth Amendment and Women's Equality*, 102 *YALE L.J.* 2175 (1993); Joanna L. Grossman, *Women's Jury Service: Right of Citizenship or Privilege of Difference?*, 46 *STAN. L. REV.* 1115 (1994); Gretchen Ritter, *Jury Service and Women's Citizenship before and after the Nineteenth Amendment*, 20 *LAW & HIST. REV.* 479 (2002); Cristina M. Rodriguez, *Clearing the Smoke-Filled Room: Women Jurors and the Disruption of an Old-Boys' Network in Nineteenth-Century America*, 108 *YALE L.J.* 1805 (1999); Amar, *Jury Service as Political Participation*, *supra* note 35, at 241–42.

38. These points draw from discussion throughout Part III. Attention to women's officeholding challenges the periodization of existing scholarship on the women's movement, which has largely overlooked the final decades of the nineteenth century. *Interchange*, *supra* note 17, at 685 (Ellen Carol DuBois: "First, suffrage historiography is weak in the last quarter of the nineteenth century, perhaps because there is little suffrage radicalism to inspire modern students of the movement.").

39. A woman named Olive Rose was elected as a register of deeds in Maine in 1853. *See HER HAT WAS IN THE RING*, <http://www.herhatwasinthering.org/index.php> [<https://perma.cc/7RRP-9EFK>]. The following year, a woman was elected constable in Perry County, Illinois. *Practical*

gained considerable attention in 1869.<sup>40</sup> This section provides an overview of the first decades in women's pursuit of officeholding rights. It analyzes connections between officeholding and suffrage, recovering the importance of the former in some of the earliest advocacy for women's equality. Turning to influential cases, this section emphasizes how professional women's pursuit of low-level offices, such as notary public, provided a starting point for the lobbying and litigation that would continue in the following years and build toward more significant positions.

Several crucial developments coalesced to put women's officeholding on the national agenda in 1869.<sup>41</sup> Leaders of the women's movement were freshly disappointed by the omission of women from the Fifteenth Amendment, which upended their hopes for immediate postbellum suffrage.<sup>42</sup> Still, they saw promise in developments in individual states and territories. One of the most notable wins came in Wyoming, where the territorial government granted women the right to vote that December, making the Territory the first jurisdiction to grant its women equal suffrage.<sup>43</sup> Wyoming's enfranchisement of women

---

*Assertion of Woman's Rights*, LOUISVILLE DAILY J., Oct. 19, 1854, at 2. For a database of women who ran for political office before 1920, see HER HAT WAS IN THE RING, <http://www.herhatwasinthering.org/index.php> [https://perma.cc/7RRP-9EFK].

40. See, e.g., *Woman's Eligibility to Office*, CHI. TRIB., Apr. 4, 1869, at 2 (quoting and discussing the federal and Illinois constitutions and arguing women "are eligible to every office, elective or appointive, under the National or State Governments").

41. Greater access to professional opportunities was a major demand of the women's movement since at least the Seneca Falls Convention in 1848. The Declaration of Sentiments, produced during the meeting, included the critiques that men "monopolized nearly all the profitable employments" and closed to women "all the avenues of wealth and distinction," such as theology, medicine, and law. *Declaration of Sentiments*, in REPORT OF THE WOMAN'S RIGHTS CONVENTION, HELD AT SENECA FALLS, N.Y., JULY 19TH AND 20TH, 1848, at 9 (1848). For context on the convention, see ELLEN CAROL DUBOIS, FEMINISM & SUFFRAGE: THE EMERGENCE OF AN INDEPENDENT WOMEN'S MOVEMENT IN AMERICA, 1848-1869, at 23-24, 40 (2d. ed. 1999). Ohio women convened a women's rights convention in Akron in 1851. *Id.* at 24; Ann Marie Stieritz, *Ohio Women on the Road to Equality*, OHIO WOMEN'S POLICY AND RESEARCH COMMISSION 1 (manuscript on file with author).

42. The drafting and ratification of the Fifteenth Amendment contributed to disagreements that led suffragists to split into two organizations. LISA TETRAULT, THE MYTH OF SENECA FALLS: MEMORY AND THE WOMEN'S SUFFRAGE MOVEMENT, 1848-1898, at 31-35 (2014). The National Woman Suffrage Association (NWSA) opposed the Fifteenth Amendment because of its exclusion of women, but the American Woman Suffrage Association (AWSA) supported it. *Id.* In the following decades, the organizations differed on core strategic questions. AWSA supported state suffrage campaigns, while NWSA sought a federal amendment. *Id.* at 35.

43. Thomas, *supra* note 26, at 3. Single women who owned sufficient property could vote in New Jersey from 1776 to 1807. New Jersey's constitutional language on the franchise omitted reference to sex or equal voting rights, which allowed reinterpretation of the text to disenfranchise

blossomed into the appointment of women as justices of the peace the following year.<sup>44</sup> Wyoming's women judges received widespread publicity and demonstrated, in the words of one reporter, "that women suffrage reigns in all its glory" in the Territory.<sup>45</sup>

In these same years, women achieved more mixed successes in Midwestern states, in developments that likewise demonstrated connections between suffrage, officeholding, and women's professional opportunities.<sup>46</sup> In 1869, Iowan Belle Mansfield became the first woman officially admitted to a state bar in the United States.<sup>47</sup> A few years later, newspaper coverage trumpeted that several women in her state held office as notaries public and in other low-level positions.<sup>48</sup> "Though not allowed to vote," one writer explained, "the Iowa women can be voted for, and can be legal competitors with the other sex for any elective office."<sup>49</sup>

Meanwhile, in the neighboring state of Illinois, Myra Bradwell suffered two professional defeats. First, the Illinois Supreme Court denied her the right to practice law, a decision infamously upheld by the U.S. Supreme Court a few years later.<sup>50</sup> Second, and less commonly known, the Illinois governor refused to commission Bradwell as a notary public.<sup>51</sup>

---

women in 1807. Judith Apter Klinghoffer & Louis Elkis, "The Petticoat Electors": Women's Suffrage in New Jersey, 1776–1807, 12 J. EARLY REPUBLIC 159, 160 (1992).

44. For a detailed account of women's suffrage in Wyoming and the appointment of women as justices of the peace, see Marcy Lynn Karin, *Esther Morris and Her Equality State: From Council Bill 70 to Life on the Bench*, 46 AM. J. LEGAL HIST. 300, 310 (2004). For representative newspaper coverage, see *Woman on the Bench—Women Judges in Wyoming Territory*, OPELOUSAS J., Apr. 2, 1870, at 1.

45. *The Women Judges in Wyoming Territory*, SUN (Balt.), Mar. 19, 1870, at 4.

46. For an excellent treatment of how women's suffrage, right to join the bar, and jury rights were interrelated (but that omits officeholding), see Barbara Allen Babcock, *Feminist Lawyers*, 50 STAN. L. REV. 1689, 1695, 1697 (1998).

47. According to Karen Berger Morello, at least one woman was already practicing law in Iowa in 1869, when Belle Babb Mansfield passed the Iowa State bar and was officially recognized as the country's first woman lawyer. KAREN BERGER MORELLO, *THE INVISIBLE BAR: THE WOMAN LAWYER IN AMERICA, 1638 TO THE PRESENT* 11 (1986). Morello also notes there was at least one woman lawyer in colonial America. *Id.* at 3. According to Nancy Gillam, seven women requested admission to the Iowa and Illinois bars or enrolled in law schools in 1869. Nancy T. Gillam, *A Professional Pioneer: Myra Bradwell's Fight to Practice Law*, 5 LAW & HIST. REV. 105, 107 (1987). Karen Tokarz's compelling treatment of early women law students finds that Washington University in St. Louis and other Midwestern schools were the first to accept and graduate female students. Karen Tokarz, *A Tribute to the Nation's First Women Law Students*, 68 WASH. U. L. REV. 89, 91–92, 95, 100–01 (1990).

48. *News Gleanings*, STAR TRIBUNE (Minneapolis), July 27, 1872, at 2.

49. *Id.*

50. *In re Bradwell*, 55 Ill. 535 (1869); *Bradwell v. Illinois*, 83 U.S. (16 Wall.) 130 (1872).

51. *Women's Rights in Illinois*, CHI. TRIB., Dec. 31, 1869, at 2. The denial was technically on the basis that a married woman in Illinois could not execute a valid bond as required for the post. Because the distinction between married and unmarried women was rarely pertinent to women's

In a representative article published in the *Chicago Tribune*, the notary setback was listed with women's inability to vote as an important example of how women in the state did not have equal rights.<sup>52</sup> Yet despite women's exclusion from suffrage, Bradwell and her supporters made progress in the following years. The Illinois legislature authorized women to join the bar and to become notaries.<sup>53</sup> The same advances took decades to achieve in most other jurisdictions, where legislatures were either unwilling or unable to grant women these political-professional rights.<sup>54</sup>

In many states the question of whether women had the right to hold public office was resolved by judges. From the 1870s through the 1910s, dozens of state supreme courts faced this issue.<sup>55</sup> One of the positions that frequently sparked officeholding litigation was that of notary public. The attention to notaries may be surprising today because the position seems common, easily accessible, and limited in scope.<sup>56</sup> But in the nineteenth century, the office was typically appointed by the governor, afforded a title that was perceived as distinguished, and was seen as a stepping-stone to other posts.<sup>57</sup>

Several of the earliest women lawyers sought notarial commissions in the years directly before or after gaining access to the bar.<sup>58</sup> Holding a

---

officeholding rights, and seems to have never been addressed in Ohio, this complication is not addressed in this essay. An Illinois county elected a woman as a justice of the peace the following year. *A Female Justice of the Peace*, BUFFALO EVENING POST, Feb. 9, 1870, at 3.

52. *Women's Rights in Illinois*, *supra* note 51, at 2.

53. On the "Bradwell bill" allowing women to be notaries public in the state, see *Female Notaries*, CHI. TRIB., Feb. 9, 1875, at 2. On legislation allowing women to become lawyers in the state, see DRACHMAN, *supra* note 2, at 26. Drachman also devotes two paragraphs to women's efforts to obtain various public offices in the late nineteenth century. She discusses how political rights and the right to practice law intersected, in part because of how some judges cast lawyers as nearly akin to public officers. *Id.* at 25–27.

54. For a list of the first woman to become a lawyer in each state, see MORELLO, *supra* note 47, at 37. In 1892, the Supreme Court of Tennessee counted fourteen states that permitted women to become notaries and twenty-one where women were ineligible or the law was unsettled. *State v. Davidson*, 22 S.W. 203, 203 (Tenn. 1892). See also Note, *Constitutional Law—Notaries Public—Appointment of Women*, 10 HARV. L. REV. 187, 187 (1896) (recognizing "the great numbers of women so generally appointed notaries in the Western States").

55. For a helpful overview, see generally Note, *Eligibility of Women for Public Office*, 24 HARV. L. REV. 139 (1910).

56. For example, it is easy to find a notary public at FedEx or a similarly quick, casual, and inexpensive location.

57. For representative discussion, see *Laws for Women*, ST. LOUIS POST-DISPATCH, Apr. 23, 1893, at 12 ("As notaries public, clerks, and assistant clerks in political bodies and assemblies [women] have obtained a wider recognition and the possibilities in this direction in the near future are beyond conjecture.").

58. Biographical accounts of early women lawyers often note pursuit of notarial commissions, including through legislation and litigation, but these scattered acknowledgments overlook how these individual efforts were part of a broader pattern. For examples, see JANE M. FRIEDMAN, *AMERICA'S*

notarial commission streamlined legal work and facilitated business connections for lawyers, stenographers, clerks, and other court-adjacent roles.<sup>59</sup> Notaries oversaw acceptance and payment of commercial paper, acknowledged deeds and similar instruments, administered oaths, and took depositions, affidavits, and marine protests.<sup>60</sup> In 1893, a woman lawyer who held a notary commission explained that the office was not particularly lucrative, “but by performing the duties [of a notary] one is thrown in the way of much legal work, as the making out of wills, the arrangement of expert testimony and such jobs, which mean money.”<sup>61</sup> Similarly, another woman lawyer-notary explained that “[i]n reality there is very little money in it but considerable influence.”<sup>62</sup>

Litigation over women’s eligibility to become notaries began in 1871 and came before courts in three main postures.<sup>63</sup> One path was for a woman to directly challenge an official for refusing to appoint her.<sup>64</sup> The second was for an official to seek an advisory opinion from an attorney general or state supreme court on the issue, typically before any woman was appointed.<sup>65</sup> The third was for a man who had voluntarily used a woman notary’s services to later find it advantageous to challenge the validity of her actions. For instance, he might attempt to invalidate an

---

FIRST WOMAN LAWYER: THE BIOGRAPHY OF MYRA BRADWELL 156–58 (1993) (discussing Myra Bradwell’s efforts to become a notary in Illinois from 1870 to 1875); BARBARA ALLEN BABCOCK, WOMAN LAWYER: THE TRIALS OF CLARA FOLTZ 138–39 (2011) (discussing Clara Foltz’s efforts to become a notary in California from 1877 to 1888); Matthew G. Berger, *Mary Hall: The Decision and the Lawyer*, 79 CONN. B.J. 29, 48 (2005) (describing Hall’s appointment as the first woman notary in Connecticut in 1884).

