

1994

## Curriculum Vitae (Feminae): Biography and Early American Women Lawyers

Carol Sanger  
Columbia Law School, [csanger@law.columbia.edu](mailto:csanger@law.columbia.edu)

Follow this and additional works at: [https://scholarship.law.columbia.edu/faculty\\_scholarship](https://scholarship.law.columbia.edu/faculty_scholarship)



Part of the [Law and Gender Commons](#)

---

### Recommended Citation

Carol Sanger, *Curriculum Vitae (Feminae): Biography and Early American Women Lawyers*, 46 STAN. L. REV. 1245 (1994).

Available at: [https://scholarship.law.columbia.edu/faculty\\_scholarship/951](https://scholarship.law.columbia.edu/faculty_scholarship/951)

This Book Review is brought to you for free and open access by the Faculty Publications at Scholarship Archive. It has been accepted for inclusion in Faculty Scholarship by an authorized administrator of Scholarship Archive. For more information, please contact [scholarshiparchive@law.columbia.edu](mailto:scholarshiparchive@law.columbia.edu).

## REVIEW ESSAY

### Curriculum Vitae (Feminae): Biography and Early American Women Lawyers

Carol Sanger\*

AMERICA'S FIRST WOMAN LAWYER: THE BIOGRAPHY OF MYRA BRADWELL.  
By Jane M. Friedman.† Buffalo, NY: Prometheus Books. 1993. 217 pp.  
\$22.95.

*In this review, Carol Sanger examines the recent surge of interest in the lives of early women lawyers. Using Jane Friedman's biography of Myra Bradwell, America's First Woman Lawyer, as a starting point, Professor Sanger explores the complexities for the feminist biographer of reconciling for herself and for her subject conflicting professional, political, and personal sensibilities. Professor Sanger concludes that to advance the project of women's history, feminist biographers ought not retreat to the comforts of commemorative Victorian biography, even for Victorian subjects, but should instead strive to present and accept early women subjects on their own complex terms.*

#### I. INTRODUCTION

In 1893, Mrs. M.L. Rayne published *What Can a Woman Do; or, Her Position in the Business and Literary World*.<sup>1</sup> The book, according to Mrs. Rayne "the only [one] of its kind,"<sup>2</sup> is an employment manual for women, a compendium of suitable occupations, reasons women should seek them, and strategies for securing them. In the Prefatory, Mrs. Rayne expresses her hope that the book will prove

helpful to those who are seeking positions of usefulness, and valuable to those who are already established, while to those fortunate ones who do not need to step beyond the horizon of home, it will give a deeper interest in "Woman's Work," and cause them to feel a personal pride in her labor and achievements.<sup>3</sup>

The "positions of usefulness" include bee-keeping ("The hiving of swarms is neither more difficult nor dangerous than the washing of windows or milk-

---

\* Professor of Law, Santa Clara University. Particular thanks to Jeremy Waldron.

† Professor of Law, Wayne State University.

1. M.L. RAYNE, *WHAT CAN A WOMAN DO; OR, HER POSITION IN THE BUSINESS AND LITERARY WORLD* (1893). I thank Jan C. Costello for this reference.

2. *Id.* at iii.

3. *Id.*

ing.”),<sup>4</sup> book canvassing (“Much depends on personal magnetism and a quiet, lady-like persistence in representing the merits of the book . . .”),<sup>5</sup> gardening (“An acre of strawberries will yield from 1,200 to 2,000 quarts.”),<sup>6</sup> and law.

Mrs. Rayne begins the chapter on “The Profession of Law” with an overview: “There are some ninety practicing women lawyers in the United States. . . . Nearly all law schools in the United States have now women matriculates.”<sup>7</sup> Mrs. Rayne then describes the particular successes of three women lawyers: Mrs. Belva Lockwood, who of the half dozen women admitted to practice before the United States Circuit Court “stands the highest for real legal acumen and ability”;<sup>8</sup> Miss Kate Kane, “the first lady lawyer to whom permission has been granted to practice in a Milwaukee court”;<sup>9</sup> and Mrs. Myra Bradwell, editor of the *Chicago Legal News* and a “pioneer in legal work . . . [although she] has never been admitted to the bar, state law preventing the admission of a married woman.”<sup>10</sup>

Their stories were called upon not only as inspiration for would-be lady lawyers, but also as sources of practical advice for entering the legal world. Setting up what must surely have been one of the first “Old Girls’ Networks,” Mrs. Rayne advises her readers that:

Any of the ladies whose names are here mentioned would, no doubt, answer the questions of others of their sex anxious to learn the preparatory steps of a legal education, if corresponded with on the subject; but let the questions be briefly and lucidly stated, and at least three two-cent postage stamps enclosed for an answer, thus covering the expense of paper and postage, the more valuable time being a free contribution.<sup>11</sup>

One hundred years later, over 116,000 women practice law in the United States,<sup>12</sup> and women now account for over 40 percent of all law school applicants.<sup>13</sup> They may choose from shelves of guides and manuals, even video cassettes, on how to prepare for, apply to, and succeed in law school. So much, one might imagine, for the services of Mrs. Lockwood and Company.

But this conjecture is mistaken. There is today an immense interest in the lives of early American women lawyers by others of their sex. Of course, only rarely can we put our questions directly; most of the pioneers have died. Biographies, not correspondence, must now answer our questions. And though willing to pay more than return postage for the information, modern readers are greedier than our nineteenth century sisters. We want much more than a description of the “preparatory steps.” We want to know how these women man-

---

4. *Id.* at 194.

5. *Id.* at 145.

6. *Id.* at 180.

7. *Id.* at 54.

8. *Id.*

9. *Id.* at 55.

10. *Id.* at 56.

11. *Id.*

12. BUREAU OF THE CENSUS, U.S. DEPARTMENT OF COMMERCE, STATISTICAL ABSTRACT OF THE UNITED STATES 192 (112th ed. 1992).

13. LAW SCHOOL ADMISSIONS COUNCIL, THE NATIONAL STATISTICAL REPORT 23, 35 (1993).

aged the whole business—the family, finances, and fatigue that make up women's real lives, matters rarely susceptible to brief and lucid reply.

In response to this curiosity, historians and legal scholars have begun to write about the lives of early American women lawyers. There are now group portraits, many with cameos, of the first women law students, law professors, and practitioners.<sup>14</sup> Historian Virginia Drachman has traced the first women graduates of Michigan Law School and their nineteenth century "support group," the Equity Club;<sup>15</sup> Herma Hill Kay is studying the first women in law teaching<sup>16</sup>; Mari Matsuda recently edited a collection of biographies of Hawaii's first women lawyers.<sup>17</sup> Other authors offer more detailed and individualized portraits. Barbara Babcock is reconstructing the life of Clara Shortridge Foltz, California's first woman lawyer and the originator of the office of public defender;<sup>18</sup> Martha Fineman is writing the authorized biography of Catherine Rorback, the first woman president of the National Lawyers Guild and an architect of early birth control litigation; Ann Fagan Ginger published the biography of Carol Weiss King, an early civil rights lawyer who defended the Scottsboro Boys and labor organizer Harry Bridges;<sup>19</sup> Sylvia Law has undertaken a biography of Crystal Eastman, muckraker, suffragist, and pioneer in the field of industrial safety;<sup>20</sup> Zipporah Wiseman has begun a study of the life of Soia Mentschikoff, law school dean and principal drafter of the *Uniform Commercial Code*;<sup>21</sup> and Jane Friedman has just published *America's First Woman Lawyer*, the biography of Myra Bradwell.

What explains this turn to biography of women lawyers largely by women lawyers? Why, when we know very well how to get into law schools, into law firms, and into law teaching, do we still want to know how *they* did it? Vera Brittain poses a similar question in the Foreword to her history of the first women students at Oxford:

Why write a book about women at Oxford?

So few people are interested in them, and their numbers are so small. The story of their struggle to obtain a foothold in Britain's oldest university is any-

14. See, e.g., KAREN BERGER MORELLO, *THE INVISIBLE BAR: THE WOMAN LAWYER IN AMERICA, 1638 TO THE PRESENT* (1986); Karen L. Tokarz, *A Tribute to the Nation's First Women Law Students*, 68 WASH. U. L.Q. 89 (1990).

15. VIRGINIA G. DRACHMAN, *WOMEN LAWYERS AND THE ORIGINS OF PROFESSIONAL IDENTITY IN AMERICA: THE LETTERS OF THE EQUITY CLUB, 1887 TO 1890* (1993).

16. Preliminary work is presented in Herma Hill Kay, *The Future of Women Law Professors*, 77 IOWA L. REV. 5 (1991).

17. CALLED FROM WITHIN: EARLY WOMEN LAWYERS OF HAWAII (Mari J. Matsuda ed., 1992).

18. Barbara Allen Babcock, *Reconstructing the Person: The Case of Clara Shortridge Foltz, in REVEALING LIVES: AUTOBIOGRAPHY, BIOGRAPHY, AND GENDER* 131 (Susan Groag Bell & Marilyn Yalom eds., 1990) [hereinafter Babcock, *Reconstructing*]; Barbara Allen Babcock, *Clara Shortridge Foltz: Constitution-Maker*, 66 IND. L.J. 849 (1991); Barbara Allen Babcock, *Clara Shortridge Foltz: "First Woman"*, 30 ARIZ. L. REV. 673 (1988).

19. ANN FAGAN GINGER, *CAROL WEISS KING: HUMAN RIGHTS LAWYER, 1895-1952* (1993).

20. Sylvia A. Law, *Crystal Eastman: NYU Law Graduate*, 66 N.Y.U. L. REV. 1962 (1991); see also CRYSTAL EASTMAN ON WOMEN AND REVOLUTION (Blanche Wiesen Cook ed., 1978) (compilation of Eastman's writings).

21. Zipporah B. Wiseman, Soia Mentschikoff: Notes and Questions Toward a Biography (1993) (unpublished manuscript, on file with the *Stanford Law Review*).

how, as one woman principal commented, a tale that is told. Oxford now opens its doors to a normal society drawn from both sexes. No one challenges women's right to share in its privileges, and only a negligible minority questions their equal status with men.

Why rake the embers?<sup>22</sup>

Several explanations account for "ember raking." We might start with the general suggestion that the current appeal of biography is a response to modern times: "In an age of daunting machines and awesome bureaucracies, when family, work, and community patterns are undergoing dizzying transformations, it is reassuring to look into a human face."<sup>23</sup> But it is not with just *any* human face that most of us want to spend our spare evenings, as readers, or our working days, as biographers. Some special affinity for or mystery about the subject makes both biographer and reader take up and stick with a particular life. Thus Lee Iacocca has never made it onto my nightstand, though in the last few months, Philip Larkin, Eleanor Roosevelt, and Margaret Sanger (no relation) have. Of course, these three subjects are all *flames* and remember that we are exploring the realm of embers. What explains the attention biographers and readers devote to less dazzling, or at least less familiar, lights?

Part of the answer lies in the current process of reappraising who properly counts as famous or flame-worthy. Consider *Missing Persons*,<sup>24</sup> the first-ever supplement to the *Dictionary of National Biography*.<sup>25</sup> The dictionary, written in 1885, commemorates those "men and women of British or Irish race who have achieved any reasonable measure of distinction in any walk of life."<sup>26</sup> *Missing Persons* adds 1086 entrants to the 36,000 others already commemorated. While earlier editors omitted deserving people for a number of reasons—"belated recognition of merit, . . . snobbery about ways of earning a living, even simple oversight"<sup>27</sup>—critics generally agree that "[t]he notorious under-representation of women, formerly a mere 3% of [*Dictionary of National Biography*] 'entrants,' provides sufficient justification in itself for the new volume. Twelve per cent of the missing persons are female . . ."<sup>28</sup>

Similarly, *Notable American Women*, published in 1971 and supplemented in 1980, attempts to acknowledge the presence of women in American history.<sup>29</sup> In 1955, only 700 of the 15,000 individuals in the standard *Dictionary*

22. VERA BRITAIN, *THE WOMEN AT OXFORD: A FRAGMENT OF HISTORY* 16 (1960).

23. Susan Groag Bell & Marilyn Yalom, *Introduction to REVEALING LIVES: AUTOBIOGRAPHY, BIOGRAPHY, AND GENDER*, *supra* note 18, at 1, 1.

24. *THE DICTIONARY OF NATIONAL BIOGRAPHY: MISSING PERSONS* (C.S. Nicholls ed., 1993).

25. 1 *DICTIONARY OF NATIONAL BIOGRAPHY* (Leslie Stephen ed., New York, MacMillan 1885).

26. *A Statistical Account*, in 63 *DICTIONARY OF NATIONAL BIOGRAPHY* v, x (Sidney Lee ed., 1900).

27. Israel Shenker, *Let Us Now Praise Famous Women and Pugilists*, N.Y. TIMES, May 23, 1993, § 7 (Book Review), at 1 ("C.S. Nicholls, a historian and, since 1990, the chief editor of the [*Dictionary of National Biography*] 20th-century supplements, readily concedes that there were notable gaps in the ranks of the dictionary, principally women, and in the category of sports, pugilists.").

28. John Dugdale, *Late Entrants*, SUNDAY TIMES, Jan. 24, 1993, § 6, at 7.

29. *NOTABLE AMERICAN WOMEN: 1607-1950* (Edward T. James ed., 1971); *NOTABLE AMERICAN WOMEN: THE MODERN PERIOD* (Barbara Sicherman & Carol Hurd Green eds., 1980).

of *American Biography*<sup>30</sup> were women.<sup>31</sup> While 500 of them made it into *Notable American Women*, the editors observed that the reverse would not have occurred; "a number of the individuals included in *Notable American Women*, though significant for women's history, would not have met [*Dictionary of American Biography*] standards of importance, measured by the yardstick of achievement along masculine career lines."<sup>32</sup> With the exception of presidents' wives, all other entrants had to meet the requirement of "distinction in their own right of more than local significance."<sup>33</sup> Only "women whose work in some way took them before the public" were eligible;<sup>34</sup> a century or so of "separate spheres" ideology and practice ensured that few women met the standard.

