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FOUR REMARKABLE OHIO WOMEN LAWYERS--THE CRONISE SISTERS OF TIFFIN,
FLORENCE ALLEN, AND CLEVELAND LAW SCHOOL'S "HARD-BOILED MARY"

by Arthur R. Landever*

Four Ohio Women blazed the trail. Among the early women lawyers in our state, they overcame resistance from the male bar or the culture of the day to distinguish themselves in the profession. Nettie Cronise was the first woman admitted to the Ohio bar. Her sister Florence followed, several months later. Florence Allen, admitted in 1914, became the nation's preeminent woman judge of her time. Mary Grossman, from Jewish immigrant roots, had a memorable career on the Cleveland Municipal Court. Why did these women choose law despite society's obstacles? What do they have to tell us?

Nettie Cronise Lutes

Nettie Cronise Lutes was the first. Her sister and one of Nettie's daughters would become lawyers as well.¹ But few would

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¹ See George I. Reed (E. Randall & C. Greve, Assoc. Eds), Bench and Bar of Ohio--A Compendium of History and Biography. Vols. I, II. Chi: Century Publ. and Eng. Co. 1897), II 373. "Biographical sketch of Nettie and Florence Crouse, among the early women students at Heidelberg. Heidelberg College Archives at Tiffin-Seneca Public Library, p. 4-5.

follow their lead. Some evidence of the rarity of women lawyers in the late 19th century is gleaned from the 1897 edition of the Bench and Bar of Ohio.² It lists 391 lawyers, providing quite flattering accounts of them.³ Only two are female, the Cronise sisters of Tiffin Ohio.⁴

What was Nettie Cronise's family background? She was born in 1843 to Katherine Cronise and Dr. Jacob Staub, a local Tiffin physician.⁵ It seems that her parents' marriage was a troubled one, apparently stemming from Staub's drinking problem, and ended in divorce.⁶

Malaria was one of the constant menaces...in combatting which (people) frequently resorted to whiskey and brandy, as a remedy, and Dr. Staub was one of those for whom the remedy proved worse than the disease.⁷

Katherine's maiden name was restored to her, and she then

² See 1897 Ed. Bench & Bar of Ohio.

³ 1897 Ed. Bench & Bar. See Indices, I, II. But note that there were more lawyers in Ohio than are listed and the editors do not say how the selection came about. For example, Edith Sams, a lawyer who was a partner for a time with Florence Cronise, *Ibid*, I. 393, is not listed, nor is Cleveland's first woman attorney, admitted in 1885. See Jeanette Tuve. *First Lady of the Law* -- Florence Ellinwood Allen Lanham: United Press of America 1984, at 22. Certainly the ratio of those listed to the complete number at the bar was not 1 to 10 as it appeared to be in the Bench and Bar of Ohio, 1939-1940 (1939), *infra* note 87.

⁴ Nettie Cronise Lutes 1897 Ed. Bench and Bar II Index, Florence Cronise, I Index.

⁵ "Biographical Sketch of Nettie and Florence Cronise, among the Early women Students at Heidelberg, : Heidelberg College Archives at Tiffin-Seneca Public Library, p. 1

⁶ "Biographical Sketch," p.1.

⁷ "Biographical Sketch," p.1.

returned with her small children to her father's home. Shortly thereafter, the names of her children were changed by an Act of the Legislature, also to Cronise, their grandfather being in the State Legislature at that time, and they were brought up in his home.⁸

Nettie Cronise was "'to the manner born,' ... a daughter of one of the first families of Tiffin."⁹ Her grandfather, "was among the first settlers" in Seneca County.¹⁰ A leading merchant of the city, "by his influence and public-spiritedness he did much toward the building up and advancement of the city."¹¹ Henry Cronise was indeed a quite influential man, postmaster for many years, and publisher of the first Democratic newspaper in the area, the Van Burenite and Seneca County Advertiser.¹² He could trace his roots to Revolutionary War days. An ancestor, also named Henry Cronise, had been in the "German Regiment" (Americans of German extraction from Maryland and Pennsylvania), part of Washington's forces stationed in Valley Forge, in 1777.¹³ Tiffin's Henry Cronise had represented his district in the Ohio House and Senate.¹⁴ A financial supporter of Heidelberg College, he saw both his granddaughters attend the college.¹⁵ Evidence of Henry Cronise's

⁸ "Biographical Sketch," p.1

⁹ 1897 ed. Bench and Bar II 373.,

¹⁰ 1897 ed. Bench and Bar I 392.

¹¹ 1897 ed. Bench and Bar II 373.

¹² "Biographical Sketch," p. 11.

¹³ "Biographical Sketch" p. 7. The author confirmed that a "Henry Cronise" was on the rolls at Valley Forge, in a telephone conversation with Lee Boyle, Valley Forge on site historian. And see 1897 ed. Bench and Bar I 392.

¹⁴ "Biographical sketch," p. 11.

¹⁵ "Biographical Sketch" p. 3, 8.

prominence is reflected in early Ohio case law, several Ohio Supreme Court cases bearing his name or that of the administrator of his estate.¹⁶

Both of Henry's daughters became teachers, as in turn, did their daughters. Nettie, educated in the public schools of Tiffin,¹⁷ studied for a time at Heidelberg College but did not graduate because "a severe attack of trouble with her eyes compelled her to stop school."¹⁸ She took further study in Illinois, receiving "special training in Phonics"¹⁹ (understanding and communicating with the deaf). Having taught in Illinois and in Tiffin, she opened a private school for "backward and other special scholars" in Tiffin in 1869.²⁰ By 1871, however, she had changed her career.

At that time, Nettie entered the law firm of Warren Noble and his brother Harrison, to "read the law."²¹ What had caused this interest in law? One possible explanation is that she was influenced by a prominent Illinois attorney with whom she was in frequent contact, Charles Baldwin.²² Married to a family friend of the Cronises, he often saw the Cronise sisters when they were

¹⁶ See *Dunn v. Cronise*, 9 OH State 82 (Dec. 1839 Term), *Thomas v. Cronise*, 16 OH State 54 (Dec. 1847 Term), and *Noble, Administrator for the estate of Henry Cronise, v. Callender*, 20 OH State 199 (Dec. 1870 Term).

¹⁷ 1897 ed. Bench and Bar II 374.

¹⁸ Biographical Sketch, p. 3.

¹⁹ 1897 ed. Bench and Bar, II 374.

²⁰ Biographical Sketch, p. 3

²¹ 1897 ed. Bench and Bar, II 374.

²² Biographical Sketch, 1-2.

teaching in Illinois. He frequently involved them in "discussing his legal work, and sometimes in copying papers for him."²³ Moreover, around this time, Nettie's mother remarried, and as it happened her second husband was also a lawyer.²⁴

A more romantic explanation is possible. Clerking in the Noble brothers' law firm around the time Nettie entered it was Nelson Lutes.²⁵ Although the 1897 edition of the Bench and Bar declares that it was there that he "first met his wife,"²⁶ it is possible that Nettie may have heard about this young man who was growing increasingly deaf. Nelson had served in the Civil War and "in consequence of sickness and exposure in the army,"²⁷ suffered a gradual loss of hearing. Nelson first noticed the condition in 1870,²⁸ a year before the two began clerking together. (Ten years later, Nelson was totally deaf).²⁹ Of course, it may simply be a consequence that this woman, trained in communicating with the deaf, went to study law at a firm having a deaf person apprenticing there.

Also important in explaining Nettie's decision to study law was the apparent support of the local bar,³⁰ perhaps owing to her

²³ Biographical Sketch 1-2.

²⁴ Biographical Sketch 1-2.

²⁵ 1897 Ed. Bench and Bar II 372.

²⁶ 1897 Ed. Bench and Bar II 372.

²⁷ 1897 Ed. Bench and Bar II 372.

²⁸ 1897 Ed. Bench and Bar II 373.

²⁹ 1897 Ed. Bench and Bar II 373.

³⁰ 1897 Ed, Bench and Bar II 374.

grandfather's influence. Warren Noble, her preceptor, had been administrator of her grandfather's estate,³¹ He was not only a leader of the Tiffin bar but an influential lawyer throughout Ohio, having served as a member of Congress and a trustee of Ohio State University.³²

Two years after she began her clerkship, Nettie applied for admission to the bar; and her application was supported by a committee of the leading lawyers and judges from Tiffin.³³ The Ohio Supreme Court had never admitted a woman to the bar and could choose from conflicting persuasive authority to resolve the question. A number of states had just begun admitting women to the bar: Iowa had admitted Belle Mansfield in 1869; the District of Columbia, Charlotte E. Ray, in 1872; Michigan, Sarah Kilgore, in 1871; Missouri, Lemma Barkaloo, in 1870; Utah, Phoebe W. Couzins in 1872; Maine, Clara H. Nash, in 1872.³⁴ On the other hand, when Myra Bradwell sought admission to the Illinois bar in 1869, she was turned down by the Illinois Supreme Court,³⁵ the United States

³¹ Noble v. Callender, 20 OH State 199 (Dec. Term 1870).

³² 1897 Ed. bench and Bar I 195, 197-198.

³³ 1897 Ed. Bench and Bar II 374.

³⁴ Karen Berger Morello, Invisible Bar--Women Lawyers in America--1638 to the Present. Boston, Beacon Press, 1986, at 37-38.

³⁵ In Re Bradwell, 55 Ill. 535 (1869), aff'd 83 U.S. (16 Wall) 130 (1873).

The State Supreme Court decided that it lacked discretion to admit women. It did not matter that a marital disability may no longer have existed. See Jane Friedman, America's First Woman Lawyer--Biography of Myra Bradwell. Buffalo, N.Y., Prometheus Books, 1993, at 20-21.

Supreme Court affirming the state's authority³⁶ to do so. The Illinois Court based its ruling on two holdings: first, that married women could not freely contract; and secondly, that given the language of the implementing statute the provision's male pronouns, and the English common law, the state legislature could not have contemplated the admission of women.³⁷ Explained the editors of the 1897 edition of Bench and Bar:

This was before the law was passed by the (Ohio) State Legislature, specifically authorizing the admission of women to the Bar, and after Mrs. Bradwell had been refused admission in Illinois, and the question was naturally raised as to (Nettie's) right to be admitted, with the majority of the court inclined to the opinion that women were not eligible for admission to the Bar in the State. Judge Seney and other eminent lawyers offered their services to present her case to the court, which she declined, and taking charge of her own case, by the force of her own character and learning, she succeeded in convincing the court of her right to be admitted, thus opening the door for admission of women to the Bar of this state.³⁸

³⁶ Bradwell v. Ill, 83 U.S. (16 Wall) 130 (1873). The majority relied on the rationale that the post-civil war amendments did not authorize federal interference with state policy here. But a three-member concurrences written by Bradley declared bluntly: "The paramount destiny and mission of woman are to fulfill the noble and benign offices of wife and mother, at 16 Wall 141.