59. For representative evidence, see *An Army of Notaries*, 1 CURRENT COMMENT & LEGAL MISC. 305–06 (1889) (describing how an increasing number of women were becoming notaries because of their employment as clerks and stenographers in lawyers’ offices and because it offered the possibility of making extra money through notarial fees).

60. EDWARD MILLS JOHN, THE AMERICAN NOTARY AND COMMISSIONER OF DEEDS MANUAL 4 (1898) (describing typical duties and powers of notaries).

61. *Women and the Law: New York Women Lawyers Who Are Also Notaries Public*, NEWARK ADVOC., Mar. 18, 1893, at 7.

62. *Id.* See also *She Wants to Be a Notary*, WASH. TIMES, May 26, 1896, at 5 (“It is well known that the notarial attachment to the doctor of lawsuits is quite as necessary as is the knowledge of drugs to the pil-mixer [sic], who also acts as a practitioner.”).

63. For sample discussion of women’s eligibility to be notaries, see Nathaniel Moah, *Are Women Legally Eligible in New York as Notaries Public?*, 41 ALB. L.J. 244, 244–46 (1890) (reviewing cases from several jurisdictions).

64. *E.g.*, *State ex rel. Gray v. Hodges*, 154 S.W. 506, 506 (Ark. 1913) (suit by woman appointed as notary by the governor against the secretary of state who refused to issue a commission).

65. *E.g.*, *In re Opinion of the Justices*, 62 A. 969, 971 (N.H. 1906) (in responding to question from governor, finding that because common law disabled women from holding public office, there would need to be evidence the legislature sought to change this rule in order for women to serve as notaries). See also *In re Opinion of the Justices*, 78 N.H. 621, 621 (1917) (constitution was silent, so legislature had power to change the law to authorize women notaries).

agreement she had notarized or avoid a conviction for perjury when she had administered his oath.<sup>66</sup>

The Supreme Judicial Court of Massachusetts decided one of the most prominent early notary cases in 1890.<sup>67</sup> Importantly, the court had issued a leading opinion on a related topic two decades earlier.<sup>68</sup> In that 1871 case, the court held in a one-paragraph opinion that a woman could not be a justice of the peace.<sup>69</sup> At that time justice of the peace was a low-level judicial office, with jurisdiction over civil litigation involving small sums and criminal cases for minor offenses.<sup>70</sup> To explain why women were ineligible to serve as justices of the peace, the 1871 court had provided a reason sounding in originalism: “The law of Massachusetts at the time of the adoption of the Constitution, the whole frame and purport of the instrument itself, and the universal understanding and unbroken practical construction for the greater part of a century afterwards, all support” the conclusion that a woman cannot hold a judicial office.<sup>71</sup>

When deciding whether women could be notaries in 1890, the Massachusetts court cited its 1871 decision and struck a similar tone. “The office is of ancient origin,” the court began, and historical research found that no woman had ever held the position in England or Massachusetts.<sup>72</sup> Setting aside the question of whether the legislature could authorize women notaries by statute, the court concluded that in the absence of such

66. *E.g.*, *Stokes v. Acklen*, 46 S.W. 316, 371 (Tenn. 1898) (party to a deed challenged validity of execution on the basis that the notary was a woman); *Nicholson v. Eureka Lumber Co.*, 75 S.E. 730, 730 (N.C. 1912) (party to a contract argued it was invalid because acknowledged by a woman notary); *Van Dorn v. Mendedoht*, 59 N.W. 800, 800–01 (Neb. 1894) (contractor argued lien on his property was contrary to law because oath to get lien was made to woman notary). *See also Piece Perjury Case Hinges on Oath by Woman: Right of Feminine Notary to Swear Witness Questioned by Defense*, ST. LOUIS POST-DISPATCH, Dec. 2, 1909, at 1 (reporting on Texas case).

67. *In re Appointment of Women to be Notaries Public*, 23 N.E. 850 (Mass. 1890).

68. *In re Opinion of the Justices*, 107 Mass. 604 (1871).

69. *Id.* at 604.

70. MICHAEL WILLRICH, *CITY OF COURTS: SOCIALIZING JUSTICE IN PROGRESSIVE ERA* CHICAGO 3, 12 (2003).

71. *In re Opinion of the Justices*, 107 Mass. at 604. The Supreme Judicial Court of Maine issued a similar though lengthier holding in 1873. The crucial language read:

Having regard, then, to the rules of the common law as to the rights of women married and unmarried, as then existing; to the history of the past; [and] to the universal and unbroken practical construction given to the constitution of this State . . . we are led to the inevitable conclusion that it was never in the contemplation or intention of those forming our constitution, that these offices thereby created should be filled by those who could take no part in its original formation, and to whom no political power was intrusted [sic] for the organization of the government then about to be established under its provisions, or for its continued existence and preservation when established.

*Opinions of the Justices of the Supreme Judicial Court*, 62 Me. 596, 598 (1873).

72. *In re Appointment of Women to Be Notaries Public*, 23 N.E. at 851–52.

a statute, “the clause of the constitution which provides for notaries public—interpreted with reference to the history and nature of the office, and the long-continued and constant practice of the government here and the usage elsewhere” did not authorize women appointees.<sup>73</sup> After the legislature responded by passing a statute to permit women notaries, the court determined in 1896 that the legislature lacked this power.<sup>74</sup> Though the constitution did not expressly preclude women from these posts, notaries public were considered akin to judicial officers.<sup>75</sup> The “nature” of both positions, rooted in history, made them open only to men.<sup>76</sup>

Around the turn of the twentieth century, the highest courts of several other states heard the woman notary question and reached inconsistent conclusions. To some extent, the variation in outcomes reflects disparate constitutional provisions and legislation. Yet it is also clear that judges in some states were willing to use malleable legal fodder to reach their preferred result. Whereas conservative judges, like those in Massachusetts, read into constitutional silences to exclude women,<sup>77</sup> others took the opposite path. For example, in 1894, the Supreme Court of Nebraska declined to read “persons” narrowly to exclude women from the role of notary public. “The word ‘persons’ in this statute is broad enough to include women,” the court explained, “and we know of no constitutional provision or law that prohibits a woman in this state from holding the office of notary public.”<sup>78</sup>

#### B. *Ohioan Women Lawyers’ Fight for Notarial Appointments for a “Better Income”*

This section focuses on women’s efforts to secure the right to be appointed as notaries public in Ohio. This case study illustrates some of the reasons progress on women’s officeholding varied greatly by state—

---

73. *Id.* at 852–53. *See also* State v. Davidson, 22 S.W. 203, 204 (Tenn. 1892) (legislative authority required to overcome the common law rule that women could not serve as notaries).

74. *In re* Opinion of the Justices, 43 N.E. 927, 928 (Mass. 1896).

75. *Id.*

76. *Id. But see* Opinion of the Justices to the Governor and Council, 136 Mass. 578, 582 (1883) (finding it within legislative power to authorize governor to appoint women to the state board of health, lunacy, and charity).

77. Davidson, 22 S.W. at 203 (finding women ineligible absent pertinent constitutional or statutory language); State *ex rel.* Gray v. Hodges, 154 S.W. 506, 507 (Ark. 1913) (holding that women could not be notaries because the state constitution did not contemplate changing the common law).

78. Van Dorn v. Mengedoht, 59 N.W. 800, 803 (Neb. 1894). The court also suggested that it was inappropriate to challenge a woman’s right to be a notary as part of an attack on work that a duly commissioned woman notary had performed. Rather, her authority “can only be inquired into in a suit or proceeding brought against her for that purpose.” *Id.*

with statutes, constitutional text, judicial attitudes, legislative initiatives, and the ambitions of individual women all coming into play. Within a period of several decades, Ohio women lawyers secured, lost, and repeatedly attempted to regain eligibility to serve as notaries, recognizing that such appointments would aid them in their law practices.

The most prominent proponent of women's notary rights in Ohio was Nellie G. Robinson. Robinson was born in 1869, in Perry, Indiana,<sup>79</sup> where her father worked as a laborer and "coal digger."<sup>80</sup> At age seventeen, Robinson moved to Cincinnati to begin work as a stenographer in a legal office.<sup>81</sup> This experience inspired her to enroll at the Cincinnati Law School.<sup>82</sup> Soon after she graduated in 1893, as one of the first two women alumnae,<sup>83</sup> press described her practice favorably.<sup>84</sup> For instance, one reporter suggested she was "clever" and "well liked by her brother attorneys."<sup>85</sup> She was the first woman admitted to practice in Cincinnati's federal courts<sup>86</sup> and was praised for her handling of a felony case, even though the jury found her client guilty.<sup>87</sup>

Though Robinson does not seem to have held any leadership positions in women's organizations, she spoke openly in favor of women's suffrage.<sup>88</sup> Her reasoning leaned more toward practical concerns than higher principles of equality. "Yes, I am interested in politics and I want to vote," she explained to one journalist in 1895.<sup>89</sup> "If I had a vote I

---

79. Nellie Robinson, 1870 United States Federal Census: Troy, Perry, Indiana, ANCESTRY LIB., [https://www.ancestry.com/search/collections/7163/?name=Nellie\\_Robinson&birth=\\_troy-perry-indiana-usa\\_40386](https://www.ancestry.com/search/collections/7163/?name=Nellie_Robinson&birth=_troy-perry-indiana-usa_40386) [<https://perma.cc/Q8ZQ-RSSW>].

80. David Robinson, 1880 United States Federal Census: Troy, Perry, Indiana, ANCESTRY LIB., [https://www.ancestry.com/search/?name=David\\_Robinson&event=\\_troy-perry-indiana-usa\\_40386&types=rs](https://www.ancestry.com/search/?name=David_Robinson&event=_troy-perry-indiana-usa_40386&types=rs) [<https://perma.cc/YS6B-ST3Y>].

81. *Women Who Have Professions*, CIN. ENQUIRER, Aug. 18, 1895, at 13.

82. *Id.*

83. *Lady Barraster* [sic], NEWS-HERALD (Hillsboro, Ohio), Apr. 29, 1897, at 7 (referring to Robinson and Edna Rouse as the first women to graduate from Cincinnati Law School).

84. Secondary literature on women lawyers has emphasized the difficulties and opposition they faced in the masculine legal profession. As evidence, historians often cite prominent appellate opinions that prevented or stalled women's admission to the bar, supplemented by other elite-produced materials. See, e.g., Michael Grossberg, *Institutionalizing Masculinity: The Law as a Masculine Profession*, in MEANINGS FOR MANHOOD: CONSTRUCTIONS OF MASCULINITY IN VICTORIAN AMERICA 96–110 (1990). While persuasive and insightful on the attitudes of elite male lawyers and the resultant obstacles faced by women, these accounts may overstate the resistance women routinely experienced. Newspaper coverage of individual women lawyers' daily practices indicates that ordinary male lawyers were more accepting and even welcoming. To some extent this observation may reflect regional variation, a possibility the author is exploring in other work.

85. *Women Who Have Professions*, *supra* note 81, at 13.

86. *Uncle Sam*, *supra* note 2, at 4.

87. *Personal Gossip*, N.Y. TIMES, May 22, 1894, at 4.

88. This assessment is based on the author's extensive search of newspaper articles.

89. *Women Who Have Professions*, *supra* note 81, at 13.



would have more influence, [and] consequently a better income.”<sup>90</sup> She theorized that women who were indifferent to the ballot had ample financial means, but “as soon as it means dollars and cents to them they will be as eager to vote as those persons who are now styled ‘the new woman.’”<sup>91</sup> In other words, economic needs or ambitions might prompt women to support what would soon be called “feminism.”<sup>92</sup>



Image from *Women Who Have Professions*, CIN. ENQUIRER, Aug. 18, 1895, at 13.

Suffrage was not the only political right that Robinson perceived as relevant to her professional opportunities—she also wanted to hold the office of notary public. To achieve this aim, Robinson had to contend with constitutional and legislative provisions more specific than those that served as a barrier in Massachusetts. A section of the Ohio Constitution read: “No person shall be elected or appointed to any office in this State,

---

90. *Id.*

91. *Id.*

92. The terminology of “feminism” became commonplace beginning in the 1910s. See NANCY F. COTT, *THE GROUNDING OF MODERN FEMINISM* 13 (1987).

unless he possess the qualifications of an elector.”<sup>93</sup> The section on the elective franchise, unchanged since its adoption in 1851, specified that “[e]very white male citizen of the United States, of the age of twenty-one years old,” and meeting certain residency requirements, “shall have the qualifications of an elector, and be entitled to vote in all elections.”<sup>94</sup> Because women were not “electors,” it seemingly followed that they could not hold “any” public office.

