100 Years of History

Arkansas Women in Law

Editor's Note: In May, 1885, Lizzie Dorman Fyler, of Eureka Springs, was the first woman in Arkansas granted all the privileges of an attorney. To commemorate this historic event, The Arkansas Lawyer will feature “100 Years of History: Arkansas Women in Law,” a three-part series.

The first part, by Frances Mitchell Ross, spans the decades from the 1870s to the 1920s, a time when attitudes toward the opportunities for women in public and professional life altered significantly throughout the nation.

Ross, coordinator of Women's Studies and assistant professor of History at the University of Arkansas at Little Rock, focuses in her article on the entrance of women into the Arkansas legal profession.

The second article in the series, by Jacqueline S. Wright, will examine the decades of the 1930s to the 1950s, and the final installment, by Judge Annabelle Davis Clinton, will address the 1960s to the present, with a look at the future.

Our thanks to Frances Ross for inspiring this series through her diligent research into the past of Arkansas' women lawyers and to Ruth Brunson, Jacqueline Wright and Ruth Lindsey for their support and assistance.

From the 1870s to the 1920s, the period covered by this article, Arkansas' developments for women in the legal profession mirrored those at the national level. This was a time when attitudes toward and opportunities for women in public and professional life altered significantly throughout the nation. In Arkansas the period opened with legislation which excluded women from admission to the bar and closed with the decade following their 1917 admission. This article, after briefly summarizing national trends during this time, will focus on the entrance of women into the Arkansas legal profession.

National Trends, 1870s-1920s

For women who sought admission to the professions before the late 19th century, the obstacles which they faced must have seemed insurmountable. In his concurring opinion of 1873 denying Myra Bradwell's suit for a license to practice law, United States Justice Joseph P. Bradley voiced some key elements of the dominant cult of domesticity.

In this case of Bradwell v. Illinois, Justice Bradley reflected contemporary thinking when he wrote that "civil law, as well as nature herself, has always recognized a wide difference in the respective spheres and destinies of man and woman. Man is, or should be, woman's protector and defen-
Record of the Past

By Frances Mitchell Ross

order. The natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life. The constitution of the family organization, which is founded in the divine ordinance, as well as in the nature of things, indicates the domestic sphere as that which properly belongs to the domain and functions of womanhood. The harmony, not to say identity, of interests and views which belong or should belong to the family institution, is repugnant to the idea of a woman adopting a distinct and independent career from that of her husband... The paramount destiny and mission of woman are to fulfill the noble and benign office of wife and mother. This is the law of the Creator."

It was widely thought that women, and particularly married women, should follow private pursuits, not public work; their lives were defined by duty to home and family—the ideology which governed women's lives during much of the 19th century.

Restricted by the values of the domestic cult, women seeking a legal career battled other attitudes which also hindered them. First, the legal profession was seen as an especially public occupation because of the likelihood of court room litigation. This fueled the private life/public career controversy. Second, admission to professional schools, fast becoming the standard training ground for the career oriented, was difficult for women to achieve in all professional areas. The expectation that women were destined to be household managers was reason enough to discourage advanced study. In addition, it was common wisdom in the nineteenth century that excessive education would damage the female reproductive system and would impair women's ability to fulfill their destiny—the bearing of children. Higher education, according to this line of thinking, was not only unnecessary but could be quite dangerous. At most, it was thought, education for women should be limited in scope and complexity. Finally, English common law, the legal tradition of most of the states, prohibited the admission of women to the bar. Each state was consequently required to provide its own remedy before it could admit women to its practice. In the 1870s, barriers to women's admission seemed all encompassing, resting as they did on arguments drawn from religion, domesticity, biology and existing legal doctrine.

At the same time, however, cracks in the fabric of the domestic ideal appeared and became noticeable over the next few decades. Already during the 1870s and 1880s a few women in some states had gained admission to their state bars either as a result of court decisions or through legislative acts. Even the United States Supreme Court admitted a woman to its practice in 1879. By the 1890s some law schools had begun to admit women and by 1910, 40 states had admitted women to the practice of law.

"You have let the women vote, and you might as well let them practice law," said Representative Ellis of Randolph County during a roll call vote admitting women to the bar in 1917.