³⁷ 55 Ill. at 535 (1869). Furthermore, were women to become lawyers, they should avoid courtroom practice since the "hot strifes of the bar were unsuited to women." 55 Ill. at 542 (1869). Friedman, 21. The state judges added: The "momentous verdicts, the prizes of struggle (would tend) to destroy the deference and delicacy with which it is a matter of pride of our ruder sex to treat (women)," at 542 (1869).

³⁸ 1897 Ed. Bench and Bar II 374.

Nettie Cronise was admitted in the April 1873 term of the Court,³⁹ and her husband to be (the couple would marry in 1874)⁴⁰ was admitted at the same time. He was offered a partnership with his mentors and thus "was enabled immediately to acquire one of the largest practices in the county."⁴¹ Nettie presumably had no choice but to open her own practice. She promptly did so and thereafter engaged in the practice of law, according to the editor's assessment, in 1897, with "reasonable success".⁴² Putting out her shingle in Tiffin, she was told she had made a fine record "when she had 'cleared one hundred dollars and some over' in her first month, after all expenses were paid."⁴³ Her sister Florence was admitted several months later, and the two Cronises went into partnership, engaging in general and corporate work.⁴⁴ They may well have been the first sister law partnership in American history. Their partnership was soon dissolved, however⁴⁵ Nelson had become totally deaf. He thereupon withdrew from his

³⁹ 1897 Ed. Bench and Bar II 374.

⁴⁰ 1897 Ed. Bench and Bar II 372.

⁴¹ 1897 Ed. Bench and Bar II 372.

⁴² 1897 Ed. Bench and Bar II 374.

⁴³ "Biographical Sketch" p. 4.

⁴⁴ 1897 Ed. Bench and Bar I 393.

⁴⁵ How soon is unclear. The 1897 ed. Bench and Bar has a contradiction. Page II 372 states that Lutes and Lutes was not formed until about 1880-1881 when Nelson became totally deaf. But I 393 says that upon the marriage in 1874, Nettie dissolved the partnership with her sister and formed a partnership with Nelson. The best evidence is a statement in a letter written in 1888 by Florence to the effect that the two opened their practice in 1873 and "[t]he following year my partner left me...." See Drachman, *infra* note 73 at 158.

partnership with Warren Noble, and he and Nettie formed Lutes and Lutes.⁴⁶

As for Nettie's ability and accomplishments as an attorney, she was described as:

possess(ing) the qualifications necessary for success in the profession of the law in a marked degree. Her knowledge of the law is profound and her judgment good... (S)he has the faculty of examining a question in all of its bearings... of looking on both sides of a question with a perception so quick that nothing seems to escape her notice during the progress of a trial... (She has) undaunted courage... (and) the most perfect self-control... (She) puts truth and right above all other considerations and scorns to take an unfair advantage. This is recognized and acknowledged by all, and of itself begets confidence in any proposition maintained by her.⁴⁷

Despite her great ability, she deferred in the courtroom to her deaf husband, regrettable indeed, but certainly not surprising in this time period. True, Nelson was considered one of the most able and successful lawyers in Northwestern Ohio,⁴⁸ but by the time of their partnership, Nettie's involvement was indispensable to maintaining that reputation.

Though herself a fine and effective speaker, thoroughly trained in the art of oratory, by reason of her determination that her husband should not be shorn of his power and strength as a lawyer because of his deafness, her voice is seldom heard in argument either to the court or jury. Though taking a leading part, and largely managing the conduct of all of the cases tried by the

⁴⁶ 1897 Ed Bench and Bar II 374-75.

⁴⁷ 1897 Ed. Bench and Bar II 374-75.

⁴⁸ 1897 Ed. Bench and Bar I 198.

firm, few persons understand or appreciate the masterful power exerted by Mrs. Lutes in the trial of a case.⁴⁹

So able was Nettie that those unaware of Nelson's condition wondered what she was doing in front of the courtroom seemingly constantly interrupting him.

A person looking on, who did not know that Mr. Lutes was deaf, would not readily discover that fact, or clearly understand the part taken by Mrs. Lutes, as shown by an incident which occurred in the trial of a case not long since in the Circuit Court of Clermont County, in the southern part of the State, where Mr. and Mrs. Lutes were strangers. An old gentleman, an habitue of the court room, was sitting in the audience room looking on at the trial. At the noon recess he came forward and quite indignantly inquired of a member of the local Bar with whom he was acquainted, why the court allowed that woman to sit in front of that lawyer and talk to him and thus interrupt him during the whole time he was trying the case... (Indeed) her part in the trial of the case might be likened to the signal corps, cavalry branch, sharpshooters and skirmish line of an army in the field, and she is to Mr. Lutes in the trial of the case what Sheridan was to Grant in the capture of Lee's army."⁵⁰

To the editor of the 1897 publication, the love affair between Nettie and Nelson was captured by the inspired lines of the poet:

"For woman is not undeveloped man,
But diverse. Could we make her as the man,
Sweet love were slain, whose dearest bond is this--
Not like to like, but like with difference.
Yet in the long years like must they grow;
The man be more of a woman, she of man.
He gain in sweetness and in moral height,
Nor lose the wrestling thews that throw the world--
She, mental breadth, nor fail in childward care;
More of the double-natured poet each;
Till at last she set herself to man
As perfect music unto noble words.
And so these twain upon the skirts of Time,
Sit side by side, full summed in all their powers,
Self-reverent each, and reverencing each;

⁴⁹ 1897 Ed. Bench and Bar II 375.

⁵⁰ 1897 Ed. Bench and Bar at 376.

Distinct in individualities,
But like each other even as those who love."⁵¹

Some evidence of Nettie's stature with her women-lawyer colleagues was shown in 1893. During the World's Columbian Exposition in Chicago at that time, an attempt was made to form a national Women's Lawyer's Association. Nettie was elected first president. But Nettie almost immediately withdrew her name, in favor of her sister Florence. In any event, the idea of such a national association was shortly thereafter dropped.⁵²

Upon Nelson's death in 1900, Nettie practiced alone in Tiffin, until her daughter Evelyn was admitted to the bar in 1905. Thereupon Lutes and Lutes was back in business.⁵³

Of Nettie Cronise Lutes, the Cleveland Press, in 1923, on the occasion of her death, declared:

(S)he is our idea of a real pioneer. We would not trade her honor for the distinction of being the first to fly across the Atlantic...Fifty years ago woman's place was surely in the home, in the belief of almost everyone. today many cling to this idea, but in those days agreement was practically unanimous. Yet this brave woman, then in her mental and physical prime at the age of 30, faced prejudice fearlessly.⁵⁴

⁵¹ 1897 Ed. Bench and Bar 377

⁵² "Biographical Sketch" p. 4-5

⁵³ "Biographical Sketch" p. 4-5

⁵⁴ "Biographical Sketch" 6-7. The Cleveland Press obituary was probably published on or around August 1, 1923, a day or so after Nettie's death on July 31, 1923.

Florence Cronise

Two years younger than Nettie, Florence Cronise had also started as a teacher⁵⁵ before seeking to become a lawyer. Unlike her sister, she had graduated from Heidelberg College. In that graduating class of 1865 were only four students, the Civil War having dramatically reduced the college's rolls. Of the four, Florence⁵⁶ was valedictorian, but she was not permitted to give the valedictory address.⁵⁷

... (A)t that time it was thought to be so unseemingly for a young woman to "deliver an oration" that though she sought hard for the privilege, which she had earned, and it was gravely discussed at several faculty meetings, she was required to read a paper, instead, with what old-time etiquette books called "a becoming female modesty," while one of the men in the class, having next honors, delivered what was called the "Heidelberg Oration."⁵⁸

Florence also earned a Master of Arts degree at the College.⁵⁹ After her graduation, she went to Illinois and taught for six years in the public schools there.⁶⁰ She then returned to her home town, becoming principal of the local high school. She soon angrily abandoned that field to apprentice in a law firm:

⁵⁵ 1897 E. Bench and Bar I 392

⁵⁶ See 1865 role, Heidelberg College Archives at Seneca Tiffin Library (Nettie and Florence Cronise materials).

⁵⁷ Biographical Sketch 8.

⁵⁸ Biographical Sketch 8.

⁵⁹ 1897 Ed. Bench and Bar I 392.

⁶⁰ 1897 Ed. Bench and Bar I 392.

(S)he had accepted the position of principal of the high school at Tiffin, with the understanding and agreement on the part of the board of education that she was to receive the same salary as a male teacher for the same grade of work. At the end of the year the board was unwilling to carry out its agreement except on the condition that she would continue in the position five years. She declined to accede to the new condition, and abandoning school she entered upon the study of law. Three months later the school board sought ineffectually to reemploy Miss Cronise, offering her the position of principal of the high school at a salary of \$1,000 per annum, unconditionally. The offer was declined with thanks.⁶¹

In 1872, a year after Nettie had begun her clerkship, Florence began "reading" in the firm of Judge John McCauley of Tiffin, like Warren Noble, a leader of the bar there.⁶² What had caused Florence to take that path? She too had come under the influence of Charles Baldwin and seen her mother marry a lawyer. Doubtless, important was the example of her older sister. The refusal of the Board to treat her equally with men appeared the triggering event.

Admitted in the September term of 1873, Florence promptly joined with her sister in partnership.⁶³ Several years later, the two were admitted to the Federal courts in Toledo.⁶⁴ The sisters were such effective litigators "that every year they handled more than fifty state and federal cases on the court dockets for the Northern District of Ohio."⁶⁵ After Nelson's hearing loss, the sisters' partnership came to an end. For a brief period, Florence

⁶¹ 1897 Ed. Bench and Bar I 392.

⁶² 1897 Ed. Bench and Bar I 393, 207.

⁶³ 1897 Ed. Bench and Bar II 374.

⁶⁴ 1897 Ed. Bench and Bar at 393.

⁶⁵ Morello, p. 178.

took in a junior partner, Edith Sams, who had studied in her office; but that partnership ended upon Sams' marriage.⁶⁶ Thereafter, for most of her fifty years in the profession, Florence was a sole practitioner.⁶⁷

Like her sister, Florence was described in the 1897 listing as an excellent lawyer. She was said to have a "genius for the law and is a good counselor,"⁶⁸ (was) clear, dispassionate, and logical in style (and) makes a strong argument before court or jury.⁶⁹

One judge declared:

she is very capable (of trying) any case. she is...capable (of being) a very efficient judge of any court in the State.... I think probably there is not a better woman lawyer than she in the whole country.⁷⁰

Another judge concurred. Cronise had entered the profession:

at a time when women in the law were not regarded with that favor accorded them in later years; but by her force of character, and close attention to business, she made rapid advancement, until today her position at the bar is second to none. ... she has a clientage and success (placing) her on a level with the foremost in the profession.⁷¹

It was noted, by a Tiffin judge that unlike other females, she was said to have taken "most interest in mathematics and languages, and paid less attention to the trifling and effeminate studies in the course."⁷²

⁶⁶ 1897 Ed. Bench and Bar I 393.

⁶⁷ 1897 Ed. Bench and Bar 393. Biographical Sketch 9.

⁶⁸ 1897 Ed. Bench and Bar I 393.