Yet in 1874, the Supreme Court of Ohio had demonstrated that courts could circumvent strict constitutional language if they chose to do so. In one of the earliest women’s officeholding decisions in the country, *Warwick v. Ohio*, the court held that a woman could be appointed as a deputy clerk in a probate court and, pursuant to that role, administer legal oaths.<sup>95</sup> The court justified its holding by reference to the “quite clear” fact that the clerk’s powers were “ministerial” rather than “judicial.”<sup>96</sup> Turning to the constitutional language, the court offered: “No one will contend that the word ‘office’ . . . is to have its broadest meaning, so as to make it applicable to everything known by that designation.”<sup>97</sup> For example, the court continued, surely the constitution did not mean to apply to officers in churches or to teachers and janitors.<sup>98</sup> In the context of the probate court, the opinion held, the provision applied to the judge, as the principal officer, and not to the deputy.<sup>99</sup>

While the 1874 deputy clerk case provided promising precedent for flexible interpretation of the word “office,” Robinson faced an additional obstacle in a statute that outlined rules for notaries. A law enacted in 1883 authorized the governor to “appoint and commission as notaries public as

93. OHIO CONST. of 1851, art. XV, § 4. Pursuant to this provision, suffragist and abolitionist Adeline Swift was unable to serve as Supervisor of Penfield, Ohio, despite receiving the most votes for the position in 1854. Adeline T. Swift, *Address of Mrs. A.T. Swift, of Penfield, Who Was Elected Supervisor in the Last Election*, LILY, June 15, 1854, at 88; (No title), MUSCATINE J. (Iowa), Jul. 1, 1854, at 2.

94. OHIO CONST. OF 1851, art. V, § 1. The 1803 Constitution used different language but also limited the franchise to white men. OHIO CONST. of 1803, art. IV, § 1 (“all white male inhabitants above the age of twenty-one years,” meeting certain residency and tax requirements). On the controversy surrounding inclusion of the word “white” in the 1803 version, see Barbara A. Terzian, *Ohio’s Constitutions: An Historical Perspective*, 51 CLEV. ST. L. REV. 357, 366–70 (2004). On efforts to remove “white” in the 1850–1851 constitutional convention, see *id.* at 372.

95. *Warwick v. Ohio*, 25 Ohio St. 21 (Ohio 1874).

96. *Id.* at 24.

97. *Id.* at 24–25.

98. *Id.* at 25.

99. *Id.* Newspaper coverage the following year remarked on how a judge in Wood County, Ohio, had changed his position in appointing women as deputy clerks—refusing in 1873 and relenting in 1875. The writer was seemingly unaware of *Warwick* and “congratulated” the judge “on this progressive step.” *Can a Woman Hold Office in Ohio?*, SOMERSET PRESS, Feb. 12, 1875, at 1.

many persons, *having the qualifications of electors*, who are citizens of this state . . . as he may deem necessary.”<sup>100</sup> Since women could not be electors, it followed that they could not be notaries.

This 1883 restriction was not the enshrinement of unbroken opposition to women notaries in the state, but rather exemplified the precarious nature of women’s progress in securing the right to hold office. In 1872, Annette “Nettie” Cronise (later Lutes) sought a notary commission from the Ohio governor, but the state’s attorney general opined that there was no authority for such appointment.<sup>101</sup> Disappointed in this aspiration, Cronise found some solace in becoming Ohio’s first woman lawyer the following year.<sup>102</sup> Though there is little evidence as to precisely what happened next, it seems likely that Cronise—like women lawyers in several other states in these decades—pressed for a legislative fix.<sup>103</sup> In 1879, the Ohio legislature obliged by passing a notary law that authorized the governor to appoint the state’s “male or female” citizens.<sup>104</sup> The attorney general approved.<sup>105</sup> Echoing the Ohio Supreme Court’s 1874 decision permitting women to serve as deputy clerks, the attorney general concluded that the office of notary was not contemplated within the constitutional language limiting “offices” to electors. Thus, it was permissible for the legislature to authorize women notaries by statute.<sup>106</sup> This time, the honor of being “first” went to Cronise’s sister Florence, Ohio’s second woman lawyer.<sup>107</sup> But in 1883, for reasons that are not clear from newspaper coverage or legislative documents, the legislature

---

100. THE STATE OF OHIO: GENERAL AND LOCAL LAWS AND JOINT RESOLUTIONS PASSED BY THE SIXTY-FIFTH GENERAL ASSEMBLY AT ITS ADJOURNED SESSION VOL. LXXX 212–13 (1883) (emphasis added). For a source showing that the 1883 law remained in place at the time Robinson sought a notarial post, see THE REVISED STATUTES OF THE STATE OF OHIO INCLUDING ALL LAWS OF A GENERAL NATURE IN FORCE JANUARY 1, 1890, tit. III, ch. 1 § 110 (Florien Giaouque ed., 7th ed. 1896) (emphasis added).

101. (No title), VICKSBURG DAILY TIMES, Mar. 27, 1872, at 2.

102. (No title), MINNEAPOLIS DAILY TRIB., Apr. 6, 1873, at 1 (listing Cronise’s admission to the bar alongside news about proposed suffrage amendments in New York and Massachusetts). Cronise’s admission was supported by prestigious local attorneys and does not seem to have encountered any meaningful opposition. *Ohio’s First Female Lawyer*, OHIO STATE BAR ASS’N NEWS, March 28, 2019, available at <https://www.ohiobar.org/about-us/media-center/osba-news/ohios-first-female-lawyer/> [<https://perma.cc/LU4T-2PGJ>]. Her sister became Ohio’s second woman lawyer. *Id.* Nettie Cronise’s daughter was admitted to the bar in 1905. *Id.*

103. BABCOCK, *supra* note 58, at 138–39; Berger, *supra* note 58, at 29, 48; FRIEDMAN, *supra* note 58, at 156–58.

104. THE STATE OF OHIO: GENERAL AND LOCAL LAWS AND JOINT RESOLUTIONS PASSED BY THE SIXTY-THIRD GENERAL ASSEMBLY AT THE ADJOURNED SESSION 36–37 (1879).

105. *Women as Notaries Public*, ST. LOUIS POST-DISPATCH, Apr. 17, 1879, at 1.

106. *Id.*

107. *Buckeye Byplay*, DAILY TIMES (New Phila., Ohio), Aug. 26, 1916, at 1 (recalling the accomplishments of the Cronise sisters).

reverted to excluding women from notary positions.<sup>108</sup> It is uncertain whether Nettie Cronice ever received a notarial commission, and the governor refused to renew Florence's.<sup>109</sup>

In 1894, Robinson believed that she had a fresh, compelling retort to the language in the notary statute and state constitution that limited officeholding to "electors."<sup>110</sup> In an act passed on April 24, 1894, the Ohio legislature granted women suffrage in school elections.<sup>111</sup> This was a common early step in women's suffrage in many states, nodding to women's perceived maternalism and expertise in child-related contexts.<sup>112</sup> Arguably, women were now "electors," qualified to hold office.

In September 1894, Robinson tested the scope of her political rights by applying for a notarial commission.<sup>113</sup> She passed an examination, obtained the signature of a judge attesting to her moral character and qualifications, secured the required bond of \$1,500, and mailed the paperwork to the office of Governor William McKinley.<sup>114</sup> A few days later, the materials were returned to her, along with a refusal to issue the commission.<sup>115</sup> The state's attorney general had determined that women were ineligible.<sup>116</sup>

Refusing to concede, Robinson appealed to the Ohio Supreme Court, a move one reporter described as "in keeping with her

108. GENERAL AND LOCAL LAWS, *supra* note 100, at 212–13. The following decade, the Illinois legislature also considered restricting notaries to electors, but the National Association of Women Stenographers successfully rallied more than 1,000 attorneys (mostly men) to oppose the law because of the inconvenience it would pose to their law practices. *Women Notaries Aroused*, INTER OCEAN (Chi.), Mar. 17, 1897, at 6.

109. *Cronise Body Arrives Today: Pioneer Woman Lawyer's Funeral at Tiffin*, REGISTER (Sandusky, Ohio), Jan. 31, 1930, at 2. On the Cronise sisters' legal practice, see DRACHMAN, *supra* note 2, at 100.

110. Sources do not indicate whether Robinson had any awareness of the Cronice sisters' notary advocacy.

111. STATE OF OHIO, GENERAL AND LOCAL ACTS PASSED AND JOINT RESOLUTIONS ADOPTED BY THE SEVENTY-FIRST GENERAL ASSEMBLY, vol. XCI, S.B. 296, 182 (1894). A legislator also introduced a bill to yet again allow women notaries, but it did not pass. *Women as Notaries*, SUMMIT COUNTY BEACON (Akron, Ohio), Mar. 15, 1894, at 4.

112. School-related ballots and offices were also often among the first available to women. Because statutes often specified that school offices were open to women, and the posts were neither enshrined in state constitutions nor of "ancient origin," it was relatively uncontroversial for women to fill these positions. For representative discussion, see M.W. Shinn, *Women as School Directors*, 8 OVERLAND & OUT WEST MAG. 628 (1886); *In Thirty-Two States Women Can Vote at School Elections*, NASHVILLE AM., May 1, 1910, at A23.

113. *The Gov.*, *supra* note 2, at 8.

114. *Id.*

115. *Id.*

116. *Id.*

progressiveness.”<sup>117</sup> Robinson’s legal challenge received attention across the country.<sup>118</sup> Financial implications were again a key motivation. As the journalist explained, Robinson had “many friends in this city, and especially among the gentlemen at the bar, who will watch the case with interest, hoping that the august Judiciary will stretch a point or two in a matter which means a financial gain to the little lady.”<sup>119</sup> These observers recognized that judges had the power and sometimes the inclination to “stretch” statutory and constitutional language in the interest of their preferred outcome.

A couple weeks before oral argument, Robinson attempted to garner support in the court of public opinion. She penned an article with the lengthy headline (in the style typical of the time): “‘Marry You?’ Says the ‘New Woman.’ ‘Well First I Will Want to See What Rights the Law Would Allow to Me.’ Property Rights of Married Women in Various States: Explained by Miss Nellie G. Robinson, One of the Bright Woman Lawyers of Ohio.”<sup>120</sup> In the column, Robinson praised changes to women’s legal status and observed that “[t]here are few laws nowadays that discriminate against woman simply as woman, except those disqualifying her for political possibilities.”<sup>121</sup> It was marriage, she explained, that was largely responsible for imposing legal restrictions, implying that marital rules might deter women from entering the institution.<sup>122</sup> Detailing how the consequences of marriage varied by jurisdiction, Robinson came to the Buckeye State. Ohio was “fairly liberal” with regard to married women’s property rights, yet fell behind Western states in not affording the franchise and associated political rights.<sup>123</sup> “Dakota, Colorado, Kansas, Utah and almost the entire Western section of the United States take the lead in woman suffrage, and give to woman almost all powers possessed by men,” Robinson summarized.<sup>124</sup> “And still the earth yields up her harvests, and the Western governments are just as stable as that of the State of Ohio, *where the wily legislator refuses woman the consolation of a notarial commission.*”<sup>125</sup>

---

117. *Id.*

118. *E.g., Mrs.[sic] Robinson in Earnest*, ATLANTA CONST., Nov. 26, 1895, at 1; *In Behalf of Women Notaries*, CHI. DAILY TRIB., Jan. 17, 1896, at 6.

119. *The Gov.*, *supra* note 2, at 8.

120. Nellie G. Robinson, ‘Marry You?’ Says the ‘New Woman,’ CIN. ENQUIRER, Dec. 22, 1895, at 27.

121. *Id.*

122. *Id.*

123. *Id.*

124. *Id.*

125. *Id.* (emphasis added).

In early January 1896, Robinson brought her argument to the Ohio Supreme Court.<sup>126</sup> According to the *Weekly Law Bulletin* of the *Ohio Law Journal*, “Miss Robinson took the floor and argued her own case before the five justices like a veteran lawyer.”<sup>127</sup> In the more colorful language of a supportive reporter, “There is a legal fiction to the effect that a ‘man’ who pleads his own case has a fool for a lawyer, but that does not apply to Miss Robinson by any possible construction. . . . In truth, that wise crosscut saw of the legal profession applies only to men.”<sup>128</sup> But the Ohio Supreme Court was not persuaded that women were now “electors” qualified to hold public office. It issued a terse opinion on January 14, 1896. The single sentence read: “Under the constitution and laws of Ohio, a woman is not eligible to the office of notary public.”<sup>129</sup>

Robinson still would not yield. With funding from the Women’s Twentieth Century Club of Cincinnati, of which she was a member,<sup>130</sup> she next traveled to Washington, D.C., to pursue a writ of error.<sup>131</sup> This procedural option, which has since been discontinued, required the litigant to persuade a U.S. Supreme Court justice to certify that a federal question had been raised.<sup>132</sup> If Robinson had been successful, the Ohio Supreme Court would have been forced to hear argument on that issue.<sup>133</sup> Despite supportive news coverage, Robinson again found no relief.<sup>134</sup>

Though Robinson had no luck persuading judges that women should have the right to notarial appointments, Ohio legislators yet again took note. As in other states, these male legislators (many of whom were lawyers) were willing to authorize women to hold at least some offices.<sup>135</sup>

---

126. (No title), WEEKLY L. BULLETIN & OHIO L.J., Vol. XXXV, Jan. 13, 1896, at 9.