The early victories were often won because women mounted successful campaigns which led to the reforms that admitted them to the bar. Also important was a widespread reform movement which began around 1900. Reforms of this "Progressive Era" challenged old assumptions and led to significant changes in many institutions. The status of women concerned many reformers and the era saw the revival of a women's rights movement. While goals of the women activists varied, important for many of them were suffrage, broader educational opportunity and increased access to the professions. Although Progressivism peaked around 1917 and the women's movement lost momentum after the passage of the 19th Amendment, several important rights for women had been won by
late 1920. They included the right
to vote in federal elections and acces-
to the legal profession in all of the
states except one.11

From the 1920s to the 1960s, em-
phasis on domesticity reemerged.
Limited career opportunities also
discouraged women from entering
the professions and economic crisis and war of the 1930s and
1940s were further deterrents.
Female admissions to the legal
profession declined during these
decades and it was not until the
1960s that that pattern began to re-
verse.12

Arkansas Women in Law

From the 1870s to the 1920s, Ar-
kansas' development was a micro-
scopic of the national picture. In
1873, the year of Justice Bradley's
opinion, the Arkansas legislature
passed Act 88, which read, in part,
that "every male citizen of the age
of twenty one years, of good moral
character, and who possesses the
required qualifications of learn-
ing and ability, shall be entitled
to practice in the courts of this
state."13 A later bill to amend
the law by omitting the word "male"
failed by one vote,14 and until 1917,
women were prohibited from ad-
mission to the bar of Arkansas.
Arkansas adhered to its exclusionary
law longer than most of the other
states.15

The disabilities which the law
presented were dramatized by the
experiences of three Arkansas
women, Lizzie Dorman Fyler of
Eureka Springs, Clara McDiamid
of Little Rock, and Erle Chambers
of Little Rock. Each of these women
was trained in the law although
none was entitled to full privileges
of attorneys under the law. Fyler
read law in Eureka Springs,16
McDiamid studied law in Michi-
gan before moving to Arkansas,17
and Chambers in 1912 became the
first woman graduate of the Uni-
versity of Arkansas Law Depart-
ment, then located in Little Rock.18

Of the three, Fyler was most
nearly successful in pursuing a
legal career despite the law. In
1882, Mrs. Fyler applied for and
was denied admission to the bar of
Arkansas. In May of 1885, how-
ever, Judge Prittman of the fourth
district notified her that he had
voluntarily decided to permit her
free legal service to women.20

Tennessee native Erle Cham-
bers began her legal education
while employed as a stenographer
in the Little Rock law firm of Moore,
Smith and Treiber. After gradu-
ation from the University of Arkan-
sas Law Department, she attended
the University of Chicago Law
School and in 1913 was named
Pulaski County Probation Officer.
She remained in probation work
until 1917 when she began an
affiliation with the Arkansas
Tuberculosis Association which
lasted until her death in 1941. She
served as executive secretary of
the Association continuously
beginning in 1919. From 1923 to
1925 she also represented Pulaski
County in the Arkansas legisla-
ture, the first female representative
elected from the county and the
first woman in the state to be
sworn in by the House of Repre-
sentatives. While she never prac-
ticed law, she applied her legal
training to her legislative work.
Especially noteworthy was a mea-
sure she successfully sponsored21
which abolished the husband's
right of courtesy in a wife's es-
tate.22 At the time the measure
passed, it was particularly news-
worthy since it altered important
property rights.23

The experiences of these three
persons illustrate the obstacles
which faced women who aspired
to the law before 1917. Fyler and
McDiamid possessed the desire
for a career in the law and the re-
quise training to practice. Both
women were also remarkably will-
ing to persevere in the law in spite
of the 1873 prohibition, while
Chambers utilized her knowledge
to promote legal reform. Before
1917, few other women were will-
ing to pursue the law against such
obstacles.

In 1917, at the peak of the
progressive reform era, the Ar-
kansas legislature again acted on
the issue of women attorneys, this
time to lift the 1873 ban. The legis-
lature had also recently granted
women the right to vote in primary
elections,24 responding to the
mounting state suffrage cam-
paign.25 While the bill which ad-
mitted women to the bar passed
with a healthy majority, at least
one legislator greeted the change
with less than full enthusiasm.
During the roll call vote, Representative Ellis of Randolph County, who surprised his colleagues with his affirmative vote, observed with resignation that "you have let the women vote, and you might as well let them practice law."  

Once women were legally able to practice, it was almost a year before the first was admitted to the bar. The most likely explanation for the delay is that women had not yet prepared themselves for careers in the law. Adequate preparation became especially important in July of 1917 when the state Supreme Court instituted mandatory examinations as a requirement for the licensing of attorneys. These exams, to be prepared by a court appointed Board of Examiners, had to be completed with an "average of 75% in all subjects" in order for the applicant to pass.  

This Supreme Court rule, coupled with the new law allowing women to practice, encouraged those who were interested in law to attend a law school before taking their exams. 

Female enrollment at the state's only law school increased in keeping with the new opportunities and standards. Before 1917, for example, female attendance had been negligible at the two year Arkansas Law School in Little Rock which provided the only formal legal education in the state prior to 1924. This school, until 1914 known as the University of Arkansas Law Department but unconnected with the University after 1914,  

had graduated Erle Chambers and Katherine Burke who finished in 1915 and was the school's only female graduate in active practice in 1920. A few other women may have graduated before 1917. After 1917, female enrollments and graduates increased. Two women enrolled in the fall of 1917 for the class of 1919 and four women were in the class of 1920. 