In the academic world, reappraisals of the existence and importance of women's achievements now follow a recognized pattern. Analyzing the process of curriculum transformation, women's studies scholar Peggy McIntosh explains that disciplines generally go through a five-phase evolution regarding the inclusion of women.<sup>35</sup> In Phase One (a phase familiar to readers over forty), academic fields such as history, English, and law start out "womanless." With the occasional exception of Jane Austen or Sacagawea, no women inventors, explorers, judges, diplomats, or authors appear.<sup>36</sup> Once this unexplained absence of women is detected, usually as greater numbers of women enroll or are hired, Phase Two sets in: the search to find or resurrect the famous women in the field.<sup>37</sup> Throughout the curriculum, women begin to step out from behind husbands and noms de plume. We learn that Lillian Gilbreth was not just the mother of all those children, but was, along with her husband, a cofounder of modern American industrial engineering;<sup>38</sup> in journalism, students now learn about the antilynching reportage and civil rights activism of Ida Wells-Barnett;<sup>39</sup> in architecture, the distinctive contributions of Julia Morgan and Marion Mahoney Griffin have begun to receive greater recognition;<sup>40</sup> and in law, Myra

---

30. *DICTIONARY OF AMERICAN BIOGRAPHY* (Allen Johnson ed., 1928).

31. 1 *NOTABLE AMERICAN WOMEN: 1607-1950*, *supra* note 29, at ix.

32. *Id.* at xi.

33. *Id.*

34. *Id.* In consequence, "[d]istinction in purely domestic roles . . . even in the case of mothers of remarkable families like the Comptons, Pounds, and Menningers" failed to meet selection standards. *Id.* For an entire book devoted to biographical sketches of the mothers of remarkable people, see *DIAGRAM GROUP MOTHERS: 100 MOTHERS OF THE FAMOUS AND THE INFAMOUS* (Richard Ehrlich ed., 1976) (including the mothers of both Karl and Groucho Marx).

35. PEGGY MCINTOSH, *INTERACTIVE PHASES OF CURRICULAR RE-VISION: A FEMINIST PERSPECTIVE* (Wellesley College Center for Research on Women Working Paper No. 124, 1983).

36. *See id.* at 7.

37. *Id.* at 7-9.

38. H. Patricia Hynes, *Feminism and Engineering: The Inroads, in THE KNOWLEDGE EXPLOSION: GENERATIONS OF FEMINIST SCHOLARSHIP* 133, 135 (Cheris Kramaræ & Dale Spender eds., 1992).

39. *See generally* MILDRED I. THOMPSON, *IDA B. WELLS-BARNETT: AN EXPLORATORY STUDY OF AN AMERICAN BLACK WOMAN, 1893-1930*, at 3 (1990) (suggesting that Wells-Barnett may have been excluded from public recognition because she lived in a time when "effective race leadership became a masculine prerogative").

40. *See* Leslie Kanes Weisman, *Designing Differences: Women and Architecture, in THE KNOWLEDGE EXPLOSION: GENERATIONS OF FEMINIST SCHOLARSHIP*, *supra* note 38, at 310, 313. Weisman explains that early women architects either remained single and developed independent practices

Bradwell regains her place in history as a late nineteenth century legal journalist and reformer.

Phase Two leads to Phase Three ("Women as Problem, Anomaly, or Absence"),<sup>41</sup> then Phase Four (the exuberant "Women as History"),<sup>42</sup> and finally Phase Five (history "Reconstructed to Include Us All").<sup>43</sup> I want to linger, however, in Phase Two, where much of the biographical action for women lawyers is now taking place. While Phase Two (the search for famous women) is important both independently and sequentially, it is also problematic. Even famous women are unlikely to be as famous as well-known men in the field.<sup>44</sup> This should come as no surprise. For centuries women have lacked access to the resources, encouragement, and opportunities necessary for traditional fame: income, education, a place at the podium or in the lab, a supportive wife. There has been for women no cultural or familial expectation of public contribution. As the editors of *Notable American Women* came to understand:

Few women began adult life with long-range plans or ambitions, or followed career patterns similar to those of men. Motivation was often obscure or complex. A woman's upbringing and social environment, her parents' or husband's encouragement or disapproval, her responsibilities as wife and mother, changes in the family's economic status, and the vagaries of pure chance—any or all, apparently, could have a major effect in turning her energies into nondomestic channels.<sup>45</sup>

In addition, deliberate institutional barriers prevented women from participating in the activities and professions in which civic and intellectual contributions were recognized. The legal profession embodied both aspects—prominence *and* the structural exclusion of women. As historian Michael Grossberg reminds us, "law was not just one more occupation; it was a distinctive endeavor with a special place and power in the republic."<sup>46</sup> The place and power were distinctively, indeed exclusively, male; until the 1870s, state laws denied women the right to practice law or even attend law school.<sup>47</sup> Formal restrictions were reinforced by a professional culture steeped in masculinity. Early legal culture valued a ruggedly gender-driven set of traits—"camaraderie, competitiveness, physical courage, practicality, personal trust, oratorical prowess, entrepreneurial skill, and an aversion to bookishness"—that excluded wo-

---

(Morgan), or they "married architects and formed professional partnerships in which their work was largely attributed to their husbands" (Griffin). *Id.*

41. See McIntosh, *supra* note 35, at 9-14.

42. See *id.* at 15-20.

43. See *id.* at 20-22.

44. Compare the title of the Prologue of *America's First Woman Lawyer* ("Myra Who?") with the first line of Laura Kalman's biography of Abe Fortas ("Abe Fortas wanted to become a Supreme Court Justice, pretended otherwise, was appointed anyway, nearly became Chief Justice, and resigned in disgrace."). LAURA KALMAN, *ABE FORTAS* 1 (1990).

45. 1 *NOTABLE AMERICAN WOMEN: 1607-1950*, *supra* note 29, at xii.

46. Michael Grossberg, *Institutionalizing Masculinity: The Law as a Masculine Profession*, in *MEANINGS FOR MANHOOD: CONSTRUCTIONS OF MASCULINITY IN VICTORIAN AMERICA* 133, 134 (Mark C. Carnes & Clyde Griffen eds., 1990).

47. *Id.* at 145.

men almost by definition.<sup>48</sup> Achieving notability in law was thus a much harder task for women than for men.

But women are an enterprising lot. Denied formal educations, channeled into domesticity, and dissuaded from traditional avenues of success, many women have nonetheless managed to live lives worth telling. They may not have attained the same degree of biographical celebrity accorded male subjects, but this is due at least in part to "the failure of historians to pay attention to their kind of achievement."<sup>49</sup> Until recently, top-of-the-line success has been reserved for men; presidential biographies of women will (probably) have to wait until the next century. In the meantime, historians are chronicling women's participation in politics at lower elected, appointed, and party levels. The recent biographies of Representative Helen Gahagan Douglas, Cabinet Secretary Frances Perkins, and New Deal advisor Molly Dewson are examples.<sup>50</sup>

The lack of recognition of female accomplishment is not simply a matter of subordinate fame in established areas. Biography, like the lives it seeks to recreate, is also marked by public-private distinctions. Achievement in certain fields, particularly those having to do with families and children, has not counted for much. Consider Laurel Thatcher Ulrich's recent biography of eighteenth century midwife Martha Ballard, who attended 816 births over 27 years.<sup>51</sup> Surely this is extraordinary. However, because midwives were not public figures, historians had long been content to leave them in the obscurity of domestic accomplishment.

Ballard's story reveals another, more practical problem in detecting achievement by women of the past. We may applaud Martha Ballard as regional midwife extraordinaire, but we know about her at all only through a different, seemingly smaller accomplishment: Ballard could read and write. Her handwriting may well have been "crude in comparison with her brother's and less certain than that of her husband";<sup>52</sup> nonetheless, unlike most women of her generation, Ballard left behind a written record—her diary. Of course, we do not become engaged with Ballard's life because of her penmanship. Rather, we should keep in mind that her more apparent achievements are available to us only because she overcame the standard, yet stultifying limitations imposed on a girl. Thus, even archival research for biographers of women is often more difficult: Early female subjects were less likely than men to have kept records, and perhaps less likely to have had their papers preserved by others. (In this regard we might note that biography itself was long devalued as

---

48. *Id.* at 137.

49. *Introduction to THE CHALLENGE OF FEMINIST BIOGRAPHY: WRITING THE LIVES OF MODERN AMERICAN WOMEN* 1, 6 (Sara Alpern, Joyce Antler, Elisabeth Israels Perry & Ingrid Winther Scobie eds., 1992) [hereinafter *CHALLENGE*].

50. *See, e.g.,* INGRID WINTER SCOBIE, *CENTER STAGE: HELEN GAHAGAN DOUGLAS* (1992); SUSAN WARE, *PARTNER AND I: MOLLY DEWSON, FEMINISM, AND NEW DEAL POLITICS* (1987).

51. LAUREL THATCHER ULRICH, *A MIDWIFE'S TALE: THE LIFE OF MARTHA BALLARD, BASED ON HER DIARY, 1785-1812* (1990).

52. *Id.* at 10.



insufficiently scholarly, "scorned as a form of belles-lettres," in history departments throughout the 1970s.)<sup>53</sup>

While the reputation of the genre within the academy has since improved, the danger remains that the emerging sub-genre of women's biographies may look not only added and compensatory, but lesser. Even as we come to understand that women may have invented, painted, theorized, and cared for the sick as satisfactorily as their male contemporaries, the very fact that we are *adding* their biographies to something called a revised curriculum colors their contributions with a suspicion of obligation and inferiority.

One response is to trash the clearly famous. Like, how great was Shakespeare, really? Another response is to exaggerate the accomplishments of one's subject, or at least muffle her flaws, out of generosity. Writing a biography of someone not already well-known poses a risk. No author wants to be remaindered. For academics, publishing pressures may supplement commercial ones. Biography, a painstakingly slow process (a decade or more is not uncommon), is ill-suited to standard tenure and promotion timetables. In addition, an unfamiliar subject prompts immediate questions regarding the biographer's judgment: "So how's the book on what's-her-name coming?" In response, biographers may try to assure readers and colleagues of their subject's biographical worthiness in traditional terms of accomplishment, often measured by superlatives: best, first, most.

To some extent, favoring one's subject is an occupational hazard for all biographers. After all, something about the subject must, in Barbara Babcock's phrase, induce in the author a "biographical obsession."<sup>54</sup> In most cases the obsession includes, at least initially, an intense identification by author with subject.<sup>55</sup> English biographer Andrew Sinclair describes the process:

If the subject of the biography is not too alien or repugnant, the writer goes through a painful process of immersion in another's life, a baptism by research. . . . The cautious approach to the subject is deluged by the available material until the biographer has read more of his quarry's letters and heard from more conflicting character witnesses than he has about himself.<sup>56</sup>

Good biographers therefore remain alert to signs of unguarded affection for or overidentification with their subjects, sentiments that interfere with the detach-

---

53. Alice Wexler, *Emma Goldman and the Anxiety of Biography*, in CHALLENGE, *supra* note 49, at 37.

54. Barbara Allen Babcock, *Remarks on the Occasion of the Publication of Called From Within: Early Women Lawyers of Hawaii, March 12, 1993*, 16 BIOGRAPHY 221, 223 (1993). Of course, not all biographers start out obsessed by, or even attracted to, their subjects. For some, the initial fascination is with an era in history or with the genre of biography, rather than with the particular individual. Nonetheless, feminist historians have observed that "we began almost inevitably to identify with and compare ourselves to our female subjects." *Introduction* to CHALLENGE, *supra* note 49, at 3.

55. While this kind of identification may be easier to spot in biographers, the link between the personal and the academic applies outside the genre as well. Dee Garrison bravely suggests that "[s]urely all scholars to some degree choose their topics in order to enact the main themes of their own lives. The unique nature of the biographer's task simply magnifies that affinity." Dee Garrison, *Two Roads Taken: Writing the Biography of Mary Heaton Vorse*, in CHALLENGE, *supra* note 49, at 68.

56. Andrew Sinclair, *Vivat Alius Ergo Sum*, in THE TROUBLED FACE OF BIOGRAPHY 123, 123 (Eric Homberger & John Charmley eds., 1988).

ment necessary for accurate portrayal and interpretation. A biographer's mantra develops: "He or she, the subject, is not I, the author. I do know myself better. I am not he or she."<sup>57</sup>

Locating one's stance in relation to the subject presents special problems for feminist biographers. As biographer Bell Chevigny explains, "the validating stress that feminist theory has laid on the personal, the confusions about the role of the personal in our theory, the urgency and the fervor associated with a movement to redress historical and current injustice—all make feminist biographers of women more susceptible to uncritical identification."<sup>58</sup>

At the same time, feminist biographers, perhaps more willing than others to reflect on what is necessarily a personal aspect of scholarship, have offered striking insights into the meaning of subjectivity for themselves and their work.<sup>59</sup> Many acknowledge and interrogate the influence of their own circumstances on their interpretation of the subject's beliefs and behavior.<sup>60</sup> In recognizing this inevitable and intense subjectivity, feminist biographers have, in Jacquelyn Hall's phrase, "challenged the illusion of objectivity and given up the arrogance of believing that we can . . . get our foremothers [exactly] right."<sup>61</sup> Ideally, this recognition also challenges the feminist biographer, making her more alert to her own assumptions, more cautious with her claims, and more likely to produce a biography that "gets the subject right."

By feminist biography, I do not mean that the subject must be a "feminist," even assuming that we could make sense of the term as it traverses two, soon

57. *Id.* In most cases, identification with the subject eventually gives way to a process of separation and individuation. While several male biographers refer to this as a "divorce," Bell Chevigny suggests an analysis perhaps more useful and authentic for women:

Women writing about women, I am persuaded, are likely to move toward a subject that symbolically reflects their internalized relations with their mothers. . . . Whether our foremothers are famous and their histories distorted, or unknown and their histories neglected, the act of daughters writing about them is likely to be, on some level, an act of retrieval that is experienced as rescue. When the work is most intensely experienced as rescue, the fantasy of reciprocal reparations is likely to become an underlying impulse in it. . . . [T]he better we understand the functions of empathy, identification, and separation, the better we can recognize and come to terms with our motives as they emerge.