127. *Id.*

128. *She Wants to Be a Notary*, *supra* note 62, at 5.

129. *State ex rel. Robinson v. McKinley*, 50 N.E. 1134 (Ohio 1896).

130. *The New Woman Again, Nellie Robinson, Lawyer, Will Boom Free Silver*, BOS. POST, Sept. 21, 1896, at 5 [hereinafter *The New Woman Again*]. Though the activities of this club warrant further research, it is notable that another endeavor one of its endeavors in this period was petitioning the mayor of Cincinnati “to appoint a fair proportion of women to act on the board of district physicians.” (No title), SAINT PAUL GLOBE, Aug. 23, 1898, at 4.

131. *Will Apply to Each Judge: Miss Robinson Failed in Two Efforts for Writ of Error*, WASH. POST, May 26, 1896, at 2.

132. On the elimination of this procedure, see Philip M. Payne, *The Abolition of Writs of Error in the Federal Courts*, 15 VA. L. REV. 305 (1929).

133. *Will Apply to Each Judge*, *supra* note 131, at 2.

134. *Miss Robinson, Lawyer*, EVENING STAR (D.C.), May 22, 1896, at 1; *Will Argue Her Own Suit: The Only Woman Lawyer of Ohio Striving to Be Made a Notary*, WASH. POST, May 23, 1896, at 3.

135. For other examples of courts overturning legislation purporting to permit women notaries, see Opinion of the Justices, 43 N.E. 927, 928 (Mass. 1896); *In re House Bill No. 166*, 21 P. 473 (Co. 1886).

In 1898, they amended the notary statute to omit the language requiring appointees to be electors.<sup>136</sup> According to newspaper coverage, the legislators acted “in ignorance or defiance” of the Ohio Supreme Court’s decision in *Robinson v. McKinley*.<sup>137</sup> Immediately after the bill became law, a state legislator “hurriedly” went to Governor Asa S. Bushnell’s office to submit an application for a woman, Grace A. Adams, whose connection to him was not explained.<sup>138</sup> “It was as promptly made out, with never a word of protest,” a journalist describing the occasion observed.<sup>139</sup> “The usual blank but needed a single change, and that was the erasure of the word ‘Him,’ and the substitution with a pen of the word ‘Her.’”<sup>140</sup> News of this apparent progress was carried across the country.<sup>141</sup>

Though “many women applied,” according to another article, only Adams received the commission—as it was already anticipated that the law’s constitutionality would be challenged.<sup>142</sup> Adams served as the defendant in a case in which the Ohio Supreme Court again ruled against women’s expanded political rights.<sup>143</sup> Citing cases from Massachusetts and elsewhere, the court concluded that women were still ineligible. A notary public was an “officer” under the state’s constitution, so the role was open only to “electors,” a category the state’s constitution limited to men.<sup>144</sup> That women could vote for and hold school-related positions did not undermine this general constitutional restriction.<sup>145</sup>

### C. *The “New Woman” and Presidential Politics*

This section examines Robinson’s support of 1896 presidential candidate William Jennings Bryan to consider how advocacy for women’s

---

136. The statute permitted appointment of any citizen of the state who met certain preexisting age and residency requirements. THE STATE OF OHIO: GENERAL AND LOCAL LAWS PASSED AND JOINT RESOLUTIONS ADOPTED BY THE SEVENTY-THIRD GENERAL ASSEMBLY AT ITS REGULAR SESSION, VOL. XCIII 405 (1898).

137. *No Women Notaries*, EVENING NEWS REV. (East Liverpool, Ohio), June 24, 1898, at 1.

138. *A Woman Notary Public*, XENIA DAILY GAZETTE (Ohio), March 4, 1898, at 1.

139. *Id.*

140. *Id.*

141. *E.g.*, *Of Interest to Women*, EVENING REPUBLICAN (Meadville, Pa.), March 21, 1898, at 1.

142. *No Women Notaries*, *supra* note 137, at 1. One article suggested a woman from Columbus also received a notary commission. *Lady Notaries*, DAILY HERALD (Delphos, Ohio), Mar. 7, 1898, at 5.

143. *State ex rel. Attorney General v. Adams*, 51 N.E. 135, 136 (Ohio 1898).

144. *Id.* (citing OHIO CONST. of 1851, art. V, § 1).

145. *Id.* *Cf.* *Stone v. Riggs*, 142 P. 298, 299 (Okla. 1914) (holding that women’s ability to vote in school elections rendered them “voters” eligible for county offices, but not “electors,” which could be relevant in other contexts).

officeholding related to broader political and social discourse on women's proper roles in society. Like other women lawyers and professionals of her time, Robinson faced difficult choices about how to balance her personal, professional, and political aims. While recognizing that political rights like suffrage had connections to professional opportunities, Robinson was among those who disclaimed seeking major societal changes—either as a matter of strategy or genuine belief.

After Robinson's failed trip to Washington, D.C., to lobby the justices regarding her notary case, newspapers reported that she planned to remain on the East Coast.<sup>146</sup> There she stumped for Democratic presidential candidate William Jennings Bryan in his bid against former Ohio Governor William McKinley.<sup>147</sup> Coverage of Robinson's political involvement in the East implied that she was there, at least in part, because of her dissatisfaction with what she described as Ohio's "idiotic law" against women notaries.<sup>148</sup> Though press about the notary lawsuit had frequently suggested that McKinley supported allowing women to become notaries and had encouraged Robinson's suit as a friendly test case,<sup>149</sup> Robinson now used her notoriety as the "young woman who sued William McKinley" as part of her platform to challenge his candidacy.<sup>150</sup>

As with many of her other endeavors, Robinson attracted significant publicity as she stumped for Bryan. Newspapers detailed how her campaign speeches focused on a key component of Bryan's platform: his support of "free silver" instead of the gold standard.<sup>151</sup> "I'm going to speak for Bryan" because "he is honest and is working in the interests of the

146. *For Silver: Miss Nellie Robinson, Cincinnati's Only Woman Attorney, Will Speak*, CIN. ENQUIRER, Aug. 2, 1896, at 5 ("There is some doubt about Miss Robinson returning to Cincinnati at all. She announced before her departure that she would remain in the East for several months, and might decide to stay there.").

147. *Id.* (noting that Robinson was expected to stump for Bryan throughout the Empire State).

148. *The New Woman Again*, *supra* note 130, at 5.

149. *E.g., She Wants to Be a Notary*, *supra* note 62, at 5 ("McKinley is quite in favor of a settlement of the question and told Miss Robinson recently at Columbus that the deprivation of the right was a gross injustice.").

150. *E.g., Stumping: Nellie Robinson Will Go: Plucky Cincinnati Girl Who Wants Bryan Elected—Sore on McKinley*, CIN. ENQUIRER, Sept. 19, 1896, at 1.

151. Bryan clinched the Democratic nomination, over sitting President Grover Cleveland, through a speech regarded as one of the most famous and effective in all of U.S. history. The speech concluded with the striking line: "we will answer their demand for a gold standard by saying to them: You shall not press down upon the brow of labor this crown of thorns, you shall not crucify mankind upon a cross of gold." For a transcript and representative introduction to this speech, see *Williams Jennings Bryan Cross of Gold Speech July 8, 1896*, AM. HIST. FROM REVOLUTION TO RECONSTRUCTION & BEYOND, available at <http://www.let.rug.nl/usa/documents/1876-1900/william-jennings-bryan-cross-of-gold-speech-july-8-1896.php> [<https://perma.cc/59QX-CQK5>].



toilers,” she explained. “I am very sorry I cannot vote for him.”<sup>152</sup> Acknowledging it was rare for women to be “stump speakers,” Robinson cited her experience as a lawyer in Ohio’s courts as giving her the confidence to “say what I thought, and make plain to people the intricate questions of the present campaign.”<sup>153</sup> She predicted women would increasingly stump for candidates, perhaps hoping this development eventually would lead to women nominees.<sup>154</sup>



Image from *A Woman Speaker Stumps Her State*, WEEKLY ROCKY MOUNTAIN NEWS (Denver), Oct. 8, 1896, at 7.

In addition to monetary policy, Robinson may have been drawn to support Bryan because of her personal and professional connections to Bryan’s wife, Mary Baird Bryan. Mary Baird was born in Robinson’s small hometown of Perry, Indiana.<sup>155</sup> Baird was just eight years older than Robinson, so it is likely they knew each other as girls.<sup>156</sup> As a young

152. *To Get Even with M’Kinley*, BOS. DAILY GLOBE, Sept. 18, 1896, at 4. For continued coverage of Robinson stumping for Bryan, see *Big Day Under the Silver Tent*, CIN. ENQUIRER, Sept. 19, 1897, at 1.

153. *A Woman Speaker Stumps Her State*, WEEKLY ROCKY MOUNTAIN NEWS (Denver), Oct. 8, 1896, at 7.

154. *Id.* This article was widely republished. For another example, see *Stumps Her State*, GALVESTON DAILY NEWS, Oct. 4, 1896, at 12.

155. H.M.B., *They Lay Down the Law: Nebraska’s Interesting Array of Enterprising Women Lawyers*, CHI. TRIB., May 24, 1890, at 9.

156. Perry, Indiana, had fewer than 15,000 residents as of the 1870 census. GOV’T PRINTING OFFICE, NINTH CENSUS—VOLUME I: THE STATISTICS OF THE POPULATION OF THE UNITED STATES 25 (1872).

woman, Baird attended a women's college in Jacksonville, Illinois, where she met William Jennings Bryan, who was enrolled in a college nearby.<sup>157</sup> The couple waited for Bryan to begin practicing law before they wed in 1884.<sup>158</sup> After they moved to Nebraska, Mary Baird Bryan was admitted to the state bar in 1888.<sup>159</sup> Though she proclaimed her legal education and professional achievements were in service of her husband's ambitions,<sup>160</sup> her accomplishments nevertheless attracted the glowing admiration of suffragists and women lawyers.<sup>161</sup>

Beginning in 1896, Mary Baird Bryan accompanied her husband on the presidential campaign trail, and the press cast her as a wise and competent partner. Reporters routinely mentioned that she helped William Jennings Bryan craft his acclaimed speeches and even signaled to him from the audience to adjust his tone.<sup>162</sup> Coverage that spread across the country described her as "a new and potent element" and "a veritable steam engine" in her husband's campaign.<sup>163</sup> Her contributions were sufficiently well known that one article facetiously queried: "Will it be William Jennings Bryan or Mary Baird Bryan who will be president if the silverites win." The writer suggested it would be "just too jolly if Mrs. Bryan is elected president."<sup>164</sup> With the aspiring first lady approvingly

---

157. *Bryan the Demagogue*, N.Y. TIMES, July 11, 1896, at 3.

158. *Id.*

159. H.M.B., *supra* note 155, at 9.

160. This was the routine casting of her motives. *See, e.g., id.*; Minna F. Murray, *Miss Murray and Mrs. Bryan*, ST. LOUIS POST-DISPATCH, July 11, 1896, at 3.

161. For example, when William Jennings Bryan delivered a speech to over 5,000 women in Chicago, a journalist noted that "Mrs. Bryan [received] almost as much attention as [her husband]. She chatted and shook hands with women on the platform and was the center of attraction for an admiring circle." *Addresses Women at Battery D: Candidate Bryan Outlines Campaign Issues for Feminine Auditors*, CHI. TRIB., Oct. 29, 1896, at 3. Women in Lincoln created a Mary Bryan Club in her honor, which spread to other locations. Though the full scope of these clubs warrants further research, they seem to have started as organizations for women who supported free silver and grew to promote women candidates for school-related offices and for other political purposes. *See, e.g., Nebraska's All Right: Prominent Germans Take the Rostrum for Free Silver*, ST. JOSEPH WEEKLY GAZETTE (Mo.), Oct. 9, 1896, at 8 (discussing two chapters of Mary Bryan Club, with 64 and 175 members "doing good work for the cause of free silver"); *The Chatterbox*, LINCOLN EVENING CALL, Apr. 9, 1897, at 4 (describing Mary Bryan Club strategies to get certain women elected); *Row in the Mary Bryan Club*, TIMES-PICAYUNE (New Orleans), Jan. 1, 1900, at 3 ("The Mary Bryan Club is the parent organization of a number of clubs in the west organized by the wives of supporters of Mr. Bryan in 1896."); *Bryan Club Meeting*, RED CLOUD CHIEF (Neb.), Oct. 9, 1908, at 4 (advertising club meeting).