⁶⁹ 1897 Ed. Bench and Bar I 393.

⁷⁰ 1897 Ed. Bench and Bar I 393.

⁷¹ 1897 Ed. Bench and Bar I 393-4,

⁷² 1897 Ed. Bench and Bar 393.

Some notion of the extent of her practice, and her philosophy about her "mission" can be gleaned from three letters Cronise wrote in the 1880's to her sister lawyers of the Equity Club. The latter was a national organization formed in 1887 and lasting only until 1890, and had 32 women lawyers and law students (29 from the United States and three from abroad) who corresponded with each other. One letter hints at the unusual experiences of her sister Nettie:

"I wish I had the time and the liberty to write you some of the experiences of my sister Nettie C. Lutes, Ohio's first woman lawyer. I do not think any other can have had anything similar."⁷³

A letter to the group in 1888 described when the two sisters opened up their joint practice in 1873. Cronise's account notes little discrimination against the two by male lawyers, and indeed, a willingness on the part of men--more so than women--to hire them.

"... [S]winging our sign, 'N & F Cronise, Attorneys at Law,' we sat and waited.... Business came gradually, by no means in a rush, and slowly we worked our way up. Our brothers extended the hand in welcome so far as to put no visible obstacle in our way--neither did they make an effort to remove any. We began on the same footing as any of the young men, and have kept on to the present. The following year my partner left me and entered into the firm, while I continued to paddle my canoe alone. In the early days our work came chiefly from men, women having but little confidence in the ability of women. All this, however has changed, and my clients are as frequently one as the other. I am as liable to be employed on the side of the man as of the woman."⁷⁴

Cronise explained that she considered herself a "lawyer"--not a "woman lawyer" and that she received the professional courtesy

⁷³ Virginia G. Drachman, *Women Lawyers and the Origins of Professional Identity in America--The Letters of the Equity Club, 1887-1890* (U. of Mich. Press, 1993. Cronise Letter written in 1889, Dillon Collection. 157-159 at 158).

⁷⁴ See Cronise letter of May 23, 1888 at Drachman 94-95, at 94).

owed her. Moreover, she appeared to have a thriving and varied practice, apparently having no misgivings about representing a man against a woman.

My practice covers all classes of cases, and I have never hesitated to undertake and conduct a cause by reason of its character, thinking where a woman is a party or a witness that there it is proper for another woman to be-- and never yet have I been made to feel that I was in any way indelicate by reason of doing so. My experience has taught me that a woman can go along by the side of men in the same profession, receiving from all the same professional courtesies that they extend to the brotherhood, and we must ask for no more. . . . Along the line of these fifteen years I find scattered an innumerable lot of cases, railroad suits, insurance, land, divorce and alimony (one, both or either), bastardy cases, labor claims, libel suits, suits of all classes against corporations, settlement of estates. . . . My business frequently calls me out of my own state.⁷⁵

She declared that she had chosen not to involve herself in public causes, instead practicing law as best she could and earning a comfortable living in the process.

It has been made a rule of my professional life to go quietly on, remaining very closely at my business, seldom doing anything of a public character outside my law business, and the result I believe to be better than had I answered some of the many calls to appear before the people in behalf of woman's rights. But I don't want you to think that my professional life has been one of unceasing pleasures and successes, for it has not. It has its ups and downs today, as it had years ago. Sometimes I have thought that the downs prevailed, but then everything would brighten again, and the result is a comfortable income and a success comparing favorably with that of the young men entering the profession at the same time."⁷⁶

In her letter in 1889, she talked about her view of her professional career:

⁷⁵ See Cronise Letter of May 23, 1889 at Drachman 94-95.

⁷⁶ Cronise Letter of May 23, 1889 at Drachman 95.

My mission is to honestly, earnestly, and decently earn my living, doing it in the way I may seem I am most fitted for. When I entered the profession I did it with no other thought than that I could better earn a living practicing law than teaching at a thousand dollars a year. I have done better, and much better--No thought of being a public benefactor ever entered my head. I cannot accept any sentimental view of woman's mission--this world is plain, hard facts, sentiment may be beautiful to look at and indulge thoughts in occasionally, but it will earn no bread and butter, accomplish no genuine good, and should be set aside for holiday recreations and not allowed to show itself as our hard work days⁷⁷...

Drachman explains that Cronise's position--that "No thought of being a public benefactor ever entered my head"⁷⁸ was only one of two models contended for by members of the Equity Club. "Some (like Cronise) argued that law and charity could not mix...(I)n order to succeed in law, (women) must follow a man's example and harden themselves to the urge to engage in philanthropy and charity...[O]ther members...argued [however] that...charity and reform (belonged) at the heart of their professional lives."⁷⁹ Some women went further, believing that "womanhood in the practice (would result in) sweeter manner--purer laws."⁸⁰

Despite her protests that she was a lawyer--not a woman lawyer--and as such, took on all manner of clients, there is some indication that Cronise nonetheless took a close interest in cases in which women were treated harshly by the law. Long said to be a "friend and confidant of widows and guardians of young people, her friends sometimes teasingly suggested that she add to her name over

⁷⁷ Cronise Letter written in 1889, at Drachman 158.

⁷⁸ Drachman at 158.

⁷⁹ Drachman, 24.

⁸⁰ Drachman, 23.

the door--what they used to call her 'shingle,' the words 'Widows a Specialty.'⁸¹

Furthermore, she did not completely ignore the public arena. For eight years she was a member of the county board of school examiners⁸² and in 1895 was a candidate for member of the local board of education. She became Ohio's⁸³ first woman notary, overcoming objections that as a woman she was not even eligible to vote. Though she had been denied the opportunity to give the valedictory at her 1865 graduation from Heidelberg, she accepted the invitation to give the Alumni Oration a couple of decades later.⁸⁴

In the Heidelberg College newspaper, The Kilipilik, she summed up what she believed law study did for a woman:

(I)t develops in her, broad, practical views of life, strengthens her both mentally and morally; prepares her for better meeting the demands of family cares, makes her a better wife and mother, a truer friend and broader philanthropist, and if chosen for a life work, it secures for her, not only a good living, but a competency.⁸⁵

She added, perhaps with her earlier experience with the Tiffin Board of Education in mind, "and places her on an equal plane with man in the battles of life."⁸⁶

⁸¹ "Biographical Sketch" at p. 9.

⁸² 1897 Ed. Bench and Bar at I 393.

⁸³ 1897 Ed. Bench and Bar I 393.

⁸⁴ "Biographical Sketch" at 10.

⁸⁵ Heidelberg Archives, Cronise Sisters Materials, at Tiffin-Seneca Library, at 113 of "Kilipilik."

⁸⁶ Heidelberg Archives, at 113 "Kilipilik."

Florence Allen

Despite the apparent successes of the Cronise sisters in the later 19th century, one could not have predicted Florence Allen's meteoric rise several decades later.⁸⁷ She would become America's preeminent woman judge. Indeed, before there was O'Connor, before there was Ginsburg, there was Allen. Her firsts are impressive: First woman in the nation to be an assistant county prosecutor (Cuyahoga County),⁸⁸ first woman to be a common pleas judge (Cuyahoga County),⁸⁹ first woman to be a state supreme court judge (Ohio),⁹⁰ first woman to be a federal circuit court judge (6th Circuit),⁹¹ first woman to be the chief judge of a federal circuit (6th Circuit),⁹² and the first woman to be the subject of a campaign to be nominated to sit on the United States Supreme Court.

⁸⁷ Women lawyers were still a rarity in 1914 when Allen was admitted to the bar. That seemed to be the case even 25 years later, judging from the 1939-1940 Edition of the Bench and Bar of Ohio, since it listed only three women lawyers--Allen being one of them. However, since one estimate within that edition itself put the number of lawyers at 10,000 in Ohio, while listing only about 1000 names in the volume, it is not clear at all how many women lawyers there actually were in Ohio. There is no indication how the persons listed were selected. Presumably they were those willing to pay a fee. See Bench and Bar of Ohio 1939-1940 (1939) Index, 289, 309, 325 and iii, estimate of 10,000 by Howard L. Barkdull).

⁸⁸ Florence Ellinwood Allen. To Do Justly. Cleveland: Press of Western Reserve University. 1965, p. 39 (Hereinafter TDJ).

⁸⁹ TDJ 64.

⁹⁰TDJ 64.

⁹¹ Jeanette E. Tube, First Lady of the Law--Florence Ellinwood Allen. Lanham: United Press of America, 1984, 110.

⁹² Tuve 189.

Indeed, there was support for her candidacy during three presidential administrations.⁹³

Allen had an exceptional, intellectually rich home environment. Her father, Clarence Emir Allen was a "brilliant classical scholar" who "read Greek and Latin as most people would read English."⁹⁴ Moreover, he could trace his lineage back to Rhode Island's revolutionary war hero, Ethan Allen.⁹⁵ Clarence had gained some celebrity in college, as the star pitcher on the Western Reserve baseball team.⁹⁶ He beat all comers with the new "curve" ball in 1876 despite objections by a university physics teacher that there could be no such thing.⁹⁷ Among his classmate was John Clarke, later to be on the United States Supreme Court.⁹⁸ Both facts proved important in Florence Allen's judicial climb.⁹⁹

Soon after Clarence was appointed professor of Greek and Latin at Western Reserve University, he contracted tuberculosis, however. Forced to leave Ohio for a mountain climate, he went to Salt Lake City with his family.¹⁰⁰ In Utah, he became a member of the bar and took an active role in politics. He was elected several times

⁹³ Tuve 162-67.

⁹⁴ TDJ 2-3.

⁹⁵ Ruth Neely ed. in chief. women of Ohio: A Record of Their Achievement in the History of the State. 3 vols. 1939. II. Women in the Law Ch. 12. "Florence E. Allen," 641-44 at 642.

⁹⁶ Neely at 641. Teams beaten in 1876 included Oberlin and Ohio State. Cleveland Plain Dealer 5/1/27.

⁹⁷ TDJ 70.

⁹⁸ TDJ 70,90.

⁹⁹ TDJ 70,90.

¹⁰⁰ TDJ 2.

to the Utah Legislature and was the state's first representative to Congress.¹⁰¹ He played a key role in achieving welfare legislation in the state, including workmen's compensation and an eight-hour day,¹⁰² and also became known as the father of "free public school system in Utah."¹⁰³ Committed to woman's rights, he led in the successful effort at the Utah state convention to permit woman's suffrage, making Utah the second state to have it.¹⁰⁴ Indeed, so impressed with Clarence and his wife Corrine was the leadership of the women's movement that the two were invited by Susan B. Anthony to address a meeting of the National Women's Suffrage Association.¹⁰⁵ Advised for health reasons to choose a less sedentary occupation, Clarence took a position as assayer. He soon became a successful mine manager.¹⁰⁶ Allen later noted her father's mining background to convince her reluctant Chief Judge that she was more than qualified to sit to hear technically complex patent cases.¹⁰⁷

¹⁰¹ TDJ 3, Tuve 5.

¹⁰² Tuve 5.