Bell Gale Chevigny, *Daughters Writing: Toward a Theory of Women's Biography*, in *BETWEEN WOMEN: BIOGRAPHERS, NOVELISTS, CRITICS, TEACHERS AND ARTISTS WRITE ABOUT THEIR WORK ON WOMEN* 357, 375-76 (Carol Ascher, Louise DeSalvo & Sara Ruddick eds., 1984).

58. Chevigny, *supra* note 57, at 359.

59. For insightful discussions of this issue, see the essays in *CHALLENGE*, *supra* note 49; KATHLEEN BARRY, SUSAN B. ANTHONY: A BIOGRAPHY OF A SINGULAR FEMINIST 359-72 (1988); Chevigny, *supra* note 57; Elinor Langer, *Coming to Terms: Aspects of the Biography of Josephine Herbst*, 23/24 *PEQUOD* 209 (1987); and Sharon O'Brien, *My Willa Cather: How Writing Her Story Shaped My Own*, N.Y. TIMES, Feb. 20, 1994, § 7 (Book Review), at 3.

60. Biographers sometimes recognize these influences only over time. As the biographer herself grows older, falls in love, wins a prize, gets divorced, she becomes more capable of understanding the events in her subject's life. Moreover, critics have long recognized that "any biography is inextricably linked with the priorities and assumptions of the age which produced it." ALAN SHELSTON, *BIOGRAPHY* 15 (1977). Alice Wexler, for example, observes that "[l]ooking back at the biography across the great divide of 1989 has made me realize how deeply my response to [Emma] Goldman's encounter with Russia was shaped by the atmosphere of the 1980s." Wexler, *supra* note 53, at 46.

61. Jacquelyn Dowd Hall, *Lives Through Time: Second Thoughts on Jessie Daniel Ames*, in *CHALLENGE*, *supra* note 49, at 155.

three, centuries. Nor must the subject of a feminist biography be a woman. However, when she is, "gender moves to the center of the analysis":<sup>62</sup>

No matter how feminist biographers sort out the complexities of any one individual woman's response [to cultural constraints], they accept as a given that gender will always, in some way, be central to an understanding of a woman's life, even if that woman is not particularly conscious of that centrality or even denies it.<sup>63</sup>

If a biographer's job is to understand a life and then to convey that understanding to the reader, women biographers may well be guided by a different sense of what facts, details, and progressions are necessary to make sense of a subject's life. My analogy is to site. Biographers generally agree that visiting the places where the subject slept, wrote, and relaxed is a crucial, often transformative, moment in the author-subject relationship:

The interaction of biographer and subject is heightened by the biographer's direct, sensory experience of the matrix from which the subject's experience has been shaped. The biographer opens himself to all that places and things will tell him, in his struggle to visualize, and to sense, his man in being.<sup>64</sup>

This kind of experience—touching her books, standing on his porch—gives literal meaning to Paul Murray Kendall's description of the biographer's task as "walking the boundaries."<sup>65</sup> Yet, in one sense, a woman biographer already has a grasp on the matrix that has shaped her subject, even before she makes the trip to Maine. She may be able to visualize with unexpected clarity aspects of her *woman* in being. A female author has likely faced choices and constraints similar to those her subject encountered—regrettably many still immediately recognizable despite the differences in time and place.

One such commonality concerns the use of women's time. What, for example, did notable women with children do with the children while the mothers were out there becoming notable? Women know that the possibility of achievement depends on a degree of independence from the quotidian familial responsibilities assigned to them as a matter of course. Women biographers, many having scrambled or waited for enough time and privacy to write, are likely to give more thought to the domestic responsibilities of their subjects. Readers may find it interesting, useful, and perhaps a relief to learn that Clara Shortridge Foltz's mother took care of Clara's children while she studied at Hastings and that Belva Lockwood's married daughter kept house for her mother while Lockwood attended law school.<sup>66</sup>

---

62. *Introduction* to CHALLENGE, *supra* note 49, at 7.

63. *Id.* at 8.

64. PAUL MURRAY KENDALL, *THE ART OF BIOGRAPHY* xiii (1965); see also Stephen B. Oates, *Biography as High Adventure*, in *BIOGRAPHY AS HIGH ADVENTURE: LIFE-WRITERS SPEAK ON THEIR ART* 124, 129 (Stephen B. Oates ed., 1986) ("The prose of the biographer must radiate a sense of intimacy and familiarity, quite as though the author himself has lived the life and walked the ground.").

65. KENDALL, *supra* note 64, at 3.

66. See Babcock, *Reconstructing*, *supra* note 18, at 134; DRACHMAN, *supra* note 15, at 57 n.1. Mothers also helped unmarried daughters become lawyers. Virginia Drachman notes that nineteenth century law student Letitia Burlingame "resolved the matter of overcoming her loneliness and preserv-

Awareness of gender conventions and constraints often benefits the feminist biographer. At the same time, however, the complexities of feminism may complicate her task. While all biographers risk presenting their subjects too enthusiastically, the feminist biographer contends with an overlay of additional concerns: What are my obligations to the women's movement? What if my subject turns out to be ordinary or manipulative or a passive dupe of the hegemonic patriarchy? How true to my subject can I be and still call her (or myself) a feminist? How true to her can I be and still stay on the feminist lecture circuit?

These questions suggest a more general query: What does it mean today to write a good biography of a woman? As Carolyn Heilbrun points out, "there still exists little organized sense of what a woman's biography or autobiography should look like."<sup>67</sup> This is, in part, because we have very little organized sense of what a woman's *life* should look like, now or then. Before the 1970s, women biographers avoided the issue by avoiding challenging subjects. Heilbrun explains that "[f]emale biographers . . . [who] wrote about women[,] chose comfortable subjects whose fame was thrust upon them. Such subjects posed no threatening questions; their atypical lives provided no disturbing model for the possible destinies of other women."<sup>68</sup>

While this approach was just fine for many readers and publishers, the occasional troublemaker recognized that the inadequacies of the genre stemmed precisely from the atypicality of the lives commemorated. Phyllis Rose describes her biographical frustration as a girl in the late 1940s. Dashing to the library, eager to uncover the vast possibilities for women's lives, Rose found that the only women represented at her branch were Helen Keller, Eleanor Roosevelt, and the Duchess of Windsor.<sup>69</sup> None seemed relevant. "For good or ill," notes Rose, "I had no handicaps to overcome, like Helen Keller . . . . As for the other two, I wasn't greatly interested in women who . . . were known in the final analysis for whom they had married . . . ."<sup>70</sup>

The field of biographical vision has since expanded. Biographers, readers, publishing houses, and tenure committees no longer dismiss the biographies of any woman below the rank of queen. This wider field of possibilities throws open two questions: How do we now evaluate a woman's biography? And how do we measure the life of its woman subject? The two questions weave in and out of one another. In most cases, we come to know the subject, particularly an ember, primarily *through* the biography. Many law students, for example, have heard of Myra Bradwell, at least when prodded to connect a first name to the doomed plaintiff in *Bradwell v. Illinois*.<sup>71</sup> But it is up to the biog-

---

ing her reputation in a way that was not unusual for other female University of Michigan students of her day; her mother went with her to live in Ann Arbor." DRACHMAN, *supra* note 15, at 10.

67. CAROLYN G. HEILBRUN, *Writing a Woman's Life* 27 (1988).

68. *Id.* at 21-22.

69. Phyllis Rose, *Introduction* to *THE NORTON BOOK OF WOMEN'S LIVES* 10 (Phyllis Rose ed., 1993).

70. *Id.* In one respect, Rose may have misapprehended the nature of handicap. For many women the problem has been less from their inability to see the world than their inability to *be seen*.

71. 83 U.S. (16 Wall.) 130 (1872).

rapher to take us from Bradwell the caption to Bradwell the person. For that transformation, readers depend entirely on the biographer: on the depth and quality of her research, her selection and interpretation of evidence, and her literary skills. The subject too depends for her posthumous reputation on the successful mix of these elements.

To some extent, the requirements of a good biography are gender neutral. A basic requirement is simply to provide the record of historical facts: "Biographies in that sense are works of reference and unless they are accurate, get the person's date of birth right, mention his principal achievements, say who the subject married and tell us when he or she died, they are of no use."<sup>72</sup> Feminist biographers take this charge seriously; part of the collective project of women's biography is to establish an accurate factual record of women's lives, to uncover and restore women lost to history.

But W.H. Auden reminds us that even "[a] shilling life will give you all the facts."<sup>73</sup> Readers of biographies want something more than facts and dates. They want an authentic understanding of what it was like for the subject herself to negotiate the events and opportunities of her life. Justin Kaplan develops this concept of good biography further: "The writer starts off with a number of givens—birth and death, ambition, conflict, milieu, work, relationship, accident. He shapes them into a book that has the autonomous vitality of any work of the imagination and at the same time is 'true to life' and true to history."<sup>74</sup>

Here gender neutrality, or at least gender oblivion, begins to fade. With the possible exception of life and death, the ingredients on Kaplan's list rarely have the same application for women as they do for men. For centuries, even justifying "ambition" as a given for girls has taken some explaining; recall that women were appropriate subjects for biography only if fame was bestowed upon them, not if they seized and relished it themselves. Nor was work, or at least the kind of public or professional work connected to fame, a given for most women until midway through this century. Any presentation true to the subject must account for the times in which she evaluated alternatives, negotiated decisions, and succeeded (or failed) in a particular endeavor. I can think of no woman, not even Mrs. Thatcher, for whom a depiction of these activities could make sense without some attention to the fact and consequences of gender.

---

72. Robert Blake, *The Art of Biography*, in *THE TROUBLED FACE OF BIOGRAPHY*, *supra* note 56, at 76. Blake's example of biographical failure in this regard is none other than Lytton Strachey's *Eminent Victorians*:

Lytton Strachey said that Dr Arnold's legs were too short for his body. Challenged as to his evidence he cheerfully replied that he had none—merely his conviction that Dr Arnold was the sort of man whose legs would be too short for his body. . . .

[Strachey] was, for all his brilliance, glitter, irony and wit, an unsound biographer: he was concerned with effect rather than truth.

*Id.* at 76-77.

73. W.H. AUDEN, *Who's Who*, in *COLLECTED POEMS* 109 (Edward Mendelson ed., 1976).

74. Justin Kaplan, *The "Real Life,"* in *BIOGRAPHY AS HIGH ADVENTURE: LIFE-WRITERS SPEAK ON THEIR ART*, *supra* note 64, at 70, 71.

The charge for the biographer of a woman "ember" is heightened in another way, as well. Because it is unlikely that another biographer will revisit the life of a lesser-known subject, *this* biography (putting aside books by disgruntled offspring) may be the *only* biography. Barbara Babcock makes this point with regard to her subject, Clara Shortridge Foltz: "[H]er story is in my hands, and the truth that will be known about her is what I say it is."<sup>75</sup> As with Foltz, Myra Bradwell's place in history may depend entirely on her biographer's judgment, skills, and sensibilities. Biographers who pass up the recognized Greats for women and other less well-known "earlies" must understand their obligation to both subject and audience to present the life as truly and completely as possible.

Of course, the meaning of terms such as "truly" or "completely" now sparks serious reflection and debate among biographers, brushed by what Diane Middlebrook has called "the postmodern anxiety about authorship: awareness that both author and subject in a biography are hostages to the universes of discourse that inhabit them."<sup>76</sup> These discourses include the political, of which feminism is surely a part; the literary, where deconstructionists challenge the very project of a knowable "self"; and the historical, where the complex relationship between Grand Themes and daily lives challenges the orderliness of biographical norms once firmly in place.

Readers too are influenced by, if not quite hostage to, the strains of this contemporary discourse. As Middlebrook describes, the reader of biography is "theorized as a receptive, judicious, well-trained human being capable of tracking the hermeneutic horizon of an argument and profiting morally from doing so."<sup>77</sup> If, however, she is situated anywhere near the same universe as the biographer, the reader is also likely to be suspicious, demanding, and uncertain about the subject. Modern readers, even those without a postmodern vocabulary, know that women's lives are complex and that region, period, personality, and circumstance crucially influence what a subject is able to make of herself. They are likely to challenge standard claims, particularly claims about how happy a woman subject was, especially if her "happiness" consisted mostly of making everyone else happy. And modern women lawyers know that the biographies of women who chose to locate their professional lives in the law are likely to be stories of piecemeal progress and circumscribed success.

This is all to say that women readers no longer look for heroines fashioned after the nineteenth century biographies of Great Men. As this century winds down, readers of women's biographies want less royalty and romance, the occasional Princess Di bio notwithstanding. We desire instead the company of a woman who has accomplished something and the record of how she did it. Paul Murray Kendall suggests that literary figures enjoy so much biographical attention because "biographers, being writers of a kind, are attracted to writers,

---

75. Babcock, *supra* note 54, at 222.

76. Diane Wood Middlebrook, *Postmodernism and the Biographer*, in *REVEALING LIVES: AUTOBIOGRAPHY, BIOGRAPHY, AND GENDER*, *supra* note 18, at 155, 164-65.

77. *Id.* at 156.

partly, no doubt, in order to see their own features in a kindred face."<sup>78</sup> And when women lawyers write biographies, they too are attracted to subjects with whom they might share reflections.

Many women, like midwife Martha Ballard, might well have had their lives chronicled already, had someone given them a slate a little earlier. Still, reading about their lives now brings tremendous satisfaction. The lives of early American women lawyers tell us about oppression and opportunity in an era little distant from our own. While they are not necessarily heroines, the struggles and progress of these women inform our understanding of what it is like to be a professional woman and to negotiate the perils, timetables, and satisfactions inherent in that status.