162. *Wife of the Candidate: Mrs. Bryan Helped to Prepare the Speech that Nominated Her Husband and Is Almost as Well Posted about Silver as He Is*, PHILA. TIMES, July 12, 1896, at 5 [hereinafter *Wife of the Candidate*].

163. *Mary Baird Bryan Is a New Woman, a Lawyer, and an Athlete*, TIMES-PICAYUNE (New Orleans), July 26, 1896, at 22.

164. *Blue Rapids Rippies*, MARSHALL COUNTY NEWS (Marysville, Kan.), July 24, 1896, at 5.

described as “intellectual-looking,” “handsome” rather than “pretty,” “studious and very reserved,” “witty,” and a “wholesome American woman,”<sup>165</sup> it is easy to understand why some women might have been drawn to Mary Baird Bryan and encouraged to support her husband.<sup>166</sup>

In speaking to reporters directly, Mary Baird Bryan voiced nuanced views on women’s rights, which may reflect her strategic support of her husband’s campaigns or else her own evolving opinions. In the summer of 1890, when her husband was first nominated to represent Nebraska in the Senate,<sup>167</sup> she told a journalist she did not favor female suffrage.<sup>168</sup> Though women knew enough “to vote intelligently,” they already had “cares enough now,” she reasoned.<sup>169</sup> During the presidential campaign in 1896, she acknowledged that she was president of Lincoln’s Sorosis Club (an organization for professional women that was inaugurated in New York City) and took “a keen interest in everything that pertains to the advancement of woman.”<sup>170</sup> Still, she hedged, continuing: “I am not an avowed woman suffragist and have not thought the subject out yet to my entire satisfaction.”<sup>171</sup> She suggested “careful investigation” might persuade her that women’s suffrage was necessary, at which time she would be “unalterably in favor of woman suffrage.”<sup>172</sup> In another interview, Mary Baird Bryan expressed her support of the “proper division line between the sexes,” and stated there was no such thing as the “new woman.”<sup>173</sup> “Women are today what they have always been,” she maintained. A woman’s “first duty” was to her home, but she should also not “allow herself to stagnate after marriage.”<sup>174</sup>

---

165. *Wife of the Candidate*, *supra* note 162, at 5.

166. Another supporter of the Bryans was prominent suffragist and California lawyer Clara Foltz. Foltz proclaimed that she supported “every plank” in the platform, found William Jennings Bryan to be an eloquent orator, and promised to “work to see his beautiful lawyer wife with him in the White House.” *Clara Foltz Takes Up Bryan’s Banner*, S.F. EXAMINER, Aug. 5, 1896, at 2.

167. He was nominated on July 30, 1890. *Bryan the Demagogue*, *supra* note 157, at 3.

168. There was a growing push for women’s suffrage in Nebraska in these years. Carmen Heider, *Adversaries and Allies: Rival National Suffrage Groups and the 1882 Nebraska Woman Suffrage Campaign*, 25 GREAT PLAINS Q. 87, 94–99 (2005).

169. H.M.B., *supra* note 155, at 9.

170. Murray, *supra* note 160, at 3.

171. *Id.*

172. *Id.* Mary Baird and William Jennings Bryan were vocal suffragists by the 1910s. Nancy Cole, *Biographical Sketch of Mary Baird Bryan*, Biographical Database of NAWSA Suffragists, 1890–1920, available at <https://documents.alexanderstreet.com/d/1009859961> [<https://perma.cc/CTL7-R8F5>]. Their oldest daughter was Florida’s first elected congresswoman, in 1928. *Id.*

173. *Mrs. Bryan’s Views of Life: A Practical and Sensible Woman*, LAURENS ADVERTISER (S.C.), July 28, 1896, at 4.

174. *Id.*

Robinson was likewise mild or tentative in her support of the women's movement during the months in which she campaigned for William Jennings Bryan. Indeed, at times she seemed to borrow from Mary Baird Bryan's own approach of avoiding "extremes."<sup>175</sup> Robinson told a reporter that "[a] woman always has to fight for every inch she gets," yet she disclaimed affiliation with the movement for women's rights.<sup>176</sup> "I am not a woman's rights advocate by any means," she explained in a written statement printed in a newspaper, "but I do believe that more women should enter the professions, as I think it would give them a better idea of the world and public affairs."<sup>177</sup> Like many of her peers, she purported to believe that a woman "should not attempt to attend to her home duties and to business at the same time."<sup>178</sup> In Robinson's view, both paths were worthwhile and respectable, but they simply could not be combined. "The married woman should attend to the duties of the household, and thereby enhance the attraction of fireside and home," she opined.<sup>179</sup> "On the other hand, the woman who enters a profession should endeavor, with all the ability she possesses to make a success of it, and thereby give women a standing in the line which she has chosen."<sup>180</sup>

Relatedly, Robinson professed a complicated attitude toward the "new woman" concept, itself a contested and shifting term. Often described as a "new woman" herself,<sup>181</sup> in one letter to the editor she included the addendum: "P.S. I am not a new woman. The world has no need of a new woman. God Almighty did his best in the manufacture of the old one, and even He could never have improved upon her,—and left her a creature of earth."<sup>182</sup> The editor apparently appreciated this caveat, as he printed the letter under the line: "Here is a ringing little letter from a type of the modern young woman of brains and affairs."<sup>183</sup> It is

---

175. *Id.*

176. Robinson, *supra* note 130, at 5.

177. Nellie Grace Robinson, statement printed in *A Woman Speaker Stumps Her State*, BOS. POST, Oct. 4, 1896, at 21.

178. *Id.* Women lawyers professed differing views on the compatibility of practicing law and being a wife and mother. For further discussion, see DRACHMAN, *supra* note 2, at 98–99. *See also* Virginia G. Drachman, "My 'Partner' in Law and Life": *Marriage in the Lives of Women Lawyers in Late 19th- and Early 20th-Century America*, 14 L. & SOC. INQUIRY 221, 231–37 (1989).

179. Robinson, *supra* note 177, at 21.

180. *Id.*

181. *E.g.*, *The New Woman Again*, *supra* note 130, at 5.

182. Nellie G. Robinson, Letter, UTAHNIAN, Aug. 8, 1896, at 11. In another newspaper submission, Robinson mused: "For the new woman I have not much sympathy, because I do not believe that there is any such thing. She is the same old woman under a new name." Robinson, *supra* note 177, at 21.

183. Robinson, Letter, *supra* note 182, at 11.

impossible to know whether Robinson's disclaimer was in fact intended to produce this type of reaction. By claiming she sought only equality in the professions (and political rights in furtherance of that goal), and implicitly did not seek to undermine distinctions based on sex in other contexts, her advocacy became more palatable to some influential listeners.

#### D. *Robinson's Personal, Professional, and Political Ventures*

After Robinson's preferred presidential candidate lost, her activities continued to garner headlines that reveal crucial challenges she and her contemporaries faced. From building a successful law practice in New York City, to obtaining a divorce, to running unsuccessfully for mayor of an Ohio town, Robinson lived a fascinating but often disappointing life. Though she was unique in many respects, Robinson's experiences nevertheless help capture how law, social norms, and professional goals collided for ambitious and educated women around the turn of the twentieth century. Throughout her triumphs and failures, the allure of holding office remained.

In 1896, Robinson seemed to find a welcoming professional home on the East Coast and first settled in New York.<sup>184</sup> That August, she was admitted to the New York bar.<sup>185</sup> Newspaper coverage of this milestone in Robinson's career summarized her lost notary battle in Ohio and suggested that in New York "[s]he is bound to be a notary as well as a lawyer."<sup>186</sup> After all, women in New York had been permitted to become notaries since 1886.<sup>187</sup> In her New York law practice, Robinson found that

---

184. *Lawyer Nellie G. Robinson*, STANDARD UNION (Brooklyn, N.Y.), Aug. 18, 1896, at 3.

185. *Id.*

186. *Id.*

187. In 1871, New York's attorney general advised the governor that women were not eligible to be notaries (or for "election or appointment to any civil office within this State"). OPINIONS OF THE ATTORNEYS-GENERAL OF THE STATE OF NEW YORK FROM THE FORMATION OF THE STATE GOVERNMENT TO FEBRUARY, 1872, at 554 (1872) (printing opinion from May 17, 1871). The following decade, when a new attorney general advised the president of the State Civil Service Commission that women were eligible to compete with men under the Civil Service rules, he cast doubt on the earlier notary opinion. DOCUMENTS OF THE ASSEMBLY OF THE STATE OF NEW YORK, ONE HUNDRED AND EIGHTH SESSION, 1885, at 98-99 (1885) (printing opinion from March 19, 1884). In 1885, a New York court discussed (without deciding) whether a woman notary's actions had been invalid, concluding that it was "a question about which legal minds may well differ," but that the challenge had not been raised in an appropriate posture. *Findlay v. Thorn*, 1 How. Pr. (N.S.) 76, quoted in Nathaniel Moak, *Are Women Legally Eligible in New York as Notaries Public?*, 41 ALBANY L. J. 244, 244 (1890). In 1886, the governor appointed five women as notaries which, according to a reporter, "solved one branch at least of the women's rights question" and was "regarded as a great victory for the women who have been urging their claims." *The Sly Old Bachelor*, BUFFALO TIMES,

she “unintentionally made divorce cases her specialty” because women who could not afford the suits were the first to seek her services, and then other women followed.<sup>188</sup> She also made advancements for women lawyers in New York City, becoming the first to practice in the Court of Special Sessions (a trial court that heard misdemeanors), again drawing nationwide press.<sup>189</sup>

For a few years thereafter, Robinson ceased to make headlines for her professional accomplishments, but she likely shocked her erstwhile friends and colleagues with personal news. In 1901, the *Cincinnati Enquirer* revealed that Robinson had been secretly married since November 1894. Robinson had met her husband, Frank W. Stretton, in the very office of the *Cincinnati Enquirer*, when he had held a temporary position there.<sup>190</sup> Robinson and Stretton had traveled to Louisville, Kentucky, for a small wedding ceremony and only told a few friends. The couple then lived apart “for a number of years for various reasons.”<sup>191</sup>

Sources do not reveal Robinson’s motives for hiding her marital status, but the most plausible explanation is that she wished to maintain her professional persona and speak with authority as a single woman.<sup>192</sup> When Robinson penned her column “‘Marry You?’ Says the ‘New Woman,’” she was actually a newlywed writing under her maiden name. When she stumped for Bryan and advised women to choose either home or professional life, she did not disclose that she was attempting a more complicated arrangement herself. And when she settled on the East Coast, it may not have been merely, or perhaps at all, because of dissatisfaction with professional opportunities in Ohio. Rather, she relocated to live with her husband after beginning their married life apart.<sup>193</sup> By around 1900, Robinson accompanied Stretton to D.C., where she practiced law under her married name.<sup>194</sup> This was all revealed when the *Cincinnati Enquirer* updated its readers in 1901 that the “bright woman,” whom they might

Mar. 24, 1886, at 1. The Woman’s Suffrage party’s state committee thanked the governor for his action. *Notice*, ROCHESTER DEMOCRAT & CHRON., Apr. 14, 1888, at 2.

188. *An Ohio Woman Lawyer*, WEEKLY STAR (Plymouth, Pa.), Oct. 22, 1896, at 1.

189. *E.g.*, *Miss Robinson A Lawyer*, EVENING TIMES (D.C.), Apr. 3, 1897, at 3; *Sharp Woman Attorney*, TOPEKA ST. J., Apr. 9, 1897, at 8; *A Woman Lawyer to Defend Him*, L.A. HERALD, Apr. 18, 1897, at 21.

190. It is unclear why Robinson was there, but perhaps it was related to the paper’s coverage of her career.

191. *Secretly Married*, CIN. ENQUIRER, Feb. 1, 1901, at 3.

192. *In this City: Mrs. Stretton, Who Has Filed Suit for Divorce, Practiced Law*, CIN. ENQUIRER, Jan. 10, 1906, at 7 [hereinafter *In this City*]; *Secretly Married*, *supra* note 191, at 3.

193. *Secretly Married*, *supra* note 191, at 3.