¹⁰³ TDJ 5.

¹⁰⁴ Tuve 6.

¹⁰⁵ Tuve 6.

¹⁰⁶ TDJ 3, 102.

¹⁰⁷ TDJ 102-103.

Florence Allen's mother Corinne was an accomplished pianist¹⁰⁸ and also a community leader.¹⁰⁹ A student in the first class admitting women to Smith College,¹¹⁰ she later helped to establish Salt Lake City's Free Public Library.¹¹¹ Moreover, she often spoke against polygamy throughout Utah, although it was a controversial position in Mormon Utah at the time.¹¹² Corinne's father Jacob Tuckerman not only had an influence on his daughter, but also on Florence directly, often being in daily contact with his granddaughter.¹¹³ Tuckerman could trace his Puritan roots in America back to the seventeenth century.¹¹⁴ Indeed, Lafayette's army was mustered under a tree on Isaac Tuckerman's father's estate, in Sterling, Connecticut.¹¹⁵ An early graduate of Oberlin, the nation's first coeducational institution, Jacob Tuckerman headed Ohio centers of higher education for a long period and was "one of the earliest advocates of higher education for women."¹¹⁶ "So many people remembered him that when Florence Allen

¹⁰⁸ TDJ 3, 102.

¹⁰⁹ Tuve 7. Indeed, Corinne was an international leader in promoting the cause of social betterment for women and president of a philanthropic corporation established to care for homeless working girls. Tuve 7.

¹¹⁰ Tuve 2.

¹¹¹ TDJ 9-10.

¹¹² Tuve 7. Indeed, she had an international fame, invited to speak in Berlin on the subject as part of the International Council of Women in 1904. TDJ 21.

¹¹³ TDJ 11-12.

¹¹⁴ Tuve 1: container 1, folder 2, WRHS. MSSS 3287.

¹¹⁵ Container q. folder WRHS, MSSS 3287.

¹¹⁶ Neely 642.

ran for judge of the Ohio Supreme Court in 1922, voters were reminded that she was the granddaughter of Jacob Tuckerman.¹¹⁷

There were six Allen children, another having died in infancy.¹¹⁸ Florence was born in an adobe cabin.¹¹⁹ For a time, there being no public schools in Salt Lake City, much of her education was at home.¹²⁰ She started learning the Greek alphabet at age four and began the study of Latin by age seven.¹²¹ To her, as she looked back, learning the classics was not a chore, but a delight and a game for the children. She declared:

I am impressed by the importance of a child's early schooling... (T)hese ancient writings were not mere exercises in conjugation and declension; they described fascinating and all-important periods.¹²²

While her father was serving in Congress, Florence and her sister attended her grandfather's primary school in Ashtabula and lived with him. Upon Clarence's return from Washington, he once again closely supervised his daughter's education. From about age 12 to 16, Florence attended what was called Salt Lake College.¹²³ In that period, in part through her mother's instruction, the teenager became a quite talented pianist.¹²⁴

¹¹⁷ Tuve 2.

¹¹⁸ TDJ 3.

¹¹⁹ Neely 642.

¹²⁰ Tuve 8.

¹²¹ Tuve 9.

¹²² TDJ 18.

¹²³ TDJ 19.

¹²⁴ Tuve 16.

Florence entered Western Reserve University in 1900 when she was sixteen years old, graduating four years later.¹²⁵ She then spent two years in Berlin, studying and reporting on musical activities there.¹²⁶

Upon her return, Florence worked as the music critic for the Cleveland Plain Dealer and taught music (along with languages and the classics) at Laurel School, a private school for girls in Cleveland.¹²⁷ There was some speculation to the effect that she might have become a concert pianist had not a pinched nerve in her arm caused her to look elsewhere.¹²⁸ But Allen, in her autobiography declared: "I did not intend to make music my profession.... I had not good enough technique to become a fine pianist."¹²⁹ Nor did Allen wish to "devote her life to music criticism or lectures on the history of music."¹³⁰

But why law? As has been noted, she had the example of her father, whom she adored. He was a lawyer and had taken a leading reform role in Utah. Other influences were at work as well. Back in the United States, Florence enrolled in the Western Reserve University masters program in political science. Apparently having revealed her uncertainties in career direction to one of her teachers, he made a suggestion that would determine her life-long

¹²⁵ TDJ 18.

¹²⁶ TJ 27.

¹²⁷ TDJ 23.

¹²⁸ Neely 643.

¹²⁹ TDJ 23.

¹³⁰ TDJ 23.

career. "Why don't you study law?"¹³¹ he asked. "It came like a revelation from on high. That was what I wanted! But the schools of Law and Medicine of my own University were not at that time open to women."¹³² There is no indication that she would have considered a part-time night law school. Had she wanted to attend such a school, Cleveland Law School, in the city where she was then living, was available to women.¹³³

She applied and was accepted by the University of Chicago's law school. She later described her diverse experiences there:

When I entered the Chicago University Law School I was the only woman in a class of around one hundred. For a shy person it was terrifying to have to enter a classroom first while a hundred men stood aside. But I survived the ordeal, and in the school I had wonderful opportunities. I studied under Professor Floyd Mechem, the most scholarly and courtly law professor I have ever known. I had the privilege of studying criminal law under Roscoe Pound. At the close of the winter quarter, to my surprise, I was second in the class. I was amused to be visited by various young men who congratulated me and then told me I had a masculine mind.¹³⁴

Persuaded to come to New York to investigate and seek reforms in the area of immigrant victimization, she stayed at the famed Henry Street Settlement.¹³⁵ There, she came into contact with Frances Kellor of the New York League for the Protection of Immigrants, Lilian Wald of the Henry Street Settlement and Florence

¹³¹ TDJ 23.

¹³² TDJ 23.

¹³³ See 1904-05, Bulletin, Cleveland Law School, p. 4: "No distinction will be made in the admission of students on account of sex," Archives, CSU Library, Box 79-01-06, William Becker, Archivist.

¹³⁴ TDJ 24.

¹³⁵ TDJ 24.

Kelley, a crusader for labor laws for women.¹³⁶ Having been accepted as a transfer student by New York University, a school credited with establishing a meaningful admissions policy for women,¹³⁷ she finished second in her class.¹³⁸

At the law school she was asked to join a legal sorority but refused because she would not countenance the antisemitism that it practiced.¹³⁹

In Ohio, Allen became an activist in the suffrage movement, in one period speaking in 88 counties.¹⁴⁰ Later when she became a lawyer, she continued to be involved, successfully arguing before the state supreme court that Ohio's home-rule law permitted cities to grant women suffrage.¹⁴¹ Moreover, she helped to persuade the state legislature to pass a law giving women in Ohio the right to vote for President on the theory that the office of presidential

¹³⁶ TDJ 25.

¹³⁷ TDJ 25. "Unlikely Columbia and many other law schools, New York University constantly encouraged women law students....I can never repay what I owe to New York University." Ibid.

¹³⁸ TDJ 28.

¹³⁹ TDJ 27. That attitude may not have been shared by another early woman leader at the bar, Myra Bradwell of Illinois. Bradwell, who had been refused admission to the Illinois Bar, in 1869, founded the Chicago Legal News, at about the same time, and made it into the nation's preeminent legal newspaper. Regrettably, her antisemitism was evident. She insisted on maintaining her position, despite pleas from the Hebrew Leader, a Jewish newspaper in New York City. The newspaper had called attention to the fact that "many of our most eminent lawgivers in Europe and America" were Jewish as was a "large proportion of the bar of the U.S...." Nonetheless, Bradwell remained adamant that the "Legal News in religion is Christian." Jane Friedman, *America's First Woman Lawyer--Biography of Myra Bradwell*. Buffalo, N.Y. Prometheus Books, 1993, at 102-03.

¹⁴⁰ TDJ 32.

¹⁴¹ TDJ 35-36.

elector is a non-constitutional office established under state statute.¹⁴² However, there was a popular referendum on the issue and a majority of the voters rejected her position.¹⁴³ Years later, Allen would be selected to deliver an address in honor of Susan B. Anthony on the occasion of her statue being received for installation in the New York University Hall of Fame for Great Americans.¹⁴⁴

Upon graduation from law school in 1913, Allen chose to practice law in Cleveland, in part owing to her "stimulating experience with the Ohio suffrage movement and her many acquaintances in it."¹⁴⁵ "Despite the fact that Allen's law school record was outstanding and her father had many influential lawyer friends in Cleveland, she could not get a job with any law firm in Ohio."¹⁴⁶ Allen remembered that interviewers would give one excuse or another for not hiring her, with one attorney" pointing to some snowflakes floating past his window and saying, 'Why, I wouldn't think of sending a woman down to the Court House on a day like this.'¹⁴⁷

Meeting such resistance, she put out her shingle, as the Cronises had done decades earlier. One important indication of her effectiveness relates to her reputation after only five years in

¹⁴² TDJ 37.

¹⁴³ TDJ 38.

¹⁴⁴ TDJ 38.

¹⁴⁵ Tuve 35.

¹⁴⁶ Tuve 40.

¹⁴⁷ Tuve 40.

practice. Allen was offered the post of assistant county prosecutor in 1919. In offering her the post, the prosecutor is reported to have said to doubters: "Miss Allen will do a man's job in our office. I rate her as the equal of virtually any male attorney in Cleveland."¹⁴⁸ Her acceptance made her the first woman county assistant prosecutor in the country,¹⁴⁹ one year before woman's suffrage was to be adopted. She was soon demonstrating her talent. Assigned to prepare indictments, she could take much credit for the fact that "(from) September 1918 to December 1919, the grand jury returned more than 1100 indictments, a record accomplishment."¹⁵⁰

With the adoption of the 19th amendment, the way was open for women to enter the judicial field. Allen promptly began campaigning for a seat on the local common pleas bench. She readily took advantage of women's groups she had helped organize in fighting the suffrage battles. Ten weeks later, she had won.¹⁵¹

Once on the bench, some of the other judges sought to establish a divorce division with Allen in charge. Doubtless, they believed that as a woman, she would be better suited to hearing such cases than they were. But the new judge was having none of this plan. "This did not appeal to me. I did not care to spend my life hearing and deciding divorce controversies."¹⁵² Besides, "I

¹⁴⁸ Tuve 42,

¹⁴⁹ Tuve 53.

¹⁵⁰ TDJ 51-2.

¹⁵¹ Tuve 53.

¹⁵² Morello 233.

did not wish to be shunted into a branch of court work for which I was no more fitted than the eleven other judges."¹⁵³ She refused the assignment and the plan was abandoned.

Her most celebrated trial involved that of an organized crime boss charged with first degree murder. The trial placed Allen in a dangerous situation. Indeed, a number of men in the courtroom "(acting suspiciously) were searched and found to be carrying loaded revolvers. They were charged with carrying concealed weapons, put in jail and the trial proceeded peacefully."¹⁵⁴ That was not the end of the episode, however.