I turn now to the life of one early woman lawyer, Myra Bradwell, as understood through Jane Friedman's *America's First Woman Lawyer*. I want to consider Bradwell's life and Friedman's biography in light of the questions raised earlier: What does it mean to write a good biography of a woman? How does feminism clarify and complicate the process of writing a woman's life? Tailoring these questions to the legal profession, what does it mean to write a good biography of a woman lawyer? How does feminism complicate the process of *legal* biography? But before exploring these issues, I want to provide readers new to Myra Bradwell with a sketch of her life.

## II. MYRA BRADWELL: A "SHILLING LIFE"

Myra Colby was born in Vermont on February 12, 1831. Her mother's family had settled in Boston in 1640; two maternal ancestors fought in the Revolutionary War. Her father's family "number[ed] many noble men"; her father's mother was a descendant of Salmon P. Chase, Chief Justice of the United States.<sup>79</sup> As Bradwell's obituary noted, "in these two kinspeople of Puritan ancestry, Salmon P. Chase and Myra Bradwell, [were found] the same sturdy independence of judgment; the same freedom from prejudice, the same innate love of liberty and justice."<sup>80</sup>

When she was still a baby, Bradwell's family moved to New York; when she was twelve they moved to Chicago. Her parents were aggressive abolitionists and close friends of Elijah Lovejoy, an abolitionist killed in Indiana in 1837 while defending his printing press from a proslavery mob. Most accounts of Bradwell's life credit this event as the basis of her subsequent devotion to ideals of equality.<sup>81</sup> She attended school in Kenosha, Wisconsin, where she lived

78. Paul Murray Kendall, *Walking the Boundaries, in BIOGRAPHY AS HIGH ADVENTURE: LIFE-WRITERS SPEAK ON THEIR ART*, *supra* note 64, at 32, 34.

79. Robert M. Spector, *Woman Against the Law: Myra Bradwell's Struggle for Admission to the Illinois Bar*, 68 J. ILL. ST. HIST. SOC'Y 228, 230 (1975).

80. *Death of Mrs. Myra Bradwell*, 28 AM. L. REV. 278, 278 (1894).

81. *See, e.g., id.*

The story of the murdered martyr Elijah Lovejoy as recounted by the friend of her youth, Owen Lovejoy, made a deep impression upon her mind. Thus early was implanted a hatred of slavery and injustice in the soul of one who was destined in after years to bear a conspicuous part in freeing her sex from some of the conditions of vassalage in which it had stood . . .

*Id.*

with a married sister, and graduated from the Ladies Seminary at Elgin, Illinois. She taught school for several years before marrying James B. Bradwell, a poor English immigrant journeyman who read law on the side, in 1852.<sup>82</sup> James and Myra Bradwell ran a "flourishing private school" in Tennessee for two years, and then moved to Chicago, where James went into law practice with Myra's brother. Four children were born in the first ten years of the Bradwells' marriage: Myra, Thomas, Bessie, and James. Two of the children, Myra and James, died a few years after they were born.<sup>83</sup>

In 1868, Myra Bradwell became the owner, publisher, and editor of the *Chicago Legal News*, a weekly journal considered the "most important legal publication west of the Alleghenies."<sup>84</sup> A special legislative charter enabled her, as a married woman, to own the Chicago Legal News Company, a publishing house that printed legal forms, briefs, and books as well as the *Legal News*. The journal quickly became a huge success, aided to some extent by special acts of the Illinois legislature that "declar[ed] the paper a valid medium for the publication of legal notices and ma[de] the laws, ordinances, notices, and court opinions printed in it evidence in the courts."<sup>85</sup> The Great Chicago Fire of 1871, which destroyed the records and libraries of the entire Chicago bar, dramatically increased the paper's influence and circulation. Following the fire, the Illinois legislature passed the "Burnt Records Act," making the *Chicago Legal News* the official and exclusive source for the republication of all court records, including titles to land—a fact the *Legal News* was quick to publicize.<sup>86</sup> Bradwell's paper and publishing enterprise flourished: "The financial rewards of the work were substantial, and the Bradwells acquired a mansion on Michigan Avenue and traveled several times to Europe."<sup>87</sup>

Bradwell's ability to report, analyze, and comment on legal matters stemmed from her legal training. Planning to help in her husband's law office, she prepared for and passed the Illinois bar examination. In 1869, Bradwell applied for admission to the bar. The Illinois court denied her application, first on the grounds that she was a married woman, and later simply because she was a woman.<sup>88</sup>

Bradwell appealed her case to the United States Supreme Court. Her attorney, constitutional lawyer Matthew Carpenter, argued that practicing law was among the rights and privileges of citizens of the United States, and that the Fourteenth Amendment thus prohibited Illinois from denying Bradwell that right.<sup>89</sup> In a seven to one decision (with Bradwell's distant relative, Salmon Chase, alone dissenting), the Court held that its decision in the *Slaughterhouse*

---

82. Spector, *supra* note 79, at 230.

83. 1 NOTABLE AMERICAN WOMEN: 1607-1950, *supra* note 29, at 223.

84. *Id.* at 224. For a contemporary description of the birth of the *Chicago Legal News*, see *The Chicago Legal News*, in INDUSTRIAL CHICAGO: THE BENCH AND BAR 642 (Chicago, Goodspeed 1896).

85. 1 NOTABLE AMERICAN WOMEN: 1607-1950, *supra* note 29, at 224.

86. *See* p. 91.

87. 1 NOTABLE AMERICAN WOMEN: 1607-1950, *supra* note 29, at 225.

88. *In re Bradwell*, 55 Ill. 535 (1869).

89. *Bradwell v. Illinois*, 83 U.S. (16 Wall.) 130, 133-34 (1872).



Cases,<sup>90</sup> delivered the previous day, governed: "[T]here are privileges and immunities belonging to citizens of the United States . . . [and] it is these and these alone which a State is forbidden to abridge. But the right to practice [law] is not one of them."<sup>91</sup>

More notorious is the text of Justice Bradley's concurrence in *Bradwell v. Illinois*, based not on the Fourteenth Amendment—Bradley had dissented in the *Slaughterhouse Cases*—but on the fact that Myra Bradwell was a woman. Bradley explained that:

[T]he natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life.

. . . The paramount destiny and mission of woman are to fulfil the noble and benign offices of wife and mother. This is the law of the Creator.<sup>92</sup>

Although in 1872 Illinois changed its admission criteria to admit women to the bar, Bradwell did not reapply. Instead, she chose to devote herself to the *Chicago Legal News*, the professionalization of law practice, and legislative reform in areas central to women's equality—the abolition of coverture, the establishment of maternal custody rights, and putting an end to the involuntary commitment of women to mental institutions by their husbands. She was also a recognized civic leader, who helped secure Chicago as the site of the 1890 World's Fair and Exposition.

Myra Bradwell died in 1893. In 1894, the *American Law Review* assessed Bradwell's accomplishments:

The death of this lady, founder and editor of the *Chicago Legal News*, removes a worthy pioneer in the great movement to give to woman equal rights before the law and equal opportunities to labor in all avocations. Demonstrating by her life-work what woman can do in activities heretofore monopolized by men, she was one of the most remarkable women of her generation and one who had no small share in making that generation what it is.<sup>93</sup>

### III. MYRA BRADWELL: THE BIOGRAPHY

In many ways, Jane Friedman's biography of Myra Bradwell accomplishes much of what we want in a biography. Friedman's curiosity—whatever became of that Bradwell woman after she lost her case?—inspired her to write a biography that resuscitates Bradwell's name, which had once been well established in the Chicago *fin de siècle* legal community. *America's First Woman Lawyer* widens the field of vision for legal scholars who might otherwise have been content to locate and leave Myra Bradwell in *Bradwell v. Illinois*. Friedman captures Bradwell's energetic and successful life—as legal publisher,

---

90. 83 U.S. (16 Wall.) 36 (1872).

91. *Bradwell*, 83 U.S. (16 Wall.) at 139.

92. *Id.* at 141. Frances Olsen offers Bradley's decision in *Bradwell* as an illustration of "false paternalism." See Frances Olsen, *From False Paternalism to False Equality: Judicial Assaults on Feminist Community, Illinois 1869-1895*, 84 MICH. L. REV. 1518, 1531-32 (1986).

93. *Death of Mrs. Myra Bradwell*, *supra* note 80, at 278.

commentator, lobbyist, tycoon, and gadfly of the Chicago bar—after her defeat in the Supreme Court.

At times the biography reads like an inviting “Who’s Who” of early American women lawyers. Bradwell reported on the progress of many of the “firsts” from other jurisdictions, such as Belva Lockwood and Lavinia Goodell. Just as early women law students, graduates, and practitioners encouraged one another during the 1870s through the Equity Club’s annual exchange of correspondence, Bradwell supported aspiring women lawyers through the *Chicago Legal News*. She reported on the latest female bar admissions, praised the courtroom successes of women lawyers, and hounded judges who ruled against women or women’s issues.

The biography also contains an unexpected drama of imprisonment and rescue, with Mary Todd Lincoln as captive and Myra Bradwell as avenger.<sup>94</sup> Mrs. Lincoln, an old family friend of the Bradwells, had been committed to an asylum by her son Robert. Friedman explains how Mrs. Lincoln implored the Bradwells for help; how Myra Bradwell helped publicize the case; and how Bradwell faithfully dogged Robert, the physician in charge of the asylum, and Mrs. Lincoln’s sister until Mrs. Lincoln was finally released. The episode reveals not only Bradwell’s loyalty and cunning, but also her public stature; an article from the *Chicago Times* reporting Mrs. Lincoln’s predicament was subtitled “What Mrs. Myra Bradwell Has Been doing in Her Behalf.”<sup>95</sup> To some extent then, Jane Friedman has done well on behalf of Myra Bradwell. Those interested in the history of the region, the legal profession, or the women’s movement will find satisfaction—even fun—in the restoration of Myra Bradwell to the historical record.

In other ways, however, *America’s First Woman Lawyer* falls short of the aspirations for women’s biography identified earlier. Friedman misapprehends why so many of us now turn to biographies of early women lawyers. In tone and in focus, Friedman gives us a biography that does not adequately respond to the nature of our curiosity about Myra Bradwell, to the inquisitiveness that prompted us to pick up the book in the first place. For in writing the life of a nineteenth century woman, Friedman has produced something close to a nineteenth century commemorative biography. Her preoccupation with superlatives, her cheerful downplaying of Bradwell’s often underhanded tactics in the name of women’s rights, and her failure to discuss Bradwell’s domestic life disserve Friedman’s subject and disappoint her readers, most of whom come to the biography not to learn how *wonderful* Myra Bradwell was, but to learn *who* Myra Bradwell was.

The trouble begins with Friedman’s title, *America’s First Woman Lawyer: The Biography of Myra Bradwell*. No matter how generous a reading one gives “first” or “lawyer,” neither claim is true in anything but the most technical sense. Myra Bradwell never practiced law; although she passed the bar exam,

---

94. See pp. 47-69 (chapter 3 entitled “‘She Is No More Insane Than I Am’: Bradwell Secures the Release of Mary Todd Lincoln from Bellevue Place Asylum”).

95. P. 61.

the United States Supreme Court upheld the Illinois law that denied her admission to the bar. Bradwell chose not to reapply even after Illinois removed its statutory bar against women. In 1890, when she was terminally ill with cancer, her husband arranged for the Illinois Supreme Court to admit Myra to the bar *sua sponte*. The court admitted Bradwell *nunc pro tunc* as of 1869, the date of her original application; this fiction forms the basis of Friedman's claim that Bradwell was Illinois' first woman lawyer and "arguably—depending on how one defines 'lawyer'—the first in the United States."<sup>96</sup> A sensible definition of lawyer might be one along the lines of "one who practices law"; this Bradwell never did and, for most of her life, was unauthorized to do.

Friedman's misstatement is troubling on several counts. The first is simple truth in advertising. When I buy a book called *America's First Woman Lawyer* (or *America's First Woman Anything*), I am drawn by the promise of the title. However interesting the reader may find the subject's other accomplishments, she feels manipulated and mistrustful upon learning that the title's central claim is false. Friedman's finagling with the facts on the cover makes us suspicious of what she tells us inside the book.<sup>97</sup>

More important, Friedman's title emphasizes Bradwell's reputation at the expense of Bradwell's agency. Bradwell and her story intrigue us, whether or not she was either "first" or a lawyer. I am not arguing for a return to Lake Wobegon, where it is enough that all the children are above average. Bradwell passed the bar, received honorary membership in the Chicago Bar Association, and but for the Illinois and United States Supreme Courts, a lawyer she would have been. In fact, Bradwell could have become a lawyer the very next year—the law had changed, in great part due to her own campaign in the Illinois legislature.<sup>98</sup> Bradwell chose instead to become an influential legal publisher and, through that office, a steadfast advocate for women's rights. Myra Bradwell was far, far above average; that she may not have been "first" doesn't matter.<sup>99</sup>

Friedman presents Bradwell not only as first lawyer but also as best feminist. Friedman insists that "[a]s America's 'first' woman lawyer and also as publisher and editor-in-chief of an extremely prestigious and widely circulated

---

96. P. 30.

97. Friedman later qualifies her claim, admitting that "[t]echnically, Myra Bradwell was not the first American woman to pass a state bar examination, since Arabella Mansfield had already passed the Iowa bar exam six weeks before." P. 15 n.2. Friedman justifies her description of Bradwell as the first woman lawyer by pointing out that Mansfield was not "ever involved in the legal profession in any way." *Id.* This kind of defensive distinction foreshadows the book's competitive tone. The reader does not come to the biography rooting for Bradwell over Arabella Mansfield; why does the author? Mansfield moved along gender equality by showing a woman *could* pass a bar examination. Her story is not diminished by her remaining an English professor at Ohio Wesleyan, though we would be similarly annoyed if *her* biographer used Friedman's title, simply substituting "Arabella Mansfield" for "Myra Bradwell."