194. She is listed under her married name of Nellie G. Stretton in the law pages of a D.C. business directory as of 1899. BOYD’S DIRECTORY OF THE DISTRICT OF COLUMBIA 116 (1899).

recall from her litigation against now-President McKinley, had been hospitalized for three months in Chicago due to a severe but unnamed illness.<sup>195</sup> While she was at death's door, her husband remained 700 miles away in D.C.<sup>196</sup>

After another disappearance from the historical record, Robinson reemerged in 1906, still alive but in no better health. This time a reporter detailed why Robinson was filing for divorce.<sup>197</sup> Stretton was a drunkard, and “she followed him from place to place and tried to redeem him from his habits of intoxication, but failed,” according to a *Cincinnati Enquirer* writer.<sup>198</sup> “He finally deserted her, she declares, for another woman, leaving her destitute and with a large number of debts to pay.”<sup>199</sup>

Robinson then returned to her family's home in Indiana and sued for a divorce and restoration of her maiden name.<sup>200</sup> This once thriving lawyer, who had been hailed as the first woman to represent a client in a divorce case in Ohio<sup>201</sup> and who had developed a booming divorce practice in New York City,<sup>202</sup> was now a divorce petitioner herself. As the divorce proceedings dragged on, additional reports stated that Robinson remained in a hospital, “suffering from melancholia” and delusions that might now be called hypochondria.<sup>203</sup> Finally, in January 1908, the uncontested divorce was granted on the ground that Stretton had abandoned her.<sup>204</sup> Press coverage concluded that Robinson, who had been “the first woman lawyer to practice in Cincinnati . . . will devote the remainder of her life to raising chickens.”<sup>205</sup>

But once freed of Stretton, Robinson was far from finished with her political goals. The following month, reports carried her ambitious plan to become mayor of Milford, a village near Cincinnati. Robinson's platform, according to a letter she penned, was to “give everybody concerned a ‘square deal.’”<sup>206</sup> She listed her “three planks” as “honesty,

---

195. *Secretly Married*, *supra* note 191, at 3.

196. *Id.*

197. *In this City*, *supra* note 192, at 7.

198. *Id.*

199. *Id.*

200. *Id.*

201. *Woman Lawyer Wins a Divorce Case*, DISPATCH (Moline, Ill.), Oct. 12, 1895, at 6.

202. *An Ohio Woman Lawyer*, *supra* note 188, at 1.

203. *Imagines: Each Hour Brings a New Disease and that if She Goes Home She Will Die*, CIN. ENQUIRER, Apr. 20, 1907, at 8.

204. *News of the Courts*, CIN. ENQUIRER, Jan. 22, 1908, at 8.

205. *She Will Raise Chickens*, WASH. HERALD (D.C.), Jan. 22, 1908, at 9.

206. Nellie G. Robinson, *Woman Wants to Be Mayor of Milford*, LEXINGTON HERALD, Feb. 22, 1908, at 5.

sobriety and decency.”<sup>207</sup> It is unclear what happened with Robinson’s Milford run at that time, but by July she was instead seeking the mayorship of nearby Glendale, Ohio. The *St. Louis Post-Dispatch* provided the most extensive coverage of this effort. In a nearly full-page spread, the reporter recounted Robinson’s unusual biography and included a printed statement by Robinson herself.<sup>208</sup> Striking a notably different tone than in her earlier pursuit of a notarial commission, Robinson now blended claims about women’s equality with arguments about the potential for women’s special role in politics. “Aren’t women part of ‘the people’?” she queried, summoning women to fight against government corruption and unequal wages.<sup>209</sup> After detailing recent problems in Cincinnati, she concluded, “[w]ith a woman in the Mayor’s chair in Cincinnati things would be different.”<sup>210</sup>

---

207. *Id.*

208. *A Woman Candidate’s ‘Cross of Gold,’* ST. LOUIS POST-DISPATCH, July 26, 1908, at B9. The “Cross of Gold” language harkens back to the famous speech by William Jennings Bryan at the Democratic Convention in 1896. *See* discussion of speech *supra* note 151.

209. *Id.*

210. *Id.* It is unclear if Robinson also aspired to be mayor in Cincinnati or simply believed commenting on Cincinnati would receive greater attention than focusing on a less prominent location. The article clearly states she was a candidate for mayor in Glendale. *Id.*





*A Woman Candidate's 'Cross of Gold', ST. LOUIS POST-DISPATCH, July 26, 1908, at B9.*

Over the following months, scattered newspaper coverage tracked Robinson's unlikely campaign for a mayoral position. A brief entry in the *Times-Picayune* described Robinson's ambitions, observing "[s]he bids fair to become a conspicuous figure among the women in politics." Noting other women gaining prominence in the political sphere, the writer queried: "What will happen if she is elected?"<sup>211</sup> But this "if" was necessarily preceded by the question of eligibility.

After a brief hiatus from political posturing—during which Robinson published a well-received novel about an "interesting romance pertaining to the tragic period of the Crucifixion"<sup>212</sup>—she again set her sights on

211. *A Woman Candidate for Mayor*, *TIMES-PICAYUNE* (New Orleans), Aug. 1, 1908, at 7.

212. *A New Testament Romance*, *SUN* (Balt.), Jan. 24, 1909, at 21. See also NELLIE G. ROBINSON, *PHILO'S DAUGHTER: THE STORY OF THE DAUGHTER OF THE THIEF WITH WHOM CHRIST WAS CRUCIFIED* (1908).

prospects in Milford.<sup>213</sup> It is not clear why Robinson's attention returned to Milford, but her decision may have been strategic. The Milford mayor was rumored to be on the cusp of resigning.<sup>214</sup> In the wake of this news, one writer explained, Robinson had declared "that she stood a very good chance of landing the position, notwithstanding the fact that the state's laws are intended to bar women from all elective official positions, except membership on School Boards."<sup>215</sup>

Robinson claimed to have examined the law and consulted with other lawyers, with all evidence suggesting a woman could be mayor.<sup>216</sup> Leaders of Milford retorted that the current mayor was unlikely to resign and, if he did, only members of the town council were eligible to fill the remainder of the term.<sup>217</sup> As a lawyer authorized to speak for the town council explained:

There is only one chance for Miss Robinson to secure the honor she covets, and that is for the electors of Milford to become suddenly imbued with woman suffrage ideas, override all laws, establish a new precedent and allow women to vote at municipal elections. Such a political revolution in Milford might enable Miss Robinson to be elected a member of Council, if not Mayor, and eventually pave the way to her being made the village's Chief Magistrate.<sup>218</sup>

When Robinson later appeared before the council to argue her position, "[s]he was given a respectful hearing."<sup>219</sup> But after that point, newspaper coverage of her mayoral posturing ceased. In lieu of a Robinson's yearned-for mayorship, there is a void in the historical record. Robinson never ascended to this office, or any other, in Ohio.<sup>220</sup>

#### *E. Ohio's Constitutional Conventions and Efforts to Expand Women's Political Rights*

This section examines efforts to permit women's officeholding by amending Ohio's constitution in the 1910s. By closely parsing the

---

213. *Woman: Wants to Be Mayor of Village of Milford—Miss Nellie Robinson's Unique Ambition*, CIN. ENQUIRER, Jan. 26, 1909, at 9.

214. *Id.*

215. *Id.*

216. *Id.* Robinson did not provide detail to support this claim.

217. *Id.*

218. *Impossible: For Miss Robinson to Be Elected Mayor of Milford, Says Solicitor—Candidate Addresses Council*, CIN. ENQUIRER, Feb. 3, 1909, at 9.

219. *Id.*

220. Newspaper coverage does not reveal how this particular mayoral position was resolved, but no evidence has been found to indicate that Robinson ever became a mayor or held any office in Ohio.

proposed amendments, this section crystallizes links between suffrage and officeholding and shows the extreme difficulty that reformers encountered in pressing for sex equality. The section concludes with the ratification of the Nineteenth Amendment, which finally gave Ohioan women not only the vote but also the long-sought right to become notaries public.

Though Ohioans were once on the cutting edge in pressing for women's equality, the state was no longer at the forefront by the early twentieth century.<sup>221</sup> In 1850, the state had held the second women's rights convention, following the infamous meeting in Seneca Falls, New York, two years earlier. In 1851, delegates to the state's constitutional convention had proposed and debated women's suffrage, making Ohio the first state to officially consider enshrining this right in its constitution.<sup>222</sup> The state was also home to a number of prominent leaders in the women's movement in the following decades. Since then, progress on women's political rights had stagnated. National and local suffrage leaders had only succeeded in obtaining votes for women in Ohio's school elections.<sup>223</sup>

A promising opportunity to pursue full suffrage for Ohio's women arose in the early 1910s. Ohio's 1851 constitution required that there be a vote every twenty years on whether to hold another constitutional convention.<sup>224</sup> Though Ohioans sometimes voted against revisiting their constitutional text,<sup>225</sup> Progressive Era enthusiasm for reform prompted an overwhelming vote in favor of a constitutional convention in 1910.<sup>226</sup>

---

221. For evidence of the salience of Ohio's earlier history during the later suffrage campaigns, see *Ohio Was Cradle of Equal Rights: By Granting Equal Suffrage State Will Be Loyal to Ideals of Pioneers*, GREENVILLE J. (Ohio), Oct. 29, 1914, at 8.

222. *Id.* See also Terzian, *Ohio's Constitutions*, *supra* note 94, at 372–75 (detailing discussion of race and sex during constitutional convention).

223. *Ohio Was Cradle of Equal Rights*, *supra* note 221, at 8 (discussing 64 years of “active woman suffrage organization in Ohio”). See also Barbara Terzian, *Effusions of Folly and Fanaticism: Race, Gender and Constitution-Making in Ohio, 1802–1923*, at 267–69 (1999) (unpublished Ph.D. dissertation, Ohio St. U.) (on file with author) (discussing women's suffrage advocacy in Ohio).

224. OHIO CONST. of 1851, art. XVI, § 3.

225. Ohioans voted against holding a convention in 1891 because of dissatisfaction with the failure to pass the proposed constitution from the previous constitutional convention. Terzian, *Ohio's Constitutions*, *supra* note 94, at 381.

226. Landon Warner, *Ohio's Constitutional Convention of 1912*, 61 OHIO ST. ARCHAEOLOGICAL & HIST. Q. 11, 11–12 (1952). For key dates, see *Ohio Constitutional Convention of 1912*, OHIO HIST. CENT., [https://ohiohistorycentral.org/w/Ohio\\_Constitutional\\_Convention\\_of\\_1912](https://ohiohistorycentral.org/w/Ohio_Constitutional_Convention_of_1912) [https://perma.cc/99JT-2ZPS]. There was also a constitutional convention in 1873 through 1874, which included consideration of women's suffrage. By a vote of 49 to 41, the delegates voted against adopting a women's suffrage proposal, though they did vote in favor of a provision allowing women to hold certain school offices. The proposed constitution developed during this convention was rejected by the voters in 1874. Terzian, *Ohio's Constitutions*, *supra* note 94, at 379–81. The Ohio legislature rejected women's suffrage amendments another half dozen times between this convention and 1900. Stieritz, *supra* note 41, at 6.

Voters selected the delegates in November 1911, and the convention began the following January.<sup>227</sup> The convention's agenda brimmed with quintessential Progressive Era proposals, such as municipal home rule, temperance, and reforms to taxation, the court system, and labor rules.<sup>228</sup>

One of the most prominent and controversial of the proposals was the full enfranchisement of women.<sup>229</sup> Women's suffrage organizers from the local through national levels campaigned heavily, believing that Ohio could become the sixth state to grant women the franchise.<sup>230</sup> Success in Ohio seemed particularly useful in building momentum, as Ohio would become the first state east of the Mississippi River to afford women this right.<sup>231</sup>

During the convention, delegates voiced the typical points for and against women's suffrage. Proponents turned to arguments about equality and democracy, as well as suggesting that women could bring a uniquely moral and purifying perspective to politics. Opponents maintained that women were already represented by their husbands and that it was unfair to place a burden upon women that many of them did not want. Both sides referenced discussions with their constituents and analyzed the Western states and foreign countries that gave women the ballot in order to argue that women's suffrage was beneficial, neutral, or harmful.<sup>232</sup>

Debate about the possible suffrage amendment's specific text blended strategy and substance.<sup>233</sup> Suffrage supporters sought to achieve their aim by deleting the words "white male" from the existing section on the elective franchise. Technically, this would only change women's voting rights, as the Fifteenth Amendment trumped Ohio's outdated text with regard to racial restrictions on voting.<sup>234</sup> Likely for this reason, the

227. Warner, *supra* note 226, at 17.

228. *Id.*; Terzian, *Ohio's Constitutions*, *supra* note 94, at 381.

229. Terzian, *Ohio's Constitutions*, *supra* note 94, at 390. For representative discussion from the period, see *Campaign: For Women's Suffrage*, CIN. ENQUIRER, Jan. 15, 1911, at 8; *For Woman Suffrage: Edited by the Montgomery County Society of Woman Suffragists*, DAYTON DAILY NEWS, July 13, 1912, at 7.

230. Women had full suffrage in Wyoming (1890), Colorado (1893), Utah (1896), Idaho (1896), Washington (1910), and California (1911). FREEMAN, *supra* note 10, at 49.