One day a letter was delivered to me at the Court. It was written on dirty smudgy paper and had no signature. My name was at the top of the page and every member of the jury was listed below. The letter said: 'the date Motto (the defendant) dies, you die.' On the smudged paper were printed several black outlines of a hand.¹⁵⁵

Though oblivious to the danger, Allen was given police protection, and the "Black Hands" trial proceeded. The jury returned a guilty verdict and did not recommend mercy. Under Ohio law, the death sentence was mandated, and thus for the "first time in the United States a woman judge would be imposing the death penalty."¹⁵⁶

The Motto case was an important one for Allen, but she attended to it as she did others on her calendar, with care and in a timely manner. Indeed, Judge Allen disposed of almost 1000 cases in the short period that she served on the common pleas bench.

¹⁵³ TDJ 45.

¹⁵⁴ TDJ 55-56.

¹⁵⁵ TDJ 56.

¹⁵⁶ TDJ 56.

From January 1921 [to] September 1922, (I) disposed of 892 cases, of which 579 involved actual civil or criminal trials. . . The criminal cases included three first degree murder trials, one second degree trial, and the trial of then Chief Justice of the Municipal Court for perjury. I was reversed three times...but sustained in all the important ones.¹⁵⁷

In the Motto case, the jury verdict of guilty, which would lead to the mandatory imposition of death, was announced by a woman juror without evident emotion. A male juror cried uncontrollably. In recalling this contrast, Allen discussed the emotional nature of men and women. While there was a belief that men are less emotional, her experience had belied that notion. Men tended to vent their emotions through swearing, while women did so through crying.¹⁵⁸

In 1922, ever seeking to take on new challenges, Allen ran successfully for a seat on the Ohio Supreme Court. Once more, she made history.¹⁵⁹ While on the highest state court, she was again asked about the possible conflicts she might have in combining the roles of woman and judge. She answered: "I don't cook or sew or shop, for the simple reason that I haven't the time or energy for these things, any more than the men judges have."¹⁶⁰ Allen's appearance and manner belied any notion of weakness in the face of pressures from male judges or from anyone else. One newspaper declared, "Judge Allen is physically as well as mentally a big woman, hearty and wholesome looking... cares little for frills...

¹⁵⁷ TDJ 51-2.

¹⁵⁸ TDJ 56-57.

¹⁵⁹ TDJ 64.

¹⁶⁰ Morello, Invisible Bar, 234.

her voice has a masculine depth and she has the courage of her convictions."¹⁶¹

Allen was reelected to the court in 1928, this time winning by an astounding 350,000 votes.¹⁶²

About this time, Florence's sister Helen penned a humorous poem about her increasingly famous sister.

Now Florence is a lovely wench,
To charm upon a dreary bench.
And were she not a worthy judge,
I'm sure she'd sometimes say, "O fudge."
Must I go through these mental fogs?
'T were better romping with the dogs.
And though I know it is a sin,
To throw spit balls or use a pin,
It would be fun--of a sort,
If such things happened in court.¹⁶³

Allen sought the democratic nomination for the U.S. Senate in 1926¹⁶⁴ and ran for Congress six years later.¹⁶⁵ Long concerned about foreign affairs, she grieved over the loss of her brothers. "Both were Yale graduates, brilliant, able and honorable."¹⁶⁶ One had been killed on the first day of the American offensive, and the second, from psychological trauma caused by wounds received in France.¹⁶⁷ In her political campaigns she gained the support of labor. Here, too, the perception that she was as tough as any man,

¹⁶¹ Tuve 65.

¹⁶² TDJ 71.

¹⁶³ Container 6, folder 2, WRHS MSSS 3287.

¹⁶⁴ Tue 77.

¹⁶⁵ Tuve 103.

¹⁶⁶ TDJ 74.

¹⁶⁷ Tuve 79, TDJ 74.

had led the Railroad Brotherhood to urge its membership to vote for her:

Labor is not supporting Judge Florence Allen for the Senate because she is a woman....Labor is supporting (her) because she is comparably the best and biggest man available for the job. In brains, character and experience, she towers head and shoulders above the field.¹⁶⁸

Nonetheless, her political campaigns were unsuccessful. Allen returned to her judicial duties, serving on the Ohio Supreme Court for another two years. In the period of her tenure, 1923-1934, the Court was faced with sweeping societal changes calling for reexamination of established doctrine. Some important decisions in which Allen participated included *Reutner v. City of Cleveland*¹⁶⁹ (upholding the city-manager plan calling for proportional representation), *Board of Education of Silver Lake Village School District v. Kornes, Auditor*¹⁷⁰ (upholding the legislature's action of applying funds raised in one school district to the needs of other school districts in the same county), *Pritze v. Messer*¹⁷¹ (upholding broad city zoning power), *La France Elec. and Supply Co. v. International Brotherhood of Electrical Workers*¹⁷² (upholding labor picketing unaccompanied by physical violence, intimidation, or physical threats, and denying injunctive relief), and *Ohio Auto*

¹⁶⁸ Tuve 77.

¹⁶⁹ *Reutner v. city of Cleveland*, 107 O.S 117 (1923).

¹⁷⁰ *Bd. of Ed. of Silver Lake Vill. School district v. Kornes, Auditor*, 107 O.S. 287 (1923).

¹⁷¹ *Pritz v. Messer*, 112 O.S. 628 (1925), 112 O.s. 628 (1925).

¹⁷² *La France Elec & Supply Co. v. Int'l Brotherhood of Elec. Workers*, 108 O.S. 61 (1923).

Sprinkler Co. v. Fener¹⁷³ (providing a liberal construction to "lawful requirement" such that an employer's failure to guard 'dangerous machinery' was included and thus afforded a remedy in court notwithstanding the workman's compensation law).

The most controversial case to come before Judge Allen and her colleagues was Weaver v. Ohio State,¹⁷⁴ decided by the tribunal in 1933. While, at the time, the unanimous, per curiam opinion was consistent with the then "separate but equal" position of the U.S. Supreme Court,¹⁷⁵ it certainly does not reveal Allen as being before her time on the issues involved. Doris Weaver, an African-American, was a student at Ohio State, in her fourth year of work leading to a home economics degree. For part of that year, students were to have a clinical experience, living in a campus home-management house and practicing their subject. Two houses were available, connected by a roof over an enclosed passageway. Weaver was the only African-American in the program. Students were permitted, before coming to stay on the premises, to designate a roommate they wished to room with. There may have been an uneven number, the other women either affirmatively choosing roommates or making clear they would not share a room with an African-American.

¹⁷³ Ohio Auto Sprinkler Co. v. Fener, 108 O.S. 149 (1923).

¹⁷⁴ State ex rel. Weaver v. Bd of Trustees of Ohio state Univ, 126 O.S. 290, 185 N.E. 196 (1923).

¹⁷⁵ See Plessy v. Ferguson, 163 U.S. 537 (1896), upholding as constitutional, government separation of the races even in more public settings rather than the sharing of dormitory facilities. The Court there said:

"If the two races are to meet upon terms of social equality, it must be the result of natural affinities, a mutual appreciation of each of the other's merits and a voluntary consent of individuals." Id. at 551.

Weaver had not designated a roommate, and she was assigned to live with a white instructor in the second house. She sued for a writ of mandamus to compel University trustees to provide her treatment "without discrimination against her." The University took the position that "it is not within (its) power ... to compel the people of one nationality or race to room with or live in such intimate relation as prayed for by plaintiff with people of other races or nationalities, against their desires."¹⁷⁶ Today, a State University may not affirmatively participate in such race discrimination, even in a dormitory environment, especially as in Weaver, where the living quarters are central to the particular academic program. 'Separate but Equal' has been thoroughly repudiated.¹⁷⁷

The Weaver case was to prove only a minor obstacle to Allen as she was being considered by the United States Senate for a federal circuit judgeship. President Roosevelt had earlier made the momentous 6th Circuit nomination. Walter White, Secretary of the NAACP had then expressed serious concerns. By telegram to the Senate Judiciary Committee, he voiced his objection not only to the University's practice but to the passive attitude of all the state court judges, including Allen. Ohio State's action, he wrote:

made Miss Weaver object of ridicule among her fellow students and conspicuously and flagrantly insulted all members of the negro race stop Judge Allen so far as we know has otherwise been free from race prejudice but we contend that her participation in this decision reveals her as lacking in this instance in that broadness of vision and that adherence to the expressed provisions of the fourteenth and fifteenth amendments which are so

¹⁷⁶ 126 O.S. at 293.

¹⁷⁷See Brown v. Board of Education, 347 U.S. 483 (1954).

necessary in a post as important as judge of the circuit court of appeals stop we take this means of registering our unequivocal condemnation of the racial and social philosophy manifested in this decision.¹⁷⁸

Allen, however, had strong supporters and thus was able to gain the Senate's approval anyway. Among those endorsing her were Homer Cummings, FDR's attorney general,¹⁷⁹ whom she had met when she campaigned for Woodrow Wilson earlier, and Judge Harold Stephens, Cummings' assistant¹⁸⁰ and Allen's "life-long friend" from Salt Lake City. Moreover, she had the strong support of women's groups as well as nationally known women.¹⁸¹ Also in her corner was her father's Western Reserve classmate and later U.S. Supreme Court Justice, John Clarke. He declared:

As the daughter of my college classmate, I have had an expected interest in Judge Florence Allen and have noted carefully her judicial career. I think her opinions equal if not superior to any other coming from the Ohio Supreme Court in recent years. You know of course of her thorough education and judicial methods. With the full knowledge of the requirements of a judge of the Circuit Court of Appeals I wish to cordially commend Judge Allen as in all respects equal to them and eminently fitted to fill the vacancy in the Sixth Circuit with satisfaction to the public and credit to the appointing powers.¹⁸²

Judge Will Stephenson, a member of the Ohio Supreme Court, came out in support. He said: "There is no Court too big for Judge Allen."¹⁸³ Allen observed that:

¹⁷⁸ Container 6 folder 5, Telegram of 3/12/34, WRHS MSSS 3287.

¹⁷⁹ TDJ 93.

¹⁸⁰ TDJ 95.

¹⁸¹ TDJ 94.

¹⁸² TDJ 94.

¹⁸³ TDJ 95.

[c]oming from Judge Stephenson, the unqualified endorsement was considered as carrying uncommon significance, because he frankly admitted that at one time, he was opposed to the idea of a woman judge of the Supreme Court of Ohio.¹⁸⁴

After the swearing in, Attorney General Cummings declared:

Florence Allen was not appointed because she was a woman. All we did was to see that she was not rejected because she was a woman. She had won her place by hard work, by a forward-looking attitude toward people and towards law.¹⁸⁵

Florence Allen's appointment, however, was not greeted by the sitting Circuit Court judges with equal enthusiasm. As Allen described the situation:

None of the judges favored my appointment. I am told that when it was announced one of them went to bed for two days. However, both Judge Moorman and Judge Simons wrote, congratulating me. Judge Hicks did not write, and I noticed the omission with some concern as it indicated that he was strongly opposed to a woman on the Court.¹⁸⁶

Indeed, early in the first session, when she talked in conference, "Judge Hicks seemed to avoid looking at me. At the very last he did look at me, and I thought, 'That's a victory.' We went on from there, I, feeling my way, and asserting myself little except in the matter of voting."¹⁸⁷ Rapport improved through a happenstance. Allen, walking the court steps in the old, dark court house, lost her footing and fell down some steps. She was not seriously injured, but she had a "battered face."¹⁸⁸ Although

184 TDJ 95.

185 TDJ 95.

186 TDJ 95.

187 TDJ 97.

188 TDJ 98.

the presiding judge believed that the hearing in a particular case would have to be postponed, Allen would have none of that.