98. P. 28.

99. Claims about true "firsts" can have more form than substance. I recently bought a book called *First Women: American Originators*, in which the promising Table of Contents took the reader from Susan B. Anthony to "Babe" Didriksen Zaharias. Unfortunately, the entry for Susan B. Anthony turned out to be "First Woman to be honored on an American coin." *FIRST WOMEN: AMERICAN ORIGINATORS* 5 (Evelyn & Nick Beilenson eds., 1988).

legal newspaper, Myra Bradwell did more to create rights for women and other legally handicapped persons than did any other woman of her day, or perhaps any day."<sup>100</sup> She writes that Bradwell "accomplished more than any other nineteenth century woman to advance both the concept and the reality of gender equality."<sup>101</sup>

This may all be true, although defenders of Susan B. Anthony or Elizabeth Cady Stanton could reasonably advance similar claims. In any case, biographers need not compete with one another to present the Woman of the Century.<sup>102</sup> Nineteenth century women activists, much like twentieth century feminists, clashed regularly over objectives and strategies. Myra Bradwell and Susan B. Anthony, in what Friedman calls a "twenty-year relationship of ambivalence,"<sup>103</sup> supported substantially different tactics for securing women's suffrage. Revealing historical conflicts and competitions is essential to establishing the history of nineteenth century women. Indeed, the quality of the historical record may depend on these underlying conflicts: Friedman suggests that Myra Bradwell's historical obscurity resulted largely from Susan B. Anthony's spare treatment of her in Anthony's influential *History of Women's Suffrage*.<sup>104</sup> In redressing the snub and presenting Bradwell's substantial record of accomplishment, Friedman advances the broader historical project in which biographies of individual women increasingly play a distinctive part. But biographers are not publicists. Unless the superlative is accurate and relevant, readers are not interested in who was first, best, most. By singling Bradwell out as *prima inter pares*, Friedman loses sight of the collective, though hardly unified, nature of the women's movement of which Bradwell was a (very important) part.

The portrait of Bradwell becomes more complicated as Friedman places her subject not only in the thick of women's rights, but also in the heart of Victorian virtue. In Chapter Two, "*The Cult of True Womanhood*": Bradwell's *Formative Years*, Friedman discusses Bradwell's relation to the feminine values of her era:

Considering Myra's struggles and achievements on behalf of the ideal of gender equality, one might speculate that she had simply rejected the mid-nineteenth century ethos. . . . But in fact the contrary seems to be true. . . . [By] reflecting on many of Myra's writings and activities, one can only conclude

---

100. P. 11.

101. P. 43.

102. This unnecessary competitiveness continues throughout the book. For example, Friedman reports that "Elizabeth Packard was . . . responsible for the *passage* of the two laws prohibiting men from institutionalizing their wives without a jury trial and order of a court. But the fact that those laws *remained* on the statute books was due, in large measure, to the efforts of Myra Bradwell." P. 205.

103. P. 23. Anthony championed a federal constitutional amendment; Bradwell favored state by state referenda on women's suffrage. Anthony demanded full suffrage for women; Bradwell supported incremental suffrage, initially giving women the right to vote only for certain lower offices, such as school boards. Pp. 167-94.

104. P. 168. For a discussion of Bradwell's contribution to the women's suffrage movement, see pp. 167-94.

with the paradox that Myra Bradwell was very much a product of the era in which she was raised and educated.<sup>105</sup>

Friedman then sets out to prove that Bradwell possessed the four "cardinal virtues" of the Victorian Cult of True Womanhood: piety, purity, submissiveness, and domesticity. Friedman's evidence for this claim is almost silly. Bradwell was pious because she mentioned God and religion in her columns even when God was peripheral to the legal issue at hand.<sup>106</sup> She was pure because "her writings are virtually devoid of any mention of sex[;] . . . nowhere did she ever mention the subject of sex crimes: rape, incest, or child molestation, for example."<sup>107</sup> For proof of Bradwell's submissiveness, "one need only recall that Myra originally pursued the study of law *not* because she wished to become an independent practitioner, but rather because she wanted to help James at the office."<sup>108</sup> Finally, we are to understand that Bradwell "cherished the virtue of domesticity" because she frequently praised other women as loving wives and mothers and because she often "spoke proudly of her own domestic accomplishments."<sup>109</sup> Indeed, a few years before her death she ended a newspaper interview with a message to "'all the wiseacres . . . [who] . . . predicted that I'd wreck my family and break my hearthstone to smithereens: . . . I don't believe there is a happier family in the world than [ours].'"<sup>110</sup>

But such evidence points less to a paradox between Bradwell's progressive activities and her Victorian virtues than to the contradiction between Friedman's evidence and *her* conclusions. The case supporting Bradwell's embrace of the stock Victorian virtues seems utterly forced. To the extent that piety encompasses something more than mentioning God at odd moments, Bradwell's piety seldom interfered with her cut-throat business practices, her penchant for "poetic license" and distortion of facts in her columns, or the "anonymous character assassination" she employed against political enemies.<sup>111</sup> Bradwell secured her publishing empire by using personal connections to win favorable treatment from the legislature,<sup>112</sup> being tough on her unionized workers,<sup>113</sup> and making the most of the Great Fire of 1871.<sup>114</sup>

The evidence of Bradwell's submissiveness also appears a bit dodgy. For starters, Myra Colby eloped with James Bradwell in defiance of her family's

105. P. 37.

106. P. 37. Friedman tells us that "in one edition of the *News*, at the bottom of the page, set off by itself and pertinent to absolutely nothing at all, Bradwell stated: 'A Chicago judge asks "who can penetrate the life beyond and say that there is not purgatory?"'" P. 37.

107. P. 40.

108. P. 38.

109. Pp. 39-40.

110. P. 40.

111. P. 157.

112. Pp. 121-22.

113. Pp. 85-86.

114. According to accounts given by Myra and her daughter Bessie, as the Great Fire consumed Chicago, the Bradwell family divided up their tasks: Myra stayed at home packing up precious possessions; James went to his law office to save rare books; and 13-year-old Bessie went downtown, "'rushed into the [*Chicago Legal News*] office, grasped the subscription book . . . and went out into the wild night.'" P. 88. Thanks to little Bessie, Myra was able to seize, and then monopolize, the entire city's market for legal publications, forms, and manuals.

wishes. The Colby family strongly disapproved of Bradwell's working class immigrant status. Myra's family traced its roots in the United States to before the Revolution; James, on the other hand, was "the penniless son of English immigrants who had settled on the prairie during his childhood."<sup>115</sup>

Nor does Bradwell's marriage seem to have done much to bring her into line. To be sure, as Friedman emphasizes, Bradwell did tell an interviewer that she got the idea of studying law from helping out in her husband's office.<sup>116</sup> But only moments later, Mrs. Bradwell explained what this arrangement signified for her:

"You see . . . I believe that married people should share the same toil and the same interests and be separated in no way. It is the separation of interests and labor that develops people in opposite directions and makes them grow apart. If they worked side by side and thought side by side we would need no divorce courts."<sup>117</sup>

Thinking and working side by side, especially in a profession as public as law, sounds far more egalitarian than submissive.<sup>118</sup>

"Submissiveness" does not seem to capture the spirit of such other events as Myra challenging one of her husband's judicial decisions—in print before the entire Chicago bar;<sup>119</sup> or caricaturing her enemies even as they lay dying;<sup>120</sup> or obtaining a special legislative charter exempting her from Illinois laws requiring wives to turn over their earnings to their husbands.<sup>121</sup> Even Bradwell's name bespeaks a certain independence. While not quite Myra Rodham Bradwell, neither was she Mrs. James Bradwell, as convention then dictated or even "Mrs. Judge Bradwell," as she had been called earlier.<sup>122</sup> Myra displayed her name with pride: On the masthead of *Chicago Legal News*, the boldest, broadest type was saved for **Myra Bradwell, Editor**.

Friedman's proof of Bradwell's domesticity, the ultimate Victorian virtue, raises a different kind of problem. Here it is less Friedman's interpretation than her evidence that is suspect. Friedman writes:

Of course, Myra, too, was a devoted wife and mother, a fact to which she alluded whenever given the opportunity. In an interview with the *Chicago Tribune*, she once exclaimed, "I often wish all those excellent folk who . . . picture me as a fanatic destroyer of domesticity and the sweetness of true womanhood could see my two daughters and our home life."<sup>123</sup>

---

115. 1 NOTABLE AMERICAN WOMEN: 1607-1950, *supra* note 29, at 223.

116. P. 38.

117. Pp. 38-39 (quoting *All Dabble in the Law*, CHI. TRIB. May 12, 1889, at 26).

118. See also Martha Minow, "Forming Underneath Everything that Grows": Toward a History of Family Law, 1985 WIS. L. REV. 819, 847 (suggesting that Bradwell's conception of the role of wife "may well have allowed her to imagine and accomplish a transformation of womanly activities by conceiving of her legal work as a wifely collaboration with, and assistance to, her husband").

119. P. 198.

120. Pp. 150-51.

121. P. 77.

122. P. 42.

123. P. 172 (quoting *All Dabble in the Law*, CHI. TRIB., May 12, 1889, at 26).

We can easily accept that Bradwell might make such claims and even that the claims are true. But accepting the statements as true simply because Bradwell said them is a more complicated matter. Biographers use materials prepared by the subjects as public remembrances cautiously.<sup>124</sup> Historian Alice Wexler describes her conditional reliance on Emma Goldman's autobiography, using it "more as an account of how Goldman remembered her past than as a story of how she actually lived it."<sup>125</sup>

In challenging Friedman's reliance on Bradwell's description of her own domestic happiness, my desire is not to "out" Myra as a dissatisfied wife or an uncaring mother. I am not looking for more unhappiness; I am just looking for *more*. Available news snippets suggest genuine domestic tranquility.<sup>126</sup> Nonetheless, a biographer should not accept the self-serving claims of her subject as necessarily true, especially the claims of early women lawyers about marital happiness or even marital status. Because public perceptions about a woman lawyer's happiness and marital status were crucial to her professional reputation, some women lawyers invented or modified aspects of their private lives. Clara Shortridge Foltz, who was in fact divorced, "referred to herself as a widow, though [her ex-husband] Jeremiah was very much alive,"<sup>127</sup> creating for her public a romantic tragedy of "'marriage at fifteen, . . . [and] widowhood when scarcely out of her teens.'"<sup>128</sup> Foltz not only understood the connections between her domestic status, invented though it was, and her public endeavors, she capitalized on them: "[I]t was to enable [women] in some degree to protect themselves and their children when the shadow of death had fallen upon the head of the household that formed the nucleus of my determination to open the way for women in the profession of law in California."<sup>129</sup> As Barbara Babcock points out, Clara Foltz constructed an acceptable family record, fully aware of the Supreme Court's 1873 rebuff of married Myra Bradwell in the name of family values.<sup>130</sup>

Other women lawyers, such as Miss Lavinia Goodell of Wisconsin, also understood the importance of appropriate personal presentation:

"The community looks at me a little doubtfully as not knowing what kind of woman I may be, but as [I] develop no other alarming eccentricity than a taste for legal studies, wear fashionable clothes, attend an orthodox church, have a class in the Sunday school, attend the benevolent society, and make cake and preserves like other women, I am tolerated. Meantime, I enjoy my Blackstone

---

124. Wexler, *supra* note 53, at 40. Wexler adds that "[I]ike many autobiographies, [Goldman's] *Living My Life* was also an act of settling accounts . . ." *Id.* at 41.

125. We are reminded more generally that "[t]he biographer does not trust his witnesses, living or dead." Kendall, *supra* note 78, at 44.

126. See, e.g., p. 40.

127. Babcock, *Reconstructing*, *supra* note 18, at 132.

128. *Id.* (quoting *A Sketch of Clara Shortridge Foltz*, W. COAST MAG., Oct. 1912, at 43-44).

129. *Id.* (quoting Clara Shortridge Foltz, *The Struggles and Triumphs of a Woman Lawyer*, NEW AM. WOMAN, Aug. 1918).

130. *Id.* at 135-36.

and Kent even more than anticipated, only feel lonesome having no one to talk them over with."<sup>131</sup>

Even Susan B. Anthony "succumbed to presenting to the public an identity which was not actually her own" by "overstat[ing] the being-in-love-several-times story (which was actually a relatively insignificant reality in her life)."<sup>132</sup>

Certainly Bradwell herself was guided—at least in her public presentation—by the Supreme Court's reminder in *Bradwell v. Illinois* of "[t]he paramount destiny and mission of woman."<sup>133</sup> She knew that members of the bar shared the Court's view that women were not suited for law. She had heard the smug responses of male lawyers at the premature death of a young woman lawyer, confirming in their eyes the incompatibility—indeed, the toxicity—of women and law.<sup>134</sup>

It is hard to understand why Friedman works so hard to make Myra Bradwell traditionally virtuous when, on Friedman's own account, Bradwell possessed a range of impressive, if untraditional, virtues. For me, the biography sparked a sense of déjà vu, as though Myra Bradwell had been transformed into the heroine of one of those children's biographies from the 1950s with bright orange covers and black silhouettes for pictures. In those biographies, with titles like *Jane Addams: Little Lane Girl* and *Molly Pitcher: Girl Patriot*, the girls were always sweet and brave, and they always prevailed in the face of adversity.<sup>135</sup>

Like those heroines, Myra prevailed over at least some of her opponents and accomplished much of what she sought to do.<sup>136</sup> Without question, Myra Bradwell was brave. She took on the legal profession, the bar, the legislature, and two Supreme Courts. But unlike Molly Pitcher and the other silhouettes, I suspect that Bradwell did not prevail *because* she was sweet. She may have been sweet in order to prevail, but that is something different. Consider the portrait of Bradwell depicted in one of her obituaries:

---

131. Catherine B. Cleary, *Lavinia Goodell, First Woman Lawyer in Wisconsin*, 74 WIS. MAG. HIST. 243, 249 (1991) (quoting Maria Goodell Frost, *Life of Lavinia Goodell* 102 (n.d.) (unpublished manuscript, Hutchins Library, Berea College, Berea, Ky.)).