In the early years it was clear that women intended to take advantage of the new opportunities in the legal profession. Indicators of increased interest came in the form of larger enrollments, close to 45 female graduates of the school by 1939, and over 100 women admitted to the bar by 1939. Indeed, the decade of the 1930s had the largest number of female admissions to the bar before the 1970s, while the dramatic decline after the thirties indicated that problems felt nationally were affecting Arkansas as well. 

The two women who entered the Arkansas Law School in 1917 achieved records of distinction in their first year. R. Lively, who worked as clerk of the State Highway Commission, was assistant editor-in-chief of Ark Law, the school annual. She made the highest grades in the Junior Class and was the first woman elected president of the school's Goar Lyceum, a public speaking and moot court forum for the law students. She "presided with dignity and ruled with an iron hand," and of her election, her contemporaries said that "The right of suffrage having been granted to women by the last Arkansas Legislature, it was quite appropriate that the Goar Lyceum, always a leader in things progressive, should have a 'Lady President.' This honor fell to Mrs. R. Lively, who was elected President for the month of December, 1917, the first time in the twenty five years of the Goar Lyceum for a woman to hold the office of President."  

Grace Wallace, who was chief clerk and stenographer in a Little Rock law firm, was junior editor of Ark Law and Junior Class president. Wallace also served as secretary of the Goar Lyceum for the month of January 1918, a position which Lively had also filled in October of the previous year.
Alpha Delta Epsilon
While women at the Arkansas Law School performed well academically and achieved honors and recognition from their peers, they were excluded from student fraternal organizations. Two national men's legal fraternities existed, but when five women students applied for admission to one of them, Phi Delta Alpha, hoping to establish a women's chapter, they were denied because the fraternity did not admit women. Since they knew of no national organization of women lawyers or women law students, the five women, who constituted the entire female enrollment of the school at the time, filed a petition in Circuit Court on March 13, 1920 to incorporate a women's legal fraternity. Two days later the court granted a charter which permitted the establishment of the Alpha Delta Epsilon Law Fraternity. Its founders intended for the fraternity to become a national organization which would unite all women lawyers in the strong bonds of a fraternity.

Just as women law students demonstrated resourcefulness and competence, the women attorneys of the early years brought vigor, interest and capability to the profession. Their career interests were varied. Some chose private practice while others worked in offices of public officials. Several were also involved in professional association work. The women lawyers of this period built a record of achievement in the profession.

Sarah Shields,
1st Woman Admitted to Bar
Sarah Shields, a graduate of the Kentucky Law School with postgraduate work from the Cumberland, Tennessee School of Law, moved to Hope only a few months before her admission to the bar in January of 1918. Shields, Hempstead County's only woman attorney, passed her law examination at Prescott with a grade of 100, becoming the first woman in the state licensed to practice before the courts. She practiced law in Hope prior to her marriage, after which she and her husband left the state.

Mollie Aurelle Burnside, from El Dorado, Arkansas, received her AB degree from the University of Arkansas in 1911, a law degree from Arkansas Law School in 1920, where she co-founded Alpha Delta Epsilon, and an LLB from Yale in 1925. She was admitted to the Arkansas bar in 1921. Burnside was active in the Democratic Party where she served as chairman of the Democratic Women's Club. She also served as state director and as regional director of the National Association of Women Lawyers.

Arkadelphia native, Lois Dale, moved with her family to Texarkana in 1902, her family's home from that time on. She graduated from Lindenwood College in Missouri in 1909. She later decided on law and completed her legal education at Tulane in 1920. Dale was subsequently admitted to the bar and practiced law with W. H. Arnold, Jr. of Texarkana before practicing alone. She became one of the first women members of the state bar association when she joined in 1921. She was appointed juvenile probation officer in 1922 and later became the first woman in Arkansas to serve as county and probate judge following her appointment by Governor Thomas McRae. The appointment won her Lindenwood's first honorary LL.D. Dale was later admitted to practice before the United States Supreme Court. She pursued her private practice, practicing chiefly in probate and chancery courts, until her father's death in 1927 when she retired from practice in order to handle his large estate.

Virginia Darden Moose, a Morrilton native born in 1891, received her AB from Hendrix and her MA from Vanderbilt. She attended the University of Chicago and was a 1921 honor graduate from Arkansas Law School. The only woman in her class, she was Senior Class president, and as a junior she had co-founded Alpha Delta Epsilon. After graduation, Moose served as assistant attorney general for five years and was later chief deputy clerk of the U.S. Court, Eastern District of Arkansas. A member of the Arkansas Bar Association beginning in 1922, she served as the Bar Association's vice president for the 6th Judicial District in 1936. She was the first president of the Arkansas Association of Women Lawyers and was also a trustee of Hendrix College.