As she recalled later, she said:

"Judge Moorman, I am quite aware how I look, but if I am willing to sit, are you not willing to let me, rather than postpone this case?"¹⁸⁹

She continued:

He finally agreed, and the next morning with my chin bound in adhesive tape and bandages, I helped to make the quorum of the court. Judge Hicks, who had seemed to avoid me, looked at me then and always afterward. I know now that he became my real friend when I took this common sense decision. Some time later he remarked, regarding an opinion I had written, "That's a damn fine opinion." I felt I had joined the club.¹⁹⁰

Yet Allen soon suspected that she was intentionally being kept off patent cases and protested to the presiding judge about that policy. She recalled saying:

I am asking not to sit in a special case, but not to be excluded from a class of cases. You know nothing about me, my family and my education. My father is a manager of nine mines for the United States Mining Company and I have been familiar with some industrial situations that many women know nothing about.¹⁹¹

The policy changed. Afterward, she wrote many patent opinions, including the one in *Cold Metal Process v. Republic Steel*,¹⁹² reviewing litigation that had lasted over twenty years.¹⁹³ She would come to be honored at the end of her career by

¹⁸⁹ TDJ 98.

¹⁹⁰ TDJ 98.

¹⁹¹ TDJ 102-03.

¹⁹² Tuve 158.

¹⁹³ TDJ 103.

the Cleveland Patent Lawyers Association,¹⁹⁴ although patent lawyers were originally aghast at the idea of a woman dealing with the subject.¹⁹⁵

Indeed, in her long tenure on the 6th Circuit, Florence Allen wrote many important opinions for the Court. These included *Booker v. Tenn. Board of Education*,¹⁹⁶ rejecting the board's policy of gradual integration, and *Detroit Housing Commission v. Lewis*,¹⁹⁷ in which she and her colleagues were the first federal court to call for desegregation in public housing. Not as liberal was her opinion in *Stefana Brown v. United States*,¹⁹⁸ in which she spoke for the court in upholding denaturalization for lying on a naturalization application. In that case Allen concluded that Brown's falsification as to her communist party membership had effected a waiver of her privilege against self incrimination. Regrettably, even into the 1960's "[c]ommunism continued to be a frightful bugaboo to Allen even after popular paranoia about it had declined."¹⁹⁹

Perhaps Allen's most important opinion as a circuit court judge was delivered in *Tennessee Electric Power Company v. TVA*, a case in which she presided over a three-member district court.

¹⁹⁴ *Cold Metal Process v. Republic Steel*. 233 F.2d 828 (6th Cir. 1956).

¹⁹⁵ TDKJ. 147.

¹⁹⁶ *Booker v. Tenn Bd. of Ed.*, 240 F2d 689 (6th Cir. 1957).

¹⁹⁷ *Detroit Housing Commission v. Lewis*, 226 F2d 180 (6th cir. 1955).

¹⁹⁸ *Stefana Brown, v. U.s.* 234 F2d 140 (2d Cir. 1956).

¹⁹⁹ Tuve 197.

Eighteen private power companies had contended that the law establishing the Tennessee Valley Authority and authorizing the public development of generating plants and the sale of electric power exceeded the Congress' authority under the commerce clause. Allen's opinion for the three-judge panel held that the federal²⁰⁰ government, at least if specifically authorized by Congress, could erect structures within the watershed of a navigable interstate waterway--to prevent flooding, to regulate interstate commerce, and to create and market electrical power.

While it was not usual for the youngest Circuit Judge to be presiding in such a momentous case, the other Circuit judges by reason of their illness or prior associations were not available. "When Judge Moorman told me of his decision (to choose her to preside) he said, "'They say you are not big enough for this case. You are big enough for any case.'"²⁰¹ After the testimony was heard for seven weeks, Allen drafted the opinion and wanted it to be per curiam.

When it was written, I said to Judge Martin, 'This opinion is ready in rough draft. I shall be glad to rewrite it with whatever corrections you and Judge Gore make, and to title it as a per curiam as being written by the court.' 'No,' said Judge Martin, 'I want to see at the top of that opinion, 'Allen, Circuit Judge.'"²⁰²

At the time of the TVA case, Allen's name was mentioned to fill a vacancy on the Supreme Court. Indeed, there would be campaigns for her, not only during FDR's administration, but during

²⁰⁰ Tenn. Elec. Power Co. v. TVA, 21 Fed. Supp. 947 (Ed. Tenn. ND 1938), aff'd, 306 U.S. 118 (1938).

²⁰¹ 50 Stat. 751, 752, sec. 3, 28 U.S.C. sec. 380a.

²⁰² TDJ 107.

the administrations of Truman and Eisenhower.²⁰³ But vacancies came and went, and she found herself not being nominated.

Drew Pearson's charge did not help. During FDR's term, a 1939 column asserted that in terms of reversals by the upper courts, "Judge Allen's record perhaps is worse than any other prominent federal judge's."²⁰⁴ Judge Allen was livid, dismissing the charge as:

absolutely false. In the five years that I had sat on the U.S. Court of Appeals I had been reversed once upon a question not raised in brief or argument in the Court of Appeals. In my eleven years in the Supreme Court of Ohio I had been reversed twice. I wrote the opinion in one case which was reversed in the Supreme Court of the United States, Justice Holmes and Justice Brandeis dissenting.... [T]hese were the reversals of 16 years. In fact, I had been reversed less often in that five-year period than several great judges in a similar period, who were reversed at times just because they were so great.²⁰⁵

Allen noted that "(a)ll of these figures were readily obtainable. Since the Merry-Go-Round item was published throughout the country after Justice Douglas was appointed, the malice behind the article was evident. They meant to kill me off forever."²⁰⁶ Allen was gratified that Attorney General Frank Murphy publicly rejected Pearson's claim:

The list of reversals referred to (in Pearson's column) is unknown to me. No such list had been shown to me and I deeply regret that Judge Allen has been placed in an unfavorable light. On many occasions I have expressed my

²⁰³ TDJ 111.

²⁰⁴ Tuve 162-67.

²⁰⁵ TDJ 112-13.

²⁰⁶ TDJ. 112-113.

high regard for her ability and qualifications for judicial work.²⁰⁷

FDR's wife, Eleanor Roosevelt, was strongly supportive of Allen's candidacy, both during her husband's administration and during the Truman administration.²⁰⁸ At the time of the TVA case, she declared that "she could see 'no reason' why a woman should not be appointed to the Supreme Court,"²⁰⁹ and her newspaper column, "expressly nominated me for the office."²¹⁰ Moreover, she found many occasions to notice "Judge Allen's position and accomplishments in her published articles."²¹¹

Nonetheless, Allen remained pessimistic about her chances for appointment. "When my friends delightfully tell me that they hope to see me upon the Supreme Court, I know ... that will never happen to a woman while I am living."²¹² Allen proved to be correct, despite the fact that the campaign continued into the Eisenhower administration, with Allen then in her seventies.²¹³

According to Cook, the odds were clearly against Allen. "President Roosevelt would have been moving ahead of public opinion in choosing a woman justice in the 1930's."²¹⁴ She faced other

²⁰⁷ TDJ 113.

²⁰⁸ 110, 112., Tuve 163.

²⁰⁹ TDJ 110.

²¹⁰ TDJ 112.

²¹¹ Beverly B. Cook, "First Woman Candidate for the Supreme Court," *Supreme Court Yearbook* (1981), *Supreme Court Historical Society*. 19-35 at 19, 27.

²¹² Cook, 19.

²¹³ Tuve 167.

²¹⁴ Cook, 31.

obstacles besides gender however. These include her absence of government experience and lack of a war record--factors in large²¹⁵ measure attributable to her gender--geographic location, age and the fact that she was not a party stalwart.²¹⁶ Truman appeared to be willing, but he had other priorities and seemed to give the sitting justices a veto on the question:

India Edwards, director of Women's Division of the Democratic National Committee in 1949-50, reports that Truman was responsive to her recommendation of Florence Allen for the Supreme Court. In her oral history, she reports his reaction: 'Well, I'm willing. I'd be glad to. I think we ought to have a woman. But I'll have to talk to the Chief Justice about it and see what he thinks.' When she returned to the White House to hear the decision, the verdict was: 'No, the Justices don't want a woman. They say they couldn't sit around with their robes off and their feet up and discuss the problems.' India Edwards said: 'They could if they wanted to.'²¹⁷

While the three presidents "appeared to have no prejudices against a qualified woman per se...for the president and his party, appointment of a woman had no political advantages."²¹⁸ Indeed they would not nominate a woman even for a federal circuit court position. That would only come with Lyndon Johnson's naming of Shirley Hufstедler in the 1960's.²¹⁹

Despite not reaching the pinnacle of success as a jurist, a seat on the Supreme Court, Judge Allen could look back on several decades of outstanding judicial service. She was the recipient of

²¹⁵ Cook 31.

²¹⁶ Tuve 69.

²¹⁷ Cook 32.

²¹⁸ Tuve 170.

²¹⁹ Morelo at 239.

25 honorary degrees;²²⁰ Her Alma Mater, New York University established a scholarship in her name for able young women law students and awarded her its Albert Gallatin award;²²¹ Learned Hand, America's preeminent judge, expressed his "high regard."²²² On the occasion of her retirement from the Circuit Court, then Chief Judge Allen (Being the chief judge of a federal circuit was another first for her.)²²³ heard her colleagues make glowing tributes to her. Judge McAllister, in accepting her portrait for display in the courthouse, declared that he and his colleagues were:

proud of Judge Allen; proud of serving with her in this court in the administration of justice; proud of the renown she has brought to this court.²²⁴

McAllister continued:

The heart and mind of Florence Allen will flame for generations as a beacon for thousands of young women who will take their rightful places in government, in the practice of law, and in judicial service--and lawyers and judges yet unborn will read the words she has written, in the endless, ever-old and ever-new quest for justice.²²⁵

Florence Allen died in Cleveland in 1966, having retired from the 6th Circuit several years earlier. Throughout her career, she had reflected on the nature of law and on her role as judge. Allen, a member of Ohio's Poetry Society, said of the law.

²²⁰ Tuve 193.

²²¹ TDJ 145.

²²² TDJ 145.

²²³ Tuve 189.

²²⁴ TDJ 148.

²²⁵ TDJ 148.