132. BARRY, *supra* note 59, at 359-60.

133. *Bradwell v. Illinois*, 83 U.S. (16 Wall.) 130, 141 (1872) (Bradley, J., concurring). Thus, the brief biographical sketch of Bradwell in the roster of the 1872 Chicago Bar noted that "while she takes a fine rank as a legal thinker, she is no less successful in the direction of being an excellent mother, and a thoroughly estimable lady." F.B. WILKIE, *THE CHICAGO BAR* 113 (Chicago, Lakeside Press 1872).

134. There were occasional exceptions. When the *Chicago Journal* wrote that the death of Lavinia Goodell at age forty-one "suggests the query whether women are able to endure the hard usage and severe mental application incidental to a legal professional career," the *Independent* responded that "Henry Armitt Brown, the noted young lawyer of Philadelphia, died recently at thirty-two. We would like to suggest the query whether men are able to endure the hard usage, etc. One swallow does not make a summer." Lelia J. Robinson, *Women Lawyers in the United States*, GREEN BAG, Jan. 1890, at 10, 24.

135. See "The Childhood of Famous Americans Series," published by Bobbs-Merrill in the 1940s and 1950s.

136. Sadly, Bradwell did not prevail in everything. The *Bradwell* decision humiliated her, p. 24; two of her children died in their early childhoods, p. 41; and, despite her long devotion to suffrage, she cast a vote only once, the year before her death, and only in the Chicago school board election. P. 192.



A gentle and noiseless woman, . . . Mrs. Bradwell was one of those who live their creed instead of preaching it. . . .

A notable refutation of the oft-times expressed belief that the entrance of women in public life tends to lessen their distinctively womanly character, she was a most devoted wife and mother, her home being ideal in its love and harmony.<sup>137</sup>

The perception of Bradwell as noiseless is striking. In her weekly editorials and before the legislature, Myra vigorously opposed jury bribing, divorce practitioners, judicial tardiness, and drunkenness among members of the bar.<sup>138</sup> With equal vigor she supported women's rights in property, in their children, and in their personal liberty. Her successes and even her failures were very noisy indeed. I suspect the noiselessness praised was more a matter of style than substance. Bradwell's ability to be heard while being "noiseless" was crucial to her success. She understood the demands of her times *and* the demands of her ambition, and knew how to merge the two. Whether or not she truly embodied the virtues of femininity, Bradwell's good reputation depended on her ability to appear to accommodate them.

But while we can understand why Myra Bradwell may have adopted these virtues, it is harder to grasp why Jane Friedman accepts them so uncritically on behalf of her subject. Late nineteenth century women who were active enough to be notable had to reconcile their public endeavors with the prevailing feminine values of domesticity and piety. One approach was to advance social and political causes in the name of a traditional virtue—child welfare reform in the name of motherhood or jury service as an exercise of women's higher morality.<sup>139</sup> Other women refashioned familiar virtues into more active service. In her biography of Susan B. Anthony, Kathleen Barry suggests that for some suffragists, piety was worked into a political consciousness:

To take moral and ethical positions over their demands for legal and political rights, women and their movement had to transform their morality into an ethical responsibility that would reflect both their analysis of collective domination and the moral bases for their proposed remedies.

. . . By transforming personal piety into civil responsibility, [Anthony] began to connect her experiences . . . to all women . . .<sup>140</sup>

Of course, not every biographer will find a transformative relationship between the subject and the values of her times. The biographer must, however,

137. *Death of Mrs. Myra Bradwell*, *supra* note 80, at 282-83.

138. Her aggressive editorial campaign against drunkenness, especially among members of the bar, was something of a precursor to MADD, with "practitioners" replacing "drivers." Bradwell regularly noted the deaths of attorneys, but those who drank got special mention: "Newell Pratt, one of the divorce lawyers of this city, died last week. It was liquor [that] killed him." P. 99.

139. See Eileen Boris, *The Power of Motherhood: Black and White Activist Women Redefine the "Political,"* 2 *YALE J.L. & FEMINISM* 25, 43-47 (1989) (describing the political significance of motherhood to women reformers at the turn of the century); Carol Weisbrod, *Images of the Woman Juror*, 9 *HARV. WOMEN'S L.J.* 59, 70-79 (1986) (describing the debate over whether allowing women to serve as jurors would result in fairer verdicts).

140. BARRY, *supra* note 59, at 368-69.

be prepared to shake loose what she expects to find from what actually turns up. The issue is thus one of interpretation. As biographer Robert Blake notes:

It is not wrong to have a preconceived notion about one's subject. . . . What is wrong is to allow the preconceptions to colour one's actual use of evidence. Alternatively—and less damagingly—a biographer may be so reluctant to let go of his preconceptions and yet so honest and reluctant to suppress the evidence against them that his picture becomes self-contradictory. The interpretation simply will not fit the evidence.<sup>141</sup>

Perhaps Friedman is caught up in a belief that Myra Bradwell would not cut it as role model if the nastier sides of her character were explored, as though somehow both biographer and subject would be letting us down. Because biographers of women are in many cases establishing rather than revising the histories of their subjects, they are properly alert to the importance of initial impressions. Like fashion photographers with a portfolio to sell, they may want the subject viewed from her best angle and under the kindest lights.

To the extent that this kind of naive agenda is at play in feminist biography, I want to argue against it. Modern women readers know a back-lit subject when they see one. They can tell when the presentation itself has enhanced the appearance and are particularly suspicious when a woman's life, not just her image, has been retouched. In addition, trying to make a subject "look good" assumes general agreement on the standard for good-looking. In this regard modern biographers cannot aim to please. While Victorian biography "reflected a widespread agreement as to what the virtues and vices actually were [and provided] an agreed standard for judging character and achievement,"<sup>142</sup> readers today are unlikely to agree on whether a biographical subject—particularly a woman advancing women's causes—was brave or foolhardy, prudent or timid, obstructionist or progressive. But Friedman has written the life of Bradwell in the commemorative Victorian tradition. In failing to investigate the meaning of virtue for her subject, she repeats rather than interprets Myra's self-presentation.

The nineteenth century tone of the biography extends not only to what Friedman included about Bradwell but also to what she left out. What a biographer can and cannot say about his subject has always been guided by a range of practical, literary, personal, and political constraints.<sup>143</sup> These include the availability of evidence, the importance of a particular revelation to the overall

141. Blake, *supra* note 72, at 77-78.

142. Robert Skidelsky, *Only Connect: Biography and Truth*, in *THE TROUBLED FACE OF BIOGRAPHY*, *supra* note 56, at 5.

143. See, e.g., JAMES L. CLIFFORD, *FROM PUZZLES TO PORTRAITS: PROBLEMS OF A LITERARY BIOGRAPHER* 113-33 (1970).

Robert Blake provides the example of Sir Roy Harrod's 1950 biography of John Maynard Keynes. Harrod omitted all references to Keynes' homosexuality because "he thought that the resultant prejudice created might damage the efficacy of Keynes' economic policies which [Harrod] regarded as even more vital posthumously to the salvation of the country than in Keynes' life time." Blake, *supra* note 72, at 91. Even absent a concern for policy implications, a biographer may feel

no great obligation to pry into a subject's private life and reveal—unless it is clearly relevant—what he would have wanted to keep private. "What business has the public to know of Byron's wildnesses?" asked Tennyson. "He has given them fine work and they ought to be

story, the biographer's concern for the privacy of the subject, the feelings of (or lawsuits by) descendants, as well as the political and social setting in which the biography is written, sold, and read. In Victorian biography, subjects for concealment included "[s]exual irregularities," drunkenness, mental instability, religious doubts, and "skeletons in the cupboards of the extended family"; moreover, "all these aspects were subsumed by the general and positively asserted belief that a man's relationship with his wife, his family and his God were not matters for public exposure."<sup>144</sup>

In contrast, many biographers today feel largely unconstrained by past conventions of the form. They are self-proclaimed beneficiaries of Lytton Strachey's elegant dismantling of eminent Victorians in 1917,<sup>145</sup> generally credited as the first modern "uncommemorative" biography.<sup>146</sup> Post-Freudian insights or at least vocabulary plus the increasing availability—particularly for biographers of modern subjects—of massive, often intensely personal archives, have further diluted the scope of factual and interpretive restraint.<sup>147</sup> Readers must now sort out for themselves whether it matters that Philip Larkin consumed and wrote pornography,<sup>148</sup> that the diaries of H.L. Mencken contain anti-Semitic references,<sup>149</sup> or that John F. Kennedy was even more sexually active than we ever thought.<sup>150</sup>

For women subjects, the traits and behavior deemed outside the bounds of acceptable biography were of a different quality. In general, anger and power rather than foibles or personal indiscretions were off limits.<sup>151</sup> Carolyn Heilbrun explains that in the "old days" of women's biography and autobiography, which is to say "[w]ell into the twentieth century, it continued to be impossible

satisfied." Tennyson had a point. Do we really have to know of some famous person that he wet his pants at age six and practiced oral sex at sixty?

Barbara W. Tuchman, *Biography as a Prism of History*, in BIOGRAPHY AS HIGH ADVENTURE: LIFE-WRITERS SPEAK ON THEIR ART, *supra* note 64, at 103.

144. SHELSTON, *supra* note 60, at 50. As an example, Shelston notes that "[a]t the conclusion of *The Life of Charlotte Brontë* Mrs Gaskell writes, 'henceforward the sacred doors of home are closed upon her married life'. It was perhaps to Mrs Gaskell's advantage as a biographer that Charlotte Brontë's married life was so short." *Id.* at 50-51.

145. LYTTON STRACHEY, *EMINENT VICTORIANS* (1917).

146. See, e.g., KENDALL, *supra* note 64, at 114-15. Kendall notes that [Strachey] demonstrated that biography, too, could be exciting, could express the personality of the writer, could join in the joyous iconoclasm [following the First World War], and could sell. . . .

His ironic detachment from his material, his lacquered style, his delicacy of selection and his dramatic touch, all left a permanent mark upon biography.

*Id.* at 114. Strachey's influence, "both inspirational and technical, was quickly diffused into the biographical atmosphere." *Id.* at 115.

147. CLIFFORD, *supra* note 143, at 113.

148. See ANDREW MOTION, PHILIP LARKIN: A WRITER'S LIFE 62-66 (1993). For the view that it is irrelevant, see Martin Amis, *Don Juan in Hull*, THE NEW YORKER, July 12, 1993, at 74 (review of Motion's book).

149. See Doris Grumbach, *Just Plain Antisemitism*, WASH. POST, Jan. 12, 1990, at A23.

150. See NIGEL HAMILTON, JFK: RECKLESS YOUTH (1992).

151. The historical distinction of vices by gender may be fading. See Sara Alpern, *In Search of Freda Kirchwey: From Identification to Separation*, in CHALLENGE, *supra* note 49, at 159, 173 (deciding after deliberation to reveal the fact of Kirchwey's extramarital relationships but not the names of the parties). I suspect a new list of faults and failings in keeping with the curiosities and issues of the period will emerge for women subjects: abortions, adoptions, affairs with professors.

for women to admit into their autobiographical narratives the claim of achievement, the admission of ambition, the recognition that accomplishment was neither luck nor the result of the efforts or generosity of others."<sup>152</sup>

Although the force of such unhappy limitations is now subsiding, a different and perhaps more complicated set of filters has taken their place. Since the 1970s, biographers have struggled with issues of inclusion and interpretation regarding three aspects of a woman's life: her personality, her politics, and her domestic life. These categories, in turn, pose a larger question: What, if anything, *bad* can biographers say about a woman subject? After all, if women's lives are at long last being celebrated by the very fact of biography, why spoil the celebration? There is, however, more at issue here than biographical manners—a literary version of the reminder from Thumper's mother that "if you can't say anything nice, don't say anything at all." Feminist scholars are currently working out the meanings of such adjectives as "good," "noble," "powerful," and "bad," a process further complicated when these adjectives modify such nouns as "mother," "feminist," "wife," and "lawyer." Feminist biographers may reasonably fear that readers will remember, if not seize, anything negative more clearly and far longer than anything mildly good. This expectation may explain Friedman's insistence that Bradwell represented rather than manipulated Victorian virtues.

But favoring a subject's "finer" qualities may lead to cognitive dissonance in readers. Consider Friedman's description of Bradwell: "In spite of the occasional flashes of the undesirable facets of her character—her intellectual dishonesty, her anti-Semitism, her unabashed willingness to humiliate others publicly—Myra's writings about the legal and judicial processes generally displayed great intelligence, wit, foresight, and a true spirit of reform."<sup>153</sup> What is the reader to make of this? These "undesirable facets" may or may not be important to our understanding of Myra Bradwell. While biographers will always have difficulty assessing the relevance of personal shortcomings, Friedman's splitting the difference is an unsatisfactory resolution. The would-be symmetry of her sentence—Myra's good qualities balancing the bad ones—leaves the reader confused. I would argue that Bradwell's writings do not offset the "undesirable facets" of her character so much as reveal them, just as they reveal her intelligence, wit, and dedication to reform.

Without question, Myra Bradwell had certain undesirable qualities. At times she was vengeful and unforgiving. Her public humiliation of others appears cruel, though perhaps understandable as she herself was humiliated, both in print and in person.<sup>154</sup> It may also be that not all successful women have great personalities. Psychologists, using one or another theory of personality

152. HEILBRUN, *supra* note 67, at 24.

153. P. 123.

154. In addition to the rebuff Bradwell endured in the Supreme Court's decision itself, Friedman reports that while in Washington to hear her case argued, Bradwell's "'personal manners [were] outrageously aped; her speech falsely reported—while the idle curious followed her about the streets of Washington as if she were some wild animal from the jungle!'" P. 24 (quoting Eleanor Gridley, *Presentation of Bronze Bust of Mrs. Myra Bradwell, First Woman Lawyer in Illinois*, TRANSACTIONS ILL. HIST. SOC. 38 (1931)).

development, might warn us to expect some crankiness from some "earlies" or "firsts." Indeed, it may be that earlies are earlies *because* they are "cranky." We know that Myra Bradwell was sharp witted and sharp tongued. She was also practical, patient, aggressive, and smart, traits that produced her immensely successful publishing empire and would likely have made for good lawyering as well.