Little Rock attorney Ada Marett Carter, a South Carolina native, received her law degree from Arkansas Law School in 1926. She was admitted to the bar in the same year and practiced until her death in 1947. One of the few women lawyers to devote her entire time to law during this period, she served as deputy prosecuting attorney of the 6th Judicial Circuit of Arkansas. In that capacity she was in charge of domestic relations.

Like many of these women, others who entered law in these early years pursued their careers with diligence and determination. As dedicated attorneys, they also participated in professional associations. Some made a conscious effort to work in organizations specifically intended to support women in the law. They demonstrated their ability to function in a profession which only a few years earlier had been closed to them and had been thought an inappropriate area for women to enter. Through their work the women lawyers showed competence and resolve. They left a valuable legacy on which women attorneys have continued to build.
Footnotes

3 Ibid., 106.
4 Ibid., 110.
5 Ibid., 112.
7 Ibid., 288-289.
9 Ibid., 81.
10 Harris, 117-118.
11 Berkson, "Women on the Bench: A Brief History," 290. Delaware’s first woman lawyer was in 1923. Information on Oklahoma is unavailable. Hawaii admitted to the Union in 1868, before it became a territory of the United States and Alaska’s first woman lawyer was in 1850, while it was still a territory.
12 Harris, 133-134, 140, 141, 174.
13 Ark. Acts 1873, No. 88, Sec. 760.
14 Little Rock, Arkansas Ladies’ Journal, November 28, 1885.
15 Berkson, "Women on the Bench: A Brief History," 290.
18 Little Rock, Arkansas Democrat, January 10, 1941.
19 Little Rock, Arkansas Ladies’ Journal, November 28, 1885.
20 Ibid.
21 Proceedings of the Arkansas State Bar Association (Little Rock: 1884), 46. This publication will hereafter be cited as Proceedings with date and page number.
22 Proceedings, 1882, 10.
23 Proceedings, 1884, 46.
24 Little Rock, Arkansas Ladies’ Journal, November 28, 1885.
25 Little Rock, Arkansas Ladies’ Journal, December 5, 1885.
26 Taylor, "The Woman Suffrage Movement in Arkansas," 21. How active Mrs. McDermid’s business was under these conditions is not known. The suffrage association, organized in 1888, continued to thrive until Mrs. McDermid’s death in 1893. Her death deprived the association of capable leadership, and interest in suffrage work declined until new leadership emerged about a decade later.
28 Arkansas Democrat, January 10, 1941.
30 Little Rock, Arkansas Democrat, January 10, 1941.
31 Little Rock, Arkansas Gazette, February 28, 1917.
34 Little Rock, Arkansas Gazette, February 28, 1917.
35 Proceedings, 1917, 136-137.
37 Ark-Law: Year Book of the Arkansas Law School, (Little Rock: Arkansas Law School, 1919-1920), 11. This publication will hereafter be cited Ark-Law with year and page.
38 Arkansas Law School, "List of Alumni," Catalogue and Announcements for 1964-65 (Little Rock: 1965). This publication will hereafter be cited "List of Alumni." The manner in which the names are listed in the alumni records does not always make it possible to determine the gender of the individual.
40 "List of Alumni." The University of Arkansas Law School in Fayetteville, founded in 1924, graduated its third woman in 1939, Arkansas Democrat, December 10, 1977.
42 Ibid.
44 Ibid., 40.
45 Ibid., 51.
46 Ibid., 41.
47 Ibid., 50.
49 Ark-Law, 1919-1920, 36.
50 Ibid., 36. The success of the fraternity in achieving its goal has not been determined.
51 Little Rock, Arkansas Democrat, January 26, 1918. Since the score made at reporting on the paper, it is probable that Mr. Shields’ score was 100 on the entire exam.
52 Berkson, "Women on the Bench: A Brief History," 250.
55 Ark-Law, 1919-1920, 23.
56 Ibid., 36.
57 Bench and Bar of Arkansas, 31.
60 Proceedings, 1932, 14.
62 Bench and Bar of Arkansas, 76.
64 Ark-Law, 1920-1921, 25.
65 Ark-Law, 1919-1920, 36.
66 Bench and Bar of Arkansas, 76.
67 Proceedings, 1922, 19.
68 Proceedings, 1936, 7.
69 While information on the origins of the Arkansas Association of Women Lawyers is sketchy, its members indicate that it was founded in Little Rock probably in 1926 or 1929. Ruth Lindsey, Conversation, Little Rock, Arkansas, July 21, 1984.
70 Proceedings, 1941, 150-151.
71 Proceedings, 1948, 337.