Thou are not cabined into mortal shape.
Yet thee cover all symmetry of form,
And graceful sweep of line, and play of color.
Thou are unheard and yet thy essence dwells
In every cadence of a throbbing sound,
Or ... onrush of a symphony.
Thou art all beauty, as thou art all life.²²⁶

In her autobiography, To Do Justly, she explained her reason for the book's title:

Many intelligent persons think that the main function of the courts is to settle controversies. It is a main function. But the main function is much higher. 'What doth the Lord require of thee but to do justly, to love mercy, and to walk humbly with thy God.... What doth the Lord require of judges but to do justly.'²²⁷

According to her biographer Jeanette Tuve, Florence Allen had a deep faith:

faith that justice is real and achievable, faith that peace can be attained, that human rights can be defined, that women can achieve equality with men. It was the faith of her forefathers, from the Old Testament and the Puritan sense of right, embedded in the Constitution, expressed in the American Way. She was a great woman and a great American.²²⁸

Mary Grossman

Cleveland Marshall's own "hard-boiled Mary"²²⁹ our fourth subject, could not be said to be preeminent; but she was feisty. Grossman was a graduate of our predecessor, Cleveland Law School²³⁰ (then affiliated with Baldwin University), in 1912. She then

²²⁶ Cleveland Press, Jan. 14, 1938.

²²⁷ TDJ 149-50, Tuve 201 (Quoting Old Testament prophet Micah).

²²⁸ Tuve 205.

²²⁹ Cleveland Plain Dealer, Jan. 28, 1977

²³⁰ PD 1/28/1977.

became a judge of the Cleveland Municipal Court and had a distinguished 36-year career in that post.

In contrast to the Cronises and Allen, Mary Grossman was the daughter of recent immigrants, part of the great wave from Eastern Europe at that time. Her parents, Louis and Fannie (Engle) Grossman, were of Hungarian Jewish descent.²³¹ Mary was one of nine children. After she graduated from the old Central High School in Cleveland, she attended and was graduated from the Euclid Avenue Business College.²³² Thereafter, she worked for sixteen years as a stenographer-bookkeeper in the law office of her cousin Louis.²³³

"Being around lawyers so much, I developed a real fascination for the law,"²³⁴ she recalled, years later, so "I decided to study for the bar."²³⁵ Her cousin did not approve.

...I approached my cousin one day and announced that I wanted to be a lawyer. Well, he nearly fell off his chair. 'Women can't be good lawyers.' he said. 'You'll never make it.' The day I was elected to the bench, I went over to see him and I said, 'Remember when you said a woman could never make a good lawyer? Well, here I am

²³¹ PD 1/28/1977.

²³² PD 1/28/1977.

²³³ PD 1/28/1977.

²³⁴ PD 1/28/1977.

²³⁵ PD 1/28/1977.

a judge, so now what do you say?' Well, he laughed and took it all back.²³⁶

Mary was thirty years old in 1909 when she entered the Cleveland Law School. The night law school, apparently from its inception in 1897, readily admitted women. For example, the school's 1904-05 bulletin declared: "No distinction will be made in the admission of students on account of sex."²³⁷ As to her choice of law school, Grossman explained: "When I finished high school and decided to study law there was no day-course open to women, so I took the evening course in the Cleveland School of Law."²³⁸ Since there were indeed other law schools open to women outside of Cleveland,²³⁹ presumably she wished to stay in Cleveland and attend the night school, while continuing to work during the day.

Upon Grossman's graduation from law school in 1912, she became a member of the Ohio Bar that same year, only the third woman lawyer in Cleveland at that time.²⁴⁰ Although her cousin had

²³⁶ Cleveland Press, Aug. 26, 1970.

²³⁷ See 1904-05 Bulletin, Cleveland Law School, Archives, CSU Library, Box 79/01/06, William Becker, archivist.

²³⁸ "Cleveland's Pioneer Woman", article by Maude Truesdale, in March 24, 1923 Cleveland newspaper (name unclear) in CSU archives.

²³⁹ See Morello, ch. 2 "The First Women Law Students," Washington University, Univ. of Iowa, Univ. of Michigan, New York University, Univ. of Chicago, among others, were open to women.

²⁴⁰ Cleveland Press, Jan. 19, 1967.

initially looked with disfavor upon her decision to go to law school, he nonetheless took her into his firm. However, after two years she decided that "if I was to accomplish anything I must start in for myself."²⁴¹ From her later public discussions, advising young women about law practice, one gleans that her cousin might not have given her much responsibility:

A woman to succeed in law must have courage and keep a stiff upper lip even in the midst of much that is at first disheartening. I think that she has a better chance if she starts in for herself after a year or two, for women do not get the opportunities in a law office that a young man does. The tendency is to keep her at more or less clerical work.²⁴²

Despite such discriminatory treatment meted out to women lawyers, Grossman was generally upbeat about her practice and the way she had been treated. In 1923, in response to a reporter's question, she declared that "(t)here is never any discrimination against a woman lawyer. She gets all the consideration she is entitled to. My cases are about equally divided between men and women. If anything, men are more willing than women to employ a woman lawyer."²⁴³ Yet, she added that a woman needs "energy, pluck, and real interest in the work to meet the many obstacles and discouragements she will inevitably encounter... Women lawyers have several avenues open to them. They may choose a general

²⁴¹ Truesdale article in Cleveland newspaper, 3/24/23, in CSU archives.

²⁴² Truesdale article in Cleveland newspaper, 3/24/23, in CSU archives.

²⁴³ Truesdale article in Cleveland newspaper, 3/24/23, in CSU archives.

practice which will take them into court... A few have succeeded as corporation lawyers, but they are rare... (but) as a patent lawyer a woman has an equal chance with men...²⁴⁴

From 1914 to her taking the bench in 1923, she had a solo practice, much of her work being for the Women's Protective Association:

I have always done a great deal of social service work and ever since it was organized nearly six years ago, I have taken care of all the cases of the Women's Protective Association.

I handle all of their parentage cases and have been rather successful in getting these poor girls a settlement. Just to know that there is a lawyer on the other side helps to bring about a settlement out of court. As the law stands, all you can get is a judgment; the responsibility still rests on the girl. I should like to see laws passed that would give illegitimate children the father's name and allow them to inherit property. We will come to that yet with the women working for such legislation... I believe in a single moral standard and equal guardianship laws.²⁴⁵

Moreover, not only could women succeed in private practice, they could be successful in public legal positions as well.

There is no reason why a woman should not succeed as a magistrate, prosecuting attorney or judge... There is no reason why a woman should not hold the same public offices as a man if she has the same training and qualifications, but she should go before the people for election as a candidate representing certain principles, not just as 'the woman candidate' for the office.²⁴⁶

²⁴⁴ Truesdale article in Cleveland newspaper, 3/24/23, in CSU archives.

²⁴⁵ Truesdale article in Cleveland newspaper, 3/24/23, in CSU archives.

²⁴⁶ Truesdale article in Cleveland newspaper, 3/24/23, in CSU archives.

Grossman opened up the American Bar Association to women in 1918, being one of two women lawyers in the country admitted to the organization at that time.²⁴⁷ Around that time, she became actively involved in the suffrage movement, serving as chair of the League of Women's Suffrage in Cleveland.²⁴⁸

I was on so many committees and our campaigning took up a great deal of our time, but we felt that we were citizens, subject to the laws of society and it wasn't right to be denied a voice because we were women.²⁴⁹

Florence Allen and Grossman were "old pals from the suffragette days."²⁵⁰ Fifty years later, Grossman could still recall the sense of excitement and accomplishment in the final passage of the 19th amendment.

All of us suffragettes were so happy, so delighted that the fight for the vote was finally won. It was a great day for women. We all went right down to register.²⁵¹

She reflected upon people's attitudes on the issue:

After we got the right to vote, nobody ever made a fuss about it again. People just took it as the most natural thing in the world that women vote... Time was, women didn't have any rights, no voice in anything. But times change and so do people's minds.²⁵²

²⁴⁷ Van Tassel & Grabowski, Encyclopedia of Cleveland History (1987), 477.

²⁴⁸ Cleveland Plain Dealer, Jan. 28, 1977.

²⁴⁹ Cleveland Press, Aug. 26, 1970.

²⁵⁰ Press 8/26/90.

²⁵¹ Press 8/26/90.

²⁵² 8/26/90.

One year after women gained the vote, Grossman ran for municipal judge in Cleveland and lost. But she tried again in 1923 and won, becoming the first woman municipal judge in the country.²⁵³ She would win six consecutive terms, receiving accolades for her work.²⁵⁴

Grossman was known as a "severe, rigidly honest jurist, sometimes irreverently referred to as Hardboiled Mary."²⁵⁵ Her reputation as a tough judge was deserved. If she found a person guilty, the sentence meted out would be served, and it would likely be more severe than the sentence handed out by her colleagues on the bench.

The antithesis was exemplified in the actions of former Judge Arthur Krause, the day before Judge Grossman stepped in, when he freely suspended all or part of the bootleggers' fines."²⁵⁶

Those charged with violation of prohibition laws had their lawyers try all means to avoid her clutches, including applications for continuances, requests for jury trials, and claims of prejudice.²⁵⁷ "In 1927, when Judge Grossman took a day off for a Jewish holiday, 39 bail jumpers for whom warrants were out surrendered... secure in the knowledge that they would not have to

²⁵³ Cleveland Press, Jan. 19, 1967.

²⁵⁴ Cleveland Plain Dealer, Jan. 28, 1977.

²⁵⁵ PD 1/28/77.

²⁵⁶ Cleveland Plain Dealer, Jan. 16, 1936.

²⁵⁷ PD 1/16/36.

face her."²⁵⁸ "This triggered an investigation which showed that some bail jumpers had friends answer to their names in court and that forfeited bonds were not always paid."²⁵⁹ Grossman was backed up by her chief judge who would not allow defendants so easily to elude her. Said Chief Judge Burt Griffin of the Municipal court:

I am perfectly aware that any lawyer who can succeed in getting an affidavit of prejudice can make about \$500.00 a day when prisoners learn that they will not have to face Judge Grossman.²⁶⁰

As for the ploy of seeking a jury trial, that approach did not always assure that Grossman could be avoided.

The policy boys and gamblers may ask for jury trials, but thy're (sic) not going to get away from Judge Mary B. Grossman that easily... (She is) to preside over juries requested by defendants in prostitution, gambling and petty larceny cases.²⁶¹

Her strict approach to trying vice cases led then Safety Director Edwin Barry to describe her as "good as 100 policemen."²⁶² Nor would she remain quiet when public officials were defeating her efforts. She referred to her fellow judges as "softies,"²⁶³ decried efforts by court personnel and police to get around her

²⁵⁸ Cleveland Plain Dealer Jan. 28, 1977.

²⁵⁹ 1/28/77.

²⁶⁰ PD 1/28/77.

²⁶¹ Cleveland News, Sept. 19, 1940.

²⁶² Cleveland Plain Dealer, Jan. 16, 1936.

²⁶³ PD 1/16/36.

assignments, and criticized the prosecutor for sending inexperienced assistant prosecutors into her courtroom.