Not all of Bradwell's causes or tactics would find current favor. She used racial prejudices to generate support for women's claims for equality; when Ada Kepley was denied admission to the Illinois bar in 1870, Bradwell ran the headline "The Negro Ahead of the Woman."<sup>155</sup> And in at least one case, Bradwell seemed to endorse lynching:

"It would seem from all reports of the case that [the defendant], at the time of the shooting, was in a condition of mind to know right from wrong, and if so, he was responsible for his acts and ought to be hung with as little delay as possible. . . . *Had this crime been committed in [the victim's] own state, Kentucky, his murderer would have never have reached the jail—and many people would have said 'Amen.'*"<sup>156</sup>

Biographer Victoria Glendinning reminds us that unless a biographer is "writing the life of a radical or a reformer, it is more than likely that [the] subject will have all the prejudices and superstitions of a particular group in a particular period."<sup>157</sup> Thus, while Bradwell was unapologetic about her steadfast anti-Semitism,<sup>158</sup> her views on "Hebrews" partly explain her success and acceptance in a bar professionalizing itself through hierarchies of religion and race.<sup>159</sup> Of course, the bar used gender stratification for the same purpose: to maintain a superior status for its white male members. Here we need more from the biographer than Friedman has provided. We want to know if Bradwell ever reconciled (or even worried about reconciling) her egalitarian views on women with her exclusionary attitudes toward others. The answer may well be no; this is the biography of a nineteenth century woman reformer, not Mother Theresa. My complaint addresses Friedman's failings, not Bradwell's. Friedman should have historicized her subject's positions, describing the moral and political meanings they carried in Bradwell's time.

Bad politics sometimes rivals bad character as a cause for biographers' concern. Understanding the term "bad politics" in feminist biography requires something like a "reveal codes" command as the term takes on particular sig-

---

155. P. 132.

156. P. 122.

157. Victoria Glendinning, *Lies and Silences*, in *THE TROUBLED FACE OF BIOGRAPHY*, *supra* note 56, at 59.

158. The first issue of the *Chicago Legal News* declared that "the *Legal News* in religion is Christian, in politics neutral." p. 102. A New York paper, the *Hebrew Leader*, replied that a "large proportion of the bar of the U.S. feel a personal pride in knowing they are Hebrews. . . . May the Lady live long enough to outgrow her prejudices." P. 102. Bradwell responded that even though "we should be in danger of losing the esteem of 'a large proportion of the bar of the U.S.' . . . we must assure [the writer] that we cannot conscientiously add one single plank to accommodate our 'gallant' friends of the Hebrew faith." P. 102-03.

159. See generally JEROLD S. AUERBACH, *UNEQUAL JUSTICE: LAWYERS AND SOCIAL CHANGE IN MODERN AMERICA* (1976).

nificance with regard to women's issues. Biographers have regularly questioned—and been questioned about—women subjects whose aspirations, conduct, and methods differ from current sensibilities about what it means to be progressive or feminist. The biographer of Helen Gahagan Douglas, the Congresswoman from California defeated by Richard Nixon in his famous 1950 red-smear campaign, discovered that Douglas was not always a welcome topic at feminist conferences, for

while Douglas worked for women's political involvement, the extension of social security to include jobs dominated by women, and equal pay legislation, she, like most 1940s liberals, opposed the Equal Rights Amendment and worked to preserve special interest legislation for women workers. She certainly did not think of herself as a "feminist" in terms of fighting for equal roles in rearing children, running a household, or in the labor force.<sup>160</sup>

Thus, feminist biographers may have to rescue their subjects not only from historical obscurity but also from modern pressures to revise or suppress the subjects' unfashionable record.

Would modern feminists now fault Myra Bradwell, a woman who "did not spend her days proclaiming on the rostrum the rights of women but quietly, none the less effectively, set to work to clear away the barriers"?<sup>161</sup> During Bradwell's lifetime, none other than Susan B. Anthony criticized her, furious from the start that Bradwell's lawyer, Matthew Carpenter, uncoupled Myra's claim to practice law from claims to greater civic participation, such as a woman's right to vote.<sup>162</sup> Bradwell and Anthony remained at odds throughout their careers, in later years because Bradwell sided with the moderates against Anthony in the national campaign for women's suffrage.<sup>163</sup> In reporting the antagonism between the two women, Friedman is willing to take her chances. She stands by her woman and makes no excuses for Bradwell's allegiance to the moderate faction of the suffrage movement.

While Friedman offers a clear and unapologetic account of Bradwell's position on political issues, she is less forthcoming with regard to Bradwell's domestic life. *America's First Woman Lawyer* offers almost no details about Bradwell's friendships or family life.<sup>164</sup> The births, upbringing, and deaths of her children pass by in a paragraph. More important, readers get almost no

---

160. SCOBIE, *supra* note 50, at 191. Such perils increased during the mid-1970s as the defeat of the Equal Rights Amendment "made women who had opposed the amendment in the past or had defended protective legislation ipso facto 'non-feminists.' Despite their many accomplishments on behalf of and with women, [they] became 'the enemy,' at least to some." Elisabeth Israels Perry, *Critical Journey: From Belle Moskowitz to Women's History*, in CHALLENGE, *supra* note 49, at 79, 92.

161. *Death of Mrs. Myra Bradwell*, *supra* note 80, at 282.

162. Pp. 23-24.

163. Pp. 185-86.

164. I recognize that not all biographers intend to provide complete reconstructions of their subjects' lives. Consider, for example, Paul Horgan's recent biographical collection, *Tracings: A Book of Partial Portraits*. As one reviewer commented, "'Tracings' makes one want to haul down the big biographies for a deep dive into the lives of [its subjects]. . . . Perhaps that is exactly the . . . author's intention." Margot Peters, *At the Elbow of Greatness*, N.Y. TIMES, Oct. 10, 1993, § 7 (book review), at 11. *America's First Woman Lawyer* leaves the reader with a similar desire to "haul down the big biography," but unlike Horgan, Friedman presumably intended to do more than provide a sketch or partial portrait (conceding that even big, fat "definitive" biographies offer only partial portraits).

sense of Myra's long partnership—personal, political, and professional—with her husband, James Bradwell.

Certain biographies, such as Nigel Nicolson's biography of his parents, Vita Sackville-West and Harold Nicolson,<sup>165</sup> or Phyllis Rose's study of five Victorian marriages,<sup>166</sup> are deliberate studies of their subjects' marriages. In both cases, readers must look elsewhere for accounts of Harold Nicolson as diplomat or George Eliot as author. I do not seek a portrait of the Bradwells' marriage in this sense, as the central subject of the biography. Rather, I am interested in their marriage and partnership as an influence in Myra's life. Myra Bradwell's story seems incomplete without the recognition that she accomplished much of what she did because of her status as a married woman, and more specifically, because she was the wife of James Bradwell.

In wanting to know more about Bradwell's husband, her marriage, her babysitters, I recognize the dangers inherent in my request. The pendulum on how much to include about a woman's family life is heavy and swings fast; biographers have good reason to duck. Within the genre we have moved from woman as wife, to wife as subject, to subject as woman and wife. I share historian Joyce Antler's concern that

[t]o say of a subject—yes, her accomplishments in the world were great, but was she a good mother?—may not only be an irrelevant question, but one that runs the risk of turning the spotlight right back onto women's traditional sphere of domesticity. . . . [Do] feminist biographers . . . not run the risk of setting unrealistic expectations, of wanting their subjects to achieve too much: to be great writers, businesswomen, artists, or professionals *and* great mothers, wives, or companions? Will we not find all women wanting if we peer too deeply into the crevices of private life as well as onto the public faces of achievement?<sup>167</sup>

But a biographer can discuss a woman's personal or familial relationships without necessarily judging her for them. One cannot fully understand how Myra became a great publisher, reformer, and lobbyist without some understanding of her marriage to James, a relationship intimately connected to her business, social, and political accomplishments. Drawing out these connections acknowledges the relevance for biography of the feminist premise that the personal aspects of a woman's life necessarily intersect with the professional.

As we know from other biographies, the family status of early women lawyers mattered tremendously. Lawyer fathers, brothers, and husbands provided apprenticeships and respectability, two prerequisites for a woman's participation in the profession.<sup>168</sup> Marriage to James offered both. But James Bradwell

165. NIGEL NICOLSON, *PORTRAIT OF A MARRIAGE* (1973).

166. PHYLLIS ROSE, *PARALLEL LIVES: FIVE VICTORIAN MARRIAGES* (1984).

167. Joyce Antler, *Was She a Good Mother? Some Thoughts on a New Issue for Feminist Biography*, in *WOMEN AND THE STRUCTURE OF SOCIETY* 53, 65 (Barbara J. Harris & JoAnn K. McNamara eds., 1984) (discussing the problem of reconciling educator Lucy Sprague Mitchell's self-identification as an attentive mother with the critical recollections of her grown children).

168. 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 *LAW & SOC. INQUIRY* 221, 235-36 (1989) (describing the advantages accruing to women lawyers who married other lawyers: "Marriage was not

provided Myra with far more than the means into the legal profession. When Myra started the *Chicago Legal News*, James not only helped capitalize the venture, but also used his rank and position to gain special treatment for Myra and the paper from the Illinois legislature. Friedman's description of the paper's favored legislative status credits either Myra alone<sup>169</sup> or some vague force that simply propelled the *Chicago Legal News* to its beneficial position. But surely James Bradwell's participation and prestige also played a significant role. Friedman acknowledges that James helped Myra on more noble matters, noting, for example, that James introduced Myra's bill giving women the right to hold lower public offices.<sup>170</sup>

Although undeveloped in Friedman's biography, the pattern of support between Myra and James appears to have been reciprocal. While Myra never assisted James in his private law practice as initially planned, she did use her position as editor of the *Chicago Legal News* to advance many causes important to James as legislator and as judge.<sup>171</sup> James' obituary credits him with bringing "order and system to the court's procedure, and institut[ing] many important reforms in the rules and practice . . ." <sup>172</sup> Yet, in Friedman's chapter on Myra's efforts to reform the Chicago bar, James does not appear as much of a player at all.<sup>173</sup> Friedman seems to resist the notion that Myra and James shared goals, values, and strategies, or at least a life of exchange and debate.

In addition to agreement on professionalizing the Chicago Bar, Myra and James were also united on the issue of women's rights. James' obituary in the *Chicago Legal News* reminded readers that "throughout his long and useful life [he] bent every energy and labored in season or out of season, in whatever position he might occupy . . . to do all in his power to advance the rights of women."<sup>174</sup> It was James who saw Susan B. Anthony in the audience of the American Woman Suffrage Association and implored the organizers to invite her to the platform.<sup>175</sup> It was James, as a Trustee of Northwestern University,

---

an impediment to their career; rather it was the critical factor enabling and encouraging them to practice law.").

It is not marriage itself that interests us, but rather the reciprocal influences between the subject's public accomplishments and her domestic life—whatever its shape. Kathleen Barry notes that Susan B. Anthony's life story "reveals that for her being single meant affirming her identity. . . . [S]he did not have to become unsingle. She did not have to change her name, her legal status, or shift her needs and identity from herself and her woman's world to a mate . . ." BARRY, *supra* note 59, at 365-66. And Susan Ware notes that, in researching New Dealer Molly Dewson, she discovered "the central key to understanding Molly Dewson's life: her fifty-two-year partnership with Polly Porter . . ." Susan Ware, *Unlocking the Porter-Dewson Partnership: A Challenge for the Feminist Biographer*, in CHALLENGE, *supra* note 49, at 51, 53.

169. "[W]ithin fourteen months after its inception, Myra had established the *News* as the official medium for the state's legislative enactments. . . ." P. 80.

170. See p. 159.

171. Myra also advanced some causes that benefitted James personally. For example, while James was serving as a state judge, Myra pressed (unsuccessfully) for higher judicial salaries in the *Chicago Legal News*. P. 114. To her credit, however, Myra continued to decry the low salaries even after her husband resigned from the bench. P. 114.

172. James B. Bradwell, CHI. LEGAL NEWS, Nov. 30, 1907, at 126.

173. Pp. 95-128.

174. James B. Bradwell, *supra* note 172, at 126.

175. P. 171.



who helped bring about the admission of women students.<sup>176</sup> James, not the Illinois Supreme Court *sua sponte*, arranged for Myra's admission to the bar shortly before her death.<sup>177</sup>

While James himself may be a fine candidate for a feminist biography of his own, our interest here is in James as Myra's husband. In that regard, his personal and public dedication to women's rights raises the question: What made this nineteenth century man a nineteenth century feminist? Did his views, like those of other suffragists, grow out of his years as an abolitionist? Or did Myra bring James to this progressive consciousness? These are sticky questions for feminists. We recognize and applaud Myra Bradwell for advancing the status of women through her own example and her efforts at legislative reform; should we also credit her with influencing an influential man? In proposing that we should, I am not suggesting that feminist biographers return to the little woman behind the great man school of feminine accomplishment. Rather, since we readily seek to uncover sources of influence among parties not married to one another, we should not abandon similar inquiries into those who are.<sup>178</sup>

Research on James Bradwell might have enhanced our understanding of Myra in other respects. As several biographers of women note, the correspondence and papers of a husband or partner may reveal insights and facts about the wife that would not otherwise come to light.<sup>179</sup> Consider the description in James Bradwell's obituary of the location of the Bradwells' home: "Soon after their marriage [James and Myra] removed to Memphis, Tenn., where they remained for two years. While here the sorrowful scenes daily enacted in the slave mart, which was opposite their home, intensified the feeling of these two abolitionists against this hated system."<sup>180</sup> This description supplements the standard, stylized explanation of the childhood origins of Myra's antislavery sentiment.

Friedman may have omitted discussion of the Bradwells' forty-one year relationship in deference to the traditional convention of Victorian biography.