231. On the states with women's suffrage, see *id.* On the significance of Ohio geographically, see Terzian, *Effusions of Folly and Fanaticism*, *supra* note 223, at 274.

232. This paragraph summarizes PROCEEDINGS AND DEBATES OF THE CONSTITUTIONAL CONVENTION OF THE STATE OF OHIO 600–39 (1912) [hereinafter PROCEEDINGS]. For discussion see Terzian, *Effusions of Folly and Fanaticism*, *supra* note 223, at 270–73.

233. Both sides feared that the women's suffrage amendment could sink the full constitutional convention project, and so it was agreed that the amendment should stand on its own. See PROCEEDINGS, *supra* note 232, at 600–39. The delegates ultimately decided to put every amendment forward for an independent vote. Terzian, *Ohio's Constitutions*, *supra* note 94, at 391.

234. U.S. CONST. amend. XV.

delegates seem to have uniformly assumed that voters would at least support the deletion of “white.”<sup>235</sup> Voicing the view of many attendees, one delegate exclaimed: “I think it is ridiculous that a state like Ohio in 1912 should have that word in its constitution.”<sup>236</sup> Delegates who supported women’s suffrage proposed that striking the words “white male” would be “the easiest” way to modify the constitution and would “kill two birds with one stone.”<sup>237</sup>

Delegates who supported deleting “white male” from the elective franchise text encountered opposition on two fronts.<sup>238</sup> Some women’s suffrage supporters thought the deletion of “white” should be separate from the question of enfranchising women in order to secure clear voter support for both changes. As one explained:

While I am in favor of woman’s suffrage, I would like my vote to show the colored men of Ohio that they are not forced to vote at the polls for some other proposition that I favor in order to secure a right which ought to be accorded them without question.<sup>239</sup>

Another delegate reported that “two colored gentlemen” had told him they did not want the deletion of “white” to be “put on as a tail to the woman suffrage proposal.”<sup>240</sup> He said these men, one of whom had sat in the general assembly, told him: “If the people of Ohio want to wipe out the last vestige of barbarism and say that we are equal before the law, let them do it in a way that will indicate their purpose.”<sup>241</sup>

Suffrage opponents also preferred dividing the race and sex aspects of the proposed changes to the franchise text. Some antisuffragists wanted the opportunity to vote to remove “white” without giving women the ballot.<sup>242</sup> Others emphasized the strategic importance of separating the language for race and sex because the elimination of “white” carried symbolic value that had the potential to draw votes. In fact, they accused suffragists of cynically tying these changes together in order to force black men to support women’s suffrage.<sup>243</sup> Several claimed that black leaders and other black constituents were so opposed to this hybrid amendment

---

235. *E.g.*, PROCEEDINGS, *supra* note 232, at 1230 (“Every one admits that ‘white’ has no place in the constitution and that it ought to be taken out . . .”).

236. *Id.* at 1231.

237. *Id.* at 1231–32.

238. *Id.* at 1230–33.

239. *Id.* at 1232.

240. *Id.* at 1230–31.

241. *Id.*

242. *Id.* at 1231.

243. *E.g., id.* at 1230 (“They want to use that word [white] to help carry woman’s suffrage.”).

that they would vote against it.<sup>244</sup> Following these discussions, the delegates decided to offer voters two options. One amendment would delete “white male” and, in case that did not pass, another would only delete “white.”<sup>245</sup>

Another issue intertwined with women’s suffrage was the right to hold office. One early proposal explicitly blended them, reading: “The right of citizens of the state of Ohio to vote and hold office shall not be denied or abridged on account of sex. Both male and female citizens of this state shall enjoy all civil, political and religious rights and privileges.”<sup>246</sup> Though discussion of this proposal focused on the suffrage component,<sup>247</sup> delegates raised the specter of women’s officeholding as an implied objection to the whole scheme. For instance, one man interjected on numerous occasions to comment on the “incongruity in a woman becoming president of the United States or chief justice of the state of Ohio.”<sup>248</sup> In response, a pro-suffrage delegate countered, “How many times it would have been a welcome change [to have women in office], incongruous as you may call it, rather than gazing on the specimens of the officials we were compelled to view!”<sup>249</sup> After further discussion, the delegates decided to handle women’s officeholding through an amendment apart from suffrage.

Delegates who favored opening at least some public offices to women disagreed about the most appropriate and strategic scope of the proposed officeholding amendment.<sup>250</sup> Under Proposal No. 163, which was requested by the Ohio Federation of Women’s Clubs,<sup>251</sup> the existing constitutional text requiring that officeholders be electors would be amended to state that this language should not “prevent the appointment of women who are citizens, as notaries public, or as members of boards, or to positions in those departments and institutions established by the

---

244. PROCEEDINGS, *supra* note 232, at 1231–32. This argument outraged one suffrage supporter, who retorted:

I have no sympathy with this foolish talk of the negroes to the effect that they are not willing to vote along with woman’s suffrage. If forty thousand negroes cannot join themselves with a million white women of the state in the support of a proposal in the interest of both what are they talking about?

*Id.* at 1232. There was some similar discussion earlier in the debates. *See, e.g., id.* at 625.

245. Terzian, *Ohio’s Constitutions*, *supra* note 94, at 391.

246. OHIO CONSTITUTIONAL CONVENTION 1912: PROPOSALS FOR AMENDMENTS AS INTRODUCED, PROPOSAL NO. 91 (1912).

247. Discussion of this proposal begins at PROCEEDINGS, *supra* note 232, at 600.

248. *Id.* at 604, 612.

249. *Id.* at 633.

250. *See, e.g., id.* at 1226.

251. *Id.* at 1219.

state or any political subdivision thereof, where the interests or care of women or children or both are involved.”<sup>252</sup> The discussion was not particularly contentious on the merits. The delegates were mostly aligned in seeing benefits to women holding positions in schools, juvenile reformatories, hospitals, and the like.<sup>253</sup> The inclusion of notaries also did not seem worrisome, as women were already notaries in other states, which was “not only an advantage to the women, but often quite a public convenience for stenographers and bookkeepers to have these commissions.”<sup>254</sup> The delegates also recalled that their state’s legislature had previously sought to permit women to become notaries, further assuaging concerns.<sup>255</sup>

Yet some delegates believed this proposal did not go far enough in securing women’s officeholding rights. One, who thought No. 163 was “too modest by half,” proposed language that would permit “appointment of women to any position filled by appointment.”<sup>256</sup> This did not seem unduly broad, he attempted to persuade his brethren. If the state retained an all-male franchise, no politician would appoint a woman to a position that was inappropriate. And if women were permitted to vote, they impliedly could hold any office and so the text of the officeholding amendment would become irrelevant.<sup>257</sup> Other women’s rights proponents found this proposal unwise. If women obtained the franchise, they were presumably eligible for all elective and appointive offices, rendering an expanded appointive office amendment unnecessary. And if women lost on suffrage, the same attitudes might defeat this expanded officeholding amendment. One delegate claimed that women’s groups “do not care to hazard their chances by demanding too much,”<sup>258</sup> while another suggested women did not actually desire offices beyond that of

---

252. OHIO CONSTITUTIONAL CONVENTION 1912: PROPOSALS FOR AMENDMENTS AS INTRODUCED, PROPOSAL NO. 163 (1912).

253. For representative discussion, see PROCEEDINGS, *supra* note 232, at 1219–23.

254. *Id.* at 1219.

255. *Id.* at 1224. The governor promised Mary B. Grossman that she would receive the first notarial commission if the amendment passed. *Wants to Be First Woman Notary*, SALEM NEWS, Sept. 9, 1912, at 4. In 1923, Grossman became the first woman elected to a municipal court in the United States. *Finding Aid for the Mary Belle Grossman Papers*, W. Res. Hist. Soc’y, available at [http://ead.ohiolink.edu/xtf-ead/view?docId=ead/OCLWHi2294.xml;chunk.id=bioghist\\_1;brand=default](http://ead.ohiolink.edu/xtf-ead/view?docId=ead/OCLWHi2294.xml;chunk.id=bioghist_1;brand=default) [https://perma.cc/HEZ3-8DEC].

256. OHIO CONSTITUTIONAL CONVENTION 1912: PROPOSALS FOR AMENDMENTS AS INTRODUCED, PROPOSAL NO. 260 (1912).

257. PROCEEDINGS, *supra* note 232, at 1223. A later version proposed by the same delegate would have permitted “the appointment of female citizens of this state to any office or position of honor, trust or profit, which office or position is by law only to be filled by appointment.” *Id.* at 1225.

258. *Id.* at 1225.

notaries and positions involving women and children.<sup>259</sup> After further discussion, the delegates reverted to No. 163.<sup>260</sup>

Once the constitutional convention had completed its work, developing forty-one proposed constitutional amendments, the all-male electorate was tasked with approving or rejecting each one individually.<sup>261</sup> A committee of delegates explained voters' options in an official pamphlet that was also printed in newspapers.<sup>262</sup> According to this resource, proposed amendment No. 23 would remove "white male" from the constitutional language on elective franchise, "the purpose being to give the women of the state the right to vote on the same conditions under which the suffrage is exercised by men."<sup>263</sup> Recognizing that this proposal might fail, the constitutional convention also put forth No. 24, which would remove only the word "white." Here the delegates explained: "Its adoption is desirable, in case the woman's suffrage amendment should be defeated, to make the state constitution conform to that of the United States."<sup>264</sup> At No. 36 came the amendment regarding women officeholders, which would grant women the right to "be appointed, as notaries public, or as members of boards of, or to positions in, those departments and institutions . . . involving the interests or care of women or children or both."<sup>265</sup> The distributed materials also contained a sample ballot for readers' review.

---

259. *Id.*

260. *Id.* at 1228.

261. This method was used in order to avoid a wholesale rejection of the delegates' work, as had occurred in 1874. Warner, *supra* note 226, at 25. For an easily accessible list of ballot measures, see *Ohio 1912 Ballot Measures*, MY VOTE BALLOTPEDIA, [https://ballotpedia.org/Ohio\\_1912\\_ballot\\_measures](https://ballotpedia.org/Ohio_1912_ballot_measures) [<https://perma.cc/QQV7-43GG>].

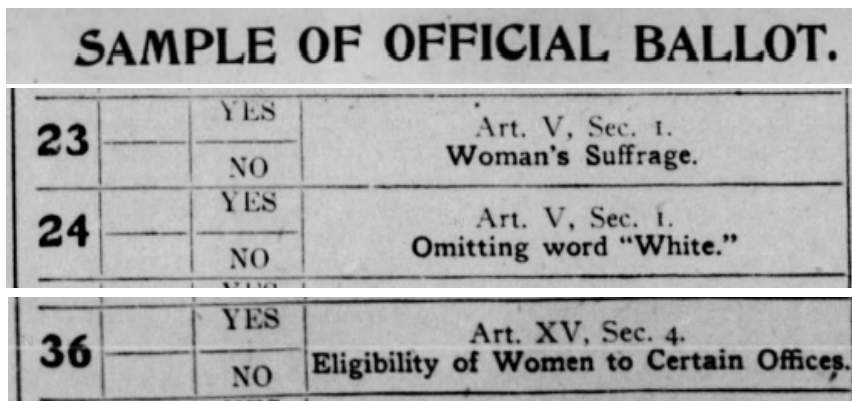
262. Terzian, *Ohio's Constitutions*, *supra* note 94, at 392.

263. *Supplement to the Salem News*, SALEM NEWS, Aug. 10, 1912, at 10.

264. *Id.* at 11.

265. *Id.* at 9.





Portions of Sample Ballot from *Supplement to the Salem News*,  
SALEM NEWS, Aug. 10, 1912, at 9.

On September 3, 1912, the electorate rejected eight of the forty-one proposals—including the two that would have granted women’s suffrage and officeholding. To the delegates’ likely shock, Ohio voters also refused to eliminate “white” from the constitution, despite it having no legal import.<sup>266</sup> The vote on women’s suffrage had attracted the greatest number of votes of any proposal, at 586,295.<sup>267</sup> The 249,420 votes in favor were the most ever cast for women’s suffrage in the country, but they failed to constitute a majority.<sup>268</sup> On deletion of “white,” there were 242,735 in favor and 265,693 opposed.<sup>269</sup> “White male” remained in the state’s constitution until 1923.<sup>270</sup> Of these three proposals, women’s officeholding received the most votes in favor but still lost, 261,806 to 284,370.<sup>271</sup>

Following these defeats, supporters of the women’s movement continued to press for incremental changes in Ohio’s laws to increase women’s voting and officeholding rights. In 1913, perhaps perceiving that

266. For all the vote tallies, see PROCEEDINGS, *supra* note 232, at 2113.

267. Warner, *supra* note 226, at 13, 29; Terzian, Effusions of Folly and Fanaticism, *supra* note 223, at 266–67.

268. Terzian, *Ohio’s Constitutions*, *supra* note 94, at 393. Ohio voters also defeated a referendum that would have permitted women to vote in presidential elections in 1917. Ohio Right of Women to Vote for President, Referendum 1 (1917), BALLOTPEDIA, [https://ballotpedia.org/Ohio\\_Right\\_of\\_Women\\_to\\_Vote\\_for\\_President,\\_Referendum\\_1\\_\(1917\)](https://ballotpedia.org/Ohio_Right_of_Women_to_Vote_for_President,_Referendum_1_(1917)) [<https://perma.cc/4US8-KV6X>].