It's an injustice to a new prosecutor to ask him to come in here to try these (lottery) cases pitted against lawyers of long experience.²⁶⁴

Grossman saw sentences as the way to assure obedience to the law, and she had little sympathy for violators, whoever they were. A reporter, sitting in her courtroom, noted the case of a mother of three small children, arrested for selling liquor in her home. Convicted, she was sentenced by Grossman to a \$100.00 fine and costs. Grossman found no mitigation and would not give the woman time to get the money. "The mother was taken to jail. The children cried in the courtroom."²⁶⁵

Her tough attitude was carried over to traffic court.

First offenders who had brought along \$3.00, the usual levy for crashing a red light, had to dig deeper. Of 27 who were unlucky enough to have this their day in court, 15 were assessed fines of \$5.00 and costs, a total of \$10.50. Eleven were assessed costs of \$5.50 and one second offender's bill ran up to \$15.50.²⁶⁶

Besides a strict policy as to sentencing, Judge Grossman's courtroom was a model of decorum.

You could hear the proverbial pin drop in Court Room 2 at Central Police Station yesterday. In marked contrast to recent sessions, which caused municipal Judge Joseph N. Ackerman to take a rest cure after six months in that room, the following was observed: municipal Judge Mary B. Grossman in the bench. No spectators standing; no attorneys standing inside the prisoners' railing... No crowding in front of the bench. Everything so orderly

²⁶⁴ Cleveland Plain Dealer, June 12, 1930.

²⁶⁵ Cleveland Plain Dealer, Jan. 16, 1936.

²⁶⁶ CSU Archives, William, Becker, Archivist.

someone remarked: it doesn't look like the same room; it's more like the criminal (Common Pleas) courts.²⁶⁷

And whatever the docket, she would take the time and care to clear it.

When Judge Grossman came back to the so-called Morals Court last spring, her docket was so light that an investigation of alleged 'shuffling' of cases in the clerk's office was made and an order issued by Chief Justice John P. Dempsey that all liquor, gambling and vice cases should automatically be assigned to her court room... Her docket is now so long that she is finding it necessary to hold court until 5 p.m. whereas the other two court rooms are letting out before lunch time.²⁶⁸

The Morals Court had been organized largely through her efforts in 1925. In presiding over it, she ruffled feathers by seeking to apply a single standard, not letting men off lightly in prostitution cases. Medical examinations were arranged for prisoners arrested on vice charges and the city soon found this meant men too. Men arrest at night in vice raids had to stay in jail until they could be examined the next day. Violent objections to this uniform standard forced the municipal court to drop it.²⁶⁹ Furthermore, her fellow judges criticized her policy of refusing bail until after persons arrested in vice raids had such an examination, declaring that quarantining would not be proper unless there had been a conviction.²⁷⁰

²⁶⁷ Cleveland Plain Dealer, Sept. 12, 1930.

²⁶⁸ PD 9/12/30.

²⁶⁹ Cleveland Plain Dealer Jan. 28, 1977.

²⁷⁰ Cleveland Plain Dealer, 1927, in CSU archives.

What really infuriated Judge Grossman were instances of wife-beating. She urged women to protect themselves, at one point, coming close to counseling violence against a husband:

Don't let your husband beat you. Beat him up instead.
Use weapons if necessary.²⁷¹

However tough, Grossman had the reputation of assuring that a defendant's rights were protected. "If the defendant's rights have been jeopardized in any way, regardless of whether he has an attorney, she will throw the case out."²⁷² In liquor cases, she would not permit defendants not represented by counsel to waive analysis of the contents of the substance seized.²⁷³ "Numerous cases were dismissed because of a faulty arrest,"²⁷⁴ much to the displeasure of the prosecutor's office.

When Judge Grossman would not admit a man's record of previous arrests on suspicious person charges without each arresting officer testifying, the prosecutor had to ask for a continuance, (one exclaiming) "You took me by surprise."²⁷⁵

In one instance, an African-American was being tried for possessing illegal liquor. The police had no search warrant but protested that they had a "long list of arrests against this (person) at that

²⁷¹ Cleveland Press, Aug. 3, 1944.

²⁷² Cleveland Plain Dealer, Jan. 16, 1936.

²⁷³ PD 1/16/36.

²⁷⁴ PD 1/16/36.

²⁷⁵ PD 1/16/36.

place."²⁷⁶ Judge Grossman inquired of the police officer testifying as to whether there were any conviction. When he answered in the negative, she replied, "Well, you'd better add this (dismissal) to your list."²⁷⁷

Nor would she permit entrapments to gain a conviction.

Stanley Galebiewski was released when it was shown a policeman had entered his home and feigning illness had pleaded for a drink. Galebiewski sold a drink from a bottle he had in his living quarters.²⁷⁸

Grossman dismissed the case, explaining:

If you can't prosecute the bootleggers legally, don't prosecute them at all. You can't get a conviction from this court when your evidence is based on sympathies. This is purely a case of entrapment.²⁷⁹

Persons accused of crime were entitled to have their rights protected. Grossman urged broader public defender availability to the public.

I have seen defendants held to the Grand Jury from Municipal court with no counsel, when a few questions asked by a lawyer might have resulted in fast dismissal... and I've also seen defendants on relatively minor matters pay legal fees they couldn't afford in order to be represented...²⁸⁰

²⁷⁶ PD 1/16/36.

²⁷⁷ PD 1/16/36.

²⁷⁸ PD 1/16/36.

²⁷⁹ PD 1/16/36.

²⁸⁰ Cleveland Press, June 14, 1960.

She underscored: "Adequate representation of every one's constitutional rights should be guaranteed, whether in Common pleas, Juvenile court or Municipal court."²⁸¹

Beyond expanded availability of counsel, Grossman called for substantial use of medical doctors, psychiatrists, and psychologists, both in the courts and in prisons. Such specialists could help separate prisoners based on crime and venereal diseases.²⁸² She was particularly concerned that individuals being released remained a danger to the community. Especially in vice cases, the problems involved were not only legal, but medical and social.²⁸³ And to broaden her own understanding of the causes of crime, she sought to tour the districts that bred it.²⁸⁴

As the years went by, Judge Grossman was looked upon as an ombudsman for persons unable to afford a lawyer. A 1956 newspaper story tells about one such person. After the judge arrived in chambers one day

a caller was waiting, as usual. She was a woman whose divorced husband had been pestering her and she did not know what steps to take. The judge made a telephone call and sent her to the proper authority to straighten out the situation.²⁸⁵

²⁸¹ Pd 1/16/36.

²⁸² Cleveland News, March 29, 1937.

²⁸³ Cleveland Press, Oct. 19, 1935.

²⁸⁴ Cleveland Plain Dealer, June 16, 1930.

²⁸⁵ Cleveland Plain Dealer, Sept. 4, 1957.

Judge Grossman explained: "I don't know how they get hold of my name, but people come to see me for all kinds of help."²⁸⁶

Tough but soft-hearted, Judge Grossman became a model as municipal court judge. On her retirement in 1959, at 80 years old, Cleveland Marshall, the successor to her Alma Mater, awarded her an honorary doctorate of law.²⁸⁷ She richly deserved that encomium.

Conclusion

These four Ohio women lawyers we have discussed, while perhaps not a representative sample, had much in common. Their partially similar experiences may usefully be compared with the experiences of other women lawyers. Each came in close contact with lawyers prior to making the decision to become an attorney. Three of the four experienced resistance by the male bar or the legal establishment although admittedly such resistance seemed to vary a great deal. In any event, the motivation of each of the four to succeed was clear. Friendship and support by important individuals and organizations were there to help the women. Especially as to Allen and Grossman, women's groups were a vital resource. Yet it appears that the four wanted to be treated as good lawyers, not just as good women lawyers. They seemed to want no preference because they were women. They of course had to deal with society's perception that a woman, given her duties at home and assumptions about her emotional nature, did not belong in law practice. Despite that perception, the four were able to demonstrate their skills, thus winning over some, originally quite dubious male lawyers. Nonetheless, three of the four, at least, seemed to take a special interest in "women's issues."

²⁸⁶ PD 9/4/57.

²⁸⁷ June 16, 1959. See WRHS, MSS 3660.

~~dubious, male lawyers. Three of the four, at least, seemed to take a special interest in issues relating directly to women.~~

The women considered had known particular lawyers well. The Cronises used to visit frequently at the home of lawyer Charles Baldwin who would spend time with them talking about law and having them copy legal documents for him. Raised in their grandfather's home, they surely also came into contact with leaders of the Tiffin bar, evidenced by the support of those men for the sisters. Moreover, their stepfather was a lawyer. Of course, younger sister Florence had the example of Nettie prior to choosing law. Judge Allen had the example of her lawyer-reformer-scholar father, who had taken a leadership role in Utah and who had been committed to suffrage for women. Grossman had worked in her cousin's law office for years as a bookkeeper before deciding to go to law school.

Meeting resistance, the four were strongly motivated to persevere. That they were about thirty years old when they became lawyers may have helped them to withstand the opposition they faced. Nettie perhaps had a romantic reason for wanting to become a lawyer: to help Nelson as he became increasingly deaf. She readily took on the challenge of trying to persuade a reluctant state supreme court that her gender was not a disqualification. In that endeavor, she chose to present argument to the high court herself, despite the offer of leading Tiffin lawyers to speak for her. Her sister Florence, angered by the Tiffin School Board's discrimination against her because she was a woman, saw in law a way to assure that she would be treated fairly. Doubtless her skills accounted for her gaining the respect of her male colleagues.

After being admitted to the bar, the four found it necessary to open their own practices. While her husband to be was accepted into a practice with his mentors, Nettie presumably had no choice but to become a sole practitioner until her sister joined into partnership with her. Except for that partnership and another with another woman, Florence spent the better part of fifty years in her own firm. As for Judge Allen, despite having been graduated second in her class from New York University and her father's connections with lawyers in Cleveland, she received no job offer. Grossman initially was offered a position by her cousin to work in his firm. But she soon decided to set up her own firm, explaining that women lawyers were likely to be treated as clerks by the men in a office.

Despite the resistance they encountered, the four apparently succeeded in their practices and found individuals and groups who were supportive. Two of the leading Tiffin firms permitted the Cronises to apprentice with them and endorsed the sisters' admission to the bar. After setting up her own practice, Nettie was getting clients even during her first month in practice. Both won the praises of the editor of the 1897 edition of Ohio Bench and Bar. Florence Cronise was spoken about in glowing terms by the local judges. Clients seemed to come to the four, in Allen's case, especially from women's organizations. Grossman said, as had Cronise earlier, that men, even more so than women, were quite willing to be her clients. Cronise declared that the men lawyers she faced extended "professional courtesy" to her.

While there was some support by influential men, most men accepted the belief that a woman's place was in the home, and that her tender disposition, emotions, and lack of analytical skills

militated against a public role. There might be removal of the legal barriers to admission, but that did not mean that most men thought that a woman should become a lawyer. It must be underscored that while the Cronise sisters were strongly supported by some, the social system was by no means encouraging women to enter the legal profession. Keep in mind that the Cronises were the only two women listed in the 1897 edition of the Bench and Bar of