176. *James B. Bradwell*, *supra* note 172, at 126.

177. P. 30.

178. For example, biographer Kenneth Morgan notes that:

Keir Hardie's involvement with middle-class women in the feminist movement of his time—especially with Sylvia Parkhurst, who was probably his mistress—is important not so much from the standpoint of their private relationship as because it added a vital personal dimension to Hardie's devotion to the women's movement. Some of his critics in the Labour Party from 1906 on accused him of concentrating more on feminism than on socialism. Perhaps here we have one of the main reasons for it.

Kenneth O. Morgan, *Writing Political Biography*, in *THE TROUBLED FACE OF BIOGRAPHY*, *supra* note 56, at 33, 33-34.

179. See *Introduction* to *CHALLENGE*, *supra* note 49, at 9. When researching the life of Lucy Sprague Mitchell, biographer Joyce Antler obtained the diaries of Wesley Mitchell, Lucy's husband. Dismissed by Wesley's own biographers, the diaries were a boon for Antler, containing detailed descriptions of Lucy's daily activities. As Antler notes, "[t]he . . . lesson I learned is that materials considered irrelevant by biographers of male subjects . . . may hold enormous value to those writing women's lives . . ." Joyce Antler, *Having It All, Almost: Confronting the Legacy of Lucy Sprague Mitchell*, in *CHALLENGE*, *supra* note 49, at 97, 102-03.

180. *James B. Bradwell*, *supra* note 172, at 126.

Protecting family matters from the public gaze "was not simply a matter of concealing possible embarrassment."<sup>181</sup> Victorian biographers felt that even "the happiest of marriages was entitled to its privacy . . . [indeed] the closer the family tie the more secure the curtain of discretion was likely to be drawn."<sup>182</sup>

More likely, Friedman's failure to acknowledge James Bradwell's role as his wife's helpmate stems from a perception that "good" feminist biographies should focus exclusively on the subject and her accomplishments, with no husbands cluttering up the stage. Perhaps Friedman feared that mentioning Myra's reliance on her husband—for access to power, for income, for emotional support—would somehow diminish what Myra did or who she was.

But ignoring a subject's personal relationships to enhance some obligatory notion of free-standing accomplishment is a bad strategy. If we take seriously the belief that "one cannot recreate a subject's public life or intellectual production without acknowledging that person's private activities and intimate relations,"<sup>183</sup> we cannot cut those activities and relations loose when they suggest some manner of emotional, intellectual, or professional dependence between the subject and her partner. Biography should inform us about all the important influences on the subject. Spouses (and/or lovers) cannot be overlooked. Feminists do not, after all, categorically oppose including wives in the biographies of husbands; the objection has been to the traditional manner of their inclusion—as shadows, encumbrances, and smiling hostesses. Biographers now pay greater attention to women's many contributions to male success, whether relieving male subjects of family obligations, providing them with material for their imaginative work, advising them on the propitious days for summit meetings or on health care reform. Lawyer spouses also help one another—to study for the bar, to get on the Supreme Court, to write articles, or, as in the case of the Bradwells, to advance the rights of women.

#### IV. CONCLUSION

The complexity of presenting a life is not something left wholly to biographers. We all get a sense of the biographer's complex task of research, selection, and organization when we put together our own curriculum vitae, those "one sided accentuation[s] of certain facets of self" that to some extent make autobiographers of us all.<sup>184</sup> As autobiographers, our job is somewhat easier than the biographer's. We at least possess all the facts and need only labor over which to include, which to highlight, and which to submerge through placement or presentation on the page. Birth date? Jobs before graduate school? Unfinished manuscripts but call them Works in Progress? These decisions de-

---

181. SHELSTON, *supra* note 60, at 51; see also Skidelsky, *supra* note 142, at 6 (describing the Victorian biographer as the "family retainer, whose job it was to ensure that nothing went wrong with the literary funeral arrangements").

182. SHELSTON, *supra* note 60, at 51.

183. Garrison, *supra* note 55, at 77.

184. See Nod Miller & David Morgan, *Called to Account: The CV as an Autobiographical Practice*, 27 Soc.: J. Brit. Soc. Ass'n 133, 142 (1993).

pend on how we want the portrait to look. While we cannot entirely control the interpretation of the facts we present, we try to nonetheless anticipate and shape our intended audience's interpretation of the version of self served on the C.V.

This particular presentation of self is, at least for women, almost always constructed with gender in mind. Consider the issue of children. No kids? Reeks of ambition. Kids up front? Too unprofessional. But what explains the hiatus between jobs or articles? Myra Bradwell began reading for the bar when she married James in 1852, but did not take the examination until 1869. Even discounting for the Civil War, what took her so long? Readers of Bradwell's C.V. can draw their own conclusions about her abilities, priorities, and "career trajectory." But readers of Bradwell's *biography* have more than a selective chronology; they are guided by the interpretative assistance of the biographer who not only selects the facts, but also frames them. Friedman helpfully contextualizes Bradwell's 1869 examination date: Her children, then eleven and thirteen, needed less of her attention at home; her husband, returning to private law practice, wanted more of her assistance in the office; and finally, Bradwell may have thought Illinois *would* admit a woman in 1869—the neighboring state of Iowa had just done so.<sup>185</sup>

Of course, the biographer is not compiling a C.V. for her subject. No job is at stake; indeed, the life has already been lived. Nonetheless, until the 1970s, biographies of women often read as though the subject were applying for something. The reputation, if not the job prospects, of the subject was at stake. Such biographies registered women's accomplishments but downplayed how such accomplishments came about. Many important women, it seemed, were simply in the right place at the right time; they were lucky, not resourceful or ambitious. When favorable circumstances presented themselves to these women, they responded well and succeeded, but as Caroline Heilbrun reminds us, the "quest plot"—affirmatively seeking and attaining success—was rarely used to explain the achievements of women subjects.<sup>186</sup> Kathleen Barry puts the case more strongly and argues that a patriarchal society (and its patriarchal biographers) "will not accept any woman who refuses to be dominated. If she persists thus, it rewrites her history and reshapes her character, punitively twisting her will, bending her image, and distorting her identity . . ."<sup>187</sup>

Since the 1970s, however, feminist biographers have begun to recapture rather than rewrite or reshape the lives of their subjects. This more authentic celebration of women's lives recognizes women's "lesser" accomplishments and emphasizes their greater self-direction. Some would argue that the celebration has gotten out of hand. In an essay on literary biography, Victoria Glendinning observes an unhappy trend toward what she calls "author-theology"—the practice of "women writing about and around women writers of the past, who take on emblematic importance [in order to] provide role models for dissenting, aspiring women . . ."<sup>188</sup> The complaint is that the desire for female

---

185. P. 18.

186. HEILBRUN, *supra* note 67, at 31.

187. BARRY, *supra* note 59, at 360.

188. Glendinning, *supra* note 157, at 61.

role models has brought about a biographical movement intent on creating a subject's stature, rather than the subject's stature provoking the biography.

While Glendinning's jab may capture something in the literary world—she describes "[t]he sanctified authors themselves becom[ing] 'people in books', like their fictional characters"<sup>189</sup>—it does not catch the difficult and deliberate efforts of women legal scholars and historians now writing the lives of early women in the professions. The honest biographer, however sympathetic or generous in her interpretation, simply will not be able to sanctify the lives of many notable women. The sensible feminist reader will not want her to.

That is because readers now recognize that for quite a while women have lacked what Carolyn Heilbrun refers to as "the ease of male lives."<sup>190</sup> Heilbrun describes reading Peter Ackroyd's biography of T.S. Eliot as one would read a romance:

Despite Eliot's egregious sexual and personal failures, despite professional uncertainties, writing blocks, and frightening judgments, despite his confused national, religious, and marital loyalties, his story reads as easily, as inevitably, as those of the Hardy boys. . . . I knew how [his story] would come out, knew that, of all the choices life might offer him, Eliot would find those that suited.<sup>191</sup>

Until recent times life has, on the whole, offered women fewer choices, and so their stories do not read quite so inevitably. A woman's biographer has a harder task because she is writing against form. Her subject's story is unlikely to read like a romance. If biography is, in Cynthia Ozick's phrase, an attempt "to evoke believability in a story about the perilous span between birth and death,"<sup>192</sup> women readers know to take the adjective seriously. They are unlikely to fully accept Ozick's observation that modern readers turn to biography because "we miss the 19th-century novel: Biography alone . . . caters to our natural inquisitiveness about pedigree, locality, ancestral cause-and-effect, genetic and adoptive influences, [and] orphans turning into heiresses."<sup>193</sup> Readers may still desire the story but are now properly suspicious of any transformations from orphan to heiress, especially when the subject has sought to make her way in the masculine community of the nineteenth century American bar.

Women subjects themselves have often understood the limited nature of their achievements. Barbara Babcock describes Clara Foltz's disappointment in never having practiced constitutional law: "She knew at the end of her life that for all her fame, she had never come close to the inner circle of power and prestige in the profession."<sup>194</sup> Similarly, in one of her last editorials, Bradwell despaired of the Chicago Bar ("Law, in its practice and administration, has

---

189. *Id.*

190. HEILBRUN, *supra* note 67, at 38.

191. *Id.* at 38-39.

192. Cynthia Ozick, *Where Orphans Can Still Become Heiresses*, N.Y. TIMES, Mar. 8, 1987, § 7 (book review), at 13.

193. *Id.*

194. Barbara Allen Babcock, *Western Women Lawyers*, 45 STAN. L. REV. 2179, 2183 (1993).

deteriorated within the past thirty years. This fact is manifest to every thoughtful lawyer and is fast becoming the connection of an observant public . . . '").<sup>195</sup> Friedman finds Bradwell's pessimism hard to accept. In Friedman's view, "[i]t was undoubtedly her illness that rendered her unable to evaluate objectively both the advances in the profession and her own contributions to those advances."<sup>196</sup> But Friedman's protective posture seems more appropriate for a friend trying to comfort the dying Bradwell than for a biographer realistically assessing her subject.

Like their subjects, the biographers of early women lawyers may sense that they too have not quite cracked the inner circle of prestige. The biographies of Myra Bradwell and Clara Foltz are more likely to be shelved under famous women or feminism than legal biography. That special term refers most often to *judicial* biographies, the analysis of a man's intellectual development as recorded in a life's worth of judicial opinions. Yet we should keep in mind that while the Oliver Wendell Holmes Devise has not yet funded the biography of a woman, Justices O'Connor and Ginsburg are gearing up—as justices, as women, as subjects.

In the meantime, women's biographers write about the forerunners of these women. Through the individual stories of Bradwell, Foltz, Eastman, Weisman, Menschikoff, and many others, feminist legal biographers are establishing a preliminary piece of our professional history. The endeavor may be less fancy than traditional legal biography but as vital. As Kathryn Kish Sklar explains, the biographies reveal not only the poetry, dignity, and unpredictability of individual women's lives, they also "illuminate the interaction between women and social structures that are dominated by men."<sup>197</sup>

As we have seen, some women, including the unlikely Susan B. Anthony, deliberately added to their stories a trace of traditional romance, however fake, in order to make the life itself, not just the biography, come out right.<sup>198</sup> But while the subject herself may emphasize or invent aspects of her vita, her biographer should not. Just as earlier biographers strangled success out of their subjects, modern biographers must not breathe extra glory in.

For it is not hagiography that we need, nor is it, in Glendinning's phrase, ancestor worship. Before we can decide whether or not to worship them, we need to know that we *have* ancestors. Knowing who they were and what choices, constraints, and opportunities were like for them contributes to our understanding of what it means to be a woman now. It is on this dimension—the complex presentation of the substance of a woman's life in the framework of ordinary as well as extraordinary relations and circumstances—that Friedman's biography of Myra Bradwell falls short.

That is not altogether surprising. Women have lacked an organized endeavor of remembrance—of what the significance of an individual life is, and

---

195. P. 123.

196. P. 124.

197. Kathryn Kish Sklar, *Coming to Terms with Florence Kelley: The Tale of a Reluctant Biographer*, in CHALLENGE, *supra* note 49, at 17, 21.

198. BARRY, *supra* note 59, at 37.

what counts as its memorialization—that has existed for men. The project is not one of mythologizing, however tempting at times the urge may be. Feminist biographers must keep in mind the criticism of those who find it “nice” that “feminist biography consists largely of the presentation of ‘role models’ among ‘our foremothers, our sisters, our heroines’ . . . Who said that Victorian biography could never make a comeback?”<sup>199</sup>

Women readers, like everyone else, may well desire “role models”—some adult version of those resilient and successful girls of childhood biographies. But feminist biographers must be brave enough to acknowledge that sometimes “the life stories of our presumed heroines don’t always provide them.”<sup>200</sup> Biographical subjects do not necessarily live their lives in order to be role models for future women. As biographer Sara Alpern observes, her subject was simply “a human being who did the best she could.”<sup>201</sup> The biographer has a similar charge: to do the best she can with the life she uncovers. Elinor Langer puts it clearly: “You cannot improve [your subjects’] characters and you cannot alter their deeds. Whatever your subject did, you are stuck with it, and your job is to come to terms with it.”<sup>202</sup>

The task of women’s biography now is to remedy the oblivion of record and commemoration by bringing to light and coming to terms with women’s lives. The integrity inherent in the form, the awakened sensibilities of feminist scholars, and the desire of modern readers for life stories unembellished by fantasy or fashion have relieved women biographers of the obligation to write only about the glamorous or the lucky—or to write about successful women as though they were mostly glamorous or lucky. Feminist biographers can now develop, and readers can now await, a more articulate understanding of women’s lives—not women in general or in theory, but particular women, one by one.

---

199. Eric Homberger & John Charmley, *Introduction to THE TROUBLED FACE OF BIOGRAPHY*, *supra* note 56, at xi-xii (quoting Elizabeth Kamarck Minnich).

200. Alpern, *supra* note 151, at 171.

201. *Id.* at 172.

202. Langer, *supra* note 59, at 211.