269. Terzian, Effusions of Folly and Fanaticism, *supra* note 223, at 275.

270. *Id.* at 279.

271. PROCEEDINGS, *supra* note 232, at 2113.

the notary component of the 1912 officeholding amendment had sunk it, or else responding to some women's continued push for offices focused on women and children,<sup>272</sup> the Ohio legislature presented voters with a narrowed women's officeholding amendment.<sup>273</sup> This time the provision only authorized women to hold offices in institutions or on boards that oversaw the care of women and children. This version passed.<sup>274</sup>

In early 1917, majorities in both houses of the Ohio legislature voted for a bill that would allow the state's women to cast ballots in presidential elections.<sup>275</sup> When celebrating this step, a state senator who had ten daughters declared that one of his girls wanted to serve in the state legislature and later in Congress.<sup>276</sup> Within the hour after this seeming milestone, another legislator put forth a joint resolution to permit women to become notaries public.<sup>277</sup> According to newspaper coverage, the notary proposal "shows the movement in the assembly to broaden the field that women are seeking to occupy in the business of the day."<sup>278</sup> But the rejoicing came too soon. The notary resolution did not gain traction.<sup>279</sup> And although the governor signed the presidential suffrage bill into law, the liquor lobby petitioned for a referendum to reverse it. That November, Ohio's men rejected the suffrage provision.<sup>280</sup> "For the first time in the history of the movement," a journalist explained, "the women lost

---

272. See, e.g., *Has Record Balance*, PERRYBURG J. (Ohio), Nov. 22, 1912, at 3 (quoting woman involved with board of charities explaining why she hoped law would change to permit women to hold public office, implicitly related to charity work).

273. *4 Amendments to Constitution to Be Submitted to Ohio's Voters*, SALEM NEWS, Apr. 29, 1913, at 3 (explaining that the new proposal differed from the previous year's because it did not include notaries).

274. *Id.*; *Only One Amendment Apparently Carried*, DAYTON DAILY NEWS, Nov. 6, 1913, at 10. Women also gained access to municipal suffrage and offices in a few Ohio cities in the mid-1910s. Stieritz, *supra* note 41, at 9. See also *State ex rel. Taylor v. French*, 117 N.E. 173, 177 (Ohio 1917) (upholding municipal law giving women voting and officeholding rights in East Cleveland, over a dissent that relied in part on the earlier notary cases).

275. Stieritz, *supra* note 41, at 9. This change was understood to be within the legislature's power because the restrictions on "electors" in the state constitution applied only to state positions. *Women Suffrage*, DAYTON DAILY NEWS, Jan. 25, 1917, at 6 ("The legislature can enact a law allowing women to vote for president, or for any other office not created by the state constitution.").

276. *Suffrage Bill Passes Senate*, BUCYRUS J. (Ohio), Feb. 16, 1917, at 1.

277. *Id.*

278. *Id.* Though newspaper coverage is vague on the legal technicalities of the resolution, it seems likely this was intended as a constitutional amendment that would be ratified by the voters. See *Ohio Women Notaries*, KANE REPUBLICAN (Pa.), Mar. 26, 1917, at 8.

279. Newspaper coverage does not indicate any further action on the notary proposal.

280. Stieritz, *supra* note 41, at 9–10. A presidential suffrage bill died in the state senate the following year. *Id.* at 10.

ground.”<sup>281</sup> The president of the Ohio Woman Suffrage Association, Harriet Taylor Upton, pledged that the group would now focus on the national suffrage amendment, declaring “Ohio women will vote for President in 1920.”<sup>282</sup>

On May 21, 1919, the U.S. House of Representatives approved the federal suffrage amendment, and the Senate followed on June 4, 1919, thereby sending the Nineteenth Amendment to the states for ratification. Less than two weeks later, Ohio was among the first (mostly Midwestern) states to ratify it. Ratification was complete on August 18, 1920.<sup>283</sup> At long last, states could no longer discriminate in the right to vote “on account of sex.”<sup>284</sup>

Ohioans immediately understood the federal suffrage amendment as meaning that women could hold public offices beyond the few the state had previously authorized in relation to schools and institutions. According to an article published early the following week, Ohio’s “first important business change accomplished by woman suffrage [was] the establishment of the capacity of women to be notaries public.”<sup>285</sup> Even still, the reporter emphasized that for stenographers and clerks to have access to notarial commissions would “add[] to the convenience of business men.”<sup>286</sup> More promisingly, the article continued, “Women, of course, will be eligible to all offices within the gift of the public, and can receive any appointment that male electors alone have held heretofore.”<sup>287</sup> In 1921, Amy Kaukonen became the first woman elected as a mayor in

---

281. *The Women’s Victory*, BOS. GLOBE, Nov. 8, 1917, at 10. The headline refers to women gaining suffrage in New York during the same election. The writer also acknowledged that women previously lost suffrage in Utah. *Id.*

282. *Women Win Despite Loss, Says Leader*, NEWS-HERALD (Franklin, Pa.), Nov. 7, 1917, at 6.

283. For the ratification dates, see *U.S. Constitutional Amendments*, FINDLAW, <https://constitution.findlaw.com/amendments.html#f11> [<https://perma.cc/U9EX-NBJT>]. On Ohio, see Stieritz, *supra* note 41, at 10–11. Ohio also adopted presidential suffrage for women on the same day that the state ratified the Nineteenth Amendment, June 16, 1919, in case the federal amendment was not ratified. *Id.* at 11.

284. Though the Nineteenth Amendment is often described as granting all women the right to vote, in fact black women and others continued to fight disenfranchisement for decades. See ROSALYN TEBORG-PENN, *AFRICAN AMERICAN WOMEN IN THE STRUGGLE FOR THE VOTE, 1850-1920*, at 1–2 (1998); Serena Mayeri, *After Suffrage: The Unfinished Business of Feminist Legal Advocacy*, 129 *YALE L.J.F.* 512, 512–13 (2020) (“Poll taxes, literacy tests, white primaries, and the threat of economic reprisals and violence kept African-American women and men from vindicating their constitutional right to vote.”).

285. *Women Notaries in Ohio: One of First Effects of Suffrage—Means More Revenue*, *BUFFALO ENQUIRER*, Aug. 23, 1920, at 7.

286. *Id.*

287. *Id.*

the state, serving in the small community of Fairport Harbor.<sup>288</sup> In 1923, Florence Allen became the first woman judge in Ohio, later going on to become the first woman to serve as an Article III judge, when she was appointed to the Sixth Circuit in 1934.<sup>289</sup>

It is unclear whether Robinson took part in the 1910s efforts to expand women's political rights or rejoiced at the passage of the Nineteenth Amendment. In the years following her failed mayoral aspirations, Robinson held a variety of jobs and encountered more than her share of controversies. In 1909, she was fired from her position at the Unemployed Association (which found positions for unemployed men) for using the group's letterhead in a manner they claimed exceeded her authority.<sup>290</sup> Later that year, she sought to administer the estate of a deceased man to whom she had been a creditor and claimed, under seemingly suspicious circumstances, to have been released from a debt to him related to publishing her book.<sup>291</sup> By 1913, she was living in Milford, where she was employed as a ticket agent for a railroad company. This became newsworthy when she was arrested for arson. Robinson had allegedly paid someone to set a fire in order to collect insurance proceeds from destroyed furniture. In what seems to have been her last direct interaction with the law, Robinson denied the charges and sued the insurance company for causing her arrest.<sup>292</sup> In a final legal win, she secured her own discharge and \$175 for the lost items.<sup>293</sup> Apparently having had enough of Ohio, Robinson resigned from her position and traveled back to her home state of Indiana.<sup>294</sup> In her semi-retirement, Robinson ran a newspaper stand in Bloomington, Indiana, a peculiarly

---

288. Amy A. Kaukonen, OHIO HIST. CENT., [https://ohiohistorycentral.org/w/Amy\\_A\\_Kaukonen](https://ohiohistorycentral.org/w/Amy_A_Kaukonen) [https://perma.cc/MTZ3-8RCS].

289. Florence E. Allen, OHIO HIST. CENT., [http://ohiohistorycentral.org/w/Florence\\_E\\_Allen](http://ohiohistorycentral.org/w/Florence_E_Allen) [https://perma.cc/WS2X-JNTX].

290. The article does not provide enough detail to evaluate the allegations. *Ordered from Office: Of the Unemployed Association Was Attorney Nellie Robinson*, CIN. ENQUIRER, June 29, 1909, at 7.

291. *News of the Courts*, CIN. ENQUIRER, Dec. 16, 1909, at 11.

292. *Arrested for Arson*, J. REPUBLICAN (Wilmington, Ohio), Feb. 12, 1913, at 9; *Notice*, J. REPUBLICAN (Wilmington, Ohio), Mar. 5, 1913, at 5.

293. *Milford*, CIN. ENQUIRER, May 3, 1913, at 10.

294. *Nellie Robinson Resigns*, CIN. ENQUIRER, June 28, 1913, at 2. It is difficult to determine the significance of Robinson's seeming decline from a prominent and pathbreaking woman lawyer to her later years, when she performed relatively mundane work peppered with scandal. She was certainly not the only woman lawyer whose life took unexpected and tragic turns in these decades. See, e.g., Tokarz, *supra* note 47, at 100 (describing how a once famous woman lawyer "died quietly in poverty" in 1913).

appropriate position for a woman whose life events have been preserved in newspaper coverage.<sup>295</sup>

Though Robinson did not become one of Ohio's first women officeholders, her efforts surely were consequential. When Robinson and her counterparts in other states sought offices such as that of notary public, they opened new debates about women's proper roles in society. By emphasizing the economic justifications for seeking these political rights, women lawyers and other professionals expanded the discourse on women's need for the ballot. For Robinson, public office was at first an essential accoutrement to her professional ambitions and later a goal in and of itself. By engaging in a high-profile lawsuit, stumping in a presidential campaign, and routinely courting newspaper coverage that spread across the country, Robinson ensured that Americans would at least begin to consider the arguments for and against women's officeholding. This dialogue was a crucial component of the movement for women's suffrage and a necessary precursor to women securing such offices.

#### IV. REFLECTIONS ON THE CENTENNIAL OF THE NINETEENTH AMENDMENT

As we mark the centennial of the Nineteenth Amendment, discussants are querying what the history of women's advocacy should teach us about women's rights today. The narrow reading of the Nineteenth Amendment by judges, as well as in public memory, has constrained our ability to imagine and argue for the full panoply of women's rights and gender equality, for which the Amendment could have stood.<sup>296</sup>

We should also take this opportunity to remember that the women's movement included the demand that women hold public office. It took the Nineteenth Amendment to finally push many states to open even the most mundane official posts to women, and many jurisdictions still resisted or remained uncertain about women's eligibility in the following years.<sup>297</sup>

---

295. *Newspaper Stand Owner Is Author: Miss Nellie Robinson of Bloomington, It Is Discovered Wrote "Philo's Daughter,"* RUSHVILLE REPUBLICAN (Ind.), Mar. 27, 1914, at 4. An exhaustive search of newspaper databases and Ancestry.com did not locate any information about Robinson after 1914. She may not have lived to see ratification of the Nineteenth Amendment.

296. See generally Siegel, *The Nineteenth Amendment and the Democratization of the Family*, *supra* note 18.

297. The author is exploring the eligibility challenges that followed ratification of the Nineteenth Amendment in a separate work in progress. For sample evidence of 1920s advocacy and uncertainty, see generally *M.S.B. Common Law Handicaps on Women's Citizenship*, 34 WOMAN'S J. 909 (1921); *Preston v. Roberts*, 110 S.E. 586 (N.C. 1922); *Women to Fight Hard for Rights to Office*:

That most states are only now approaching one-hundred years of permitting women to hold official positions puts into perspective the continuing underrepresentation of women in many positions of power. For more than a century, participants in the women's movement saw public office as a core political right, essential to women's citizenship and economic opportunities. The centennial provides an occasion to assess women's progress and ongoing underrepresentation in key positions.

---

*League Names Committee to Study Ruling Denying Voters' Eligibility*, SUN (Balt.), Feb. 20, 1921, at 10; *Missouri Election Is Spirited Event: Vote on Amendment Allowing Women to Hold State Office May Carry*, PANTAGRAPH (Bloomington, Ill.), Aug. 4, 1921, at 1; *In re Opinion of the Justices*, 139 A. 180 (N.H. 1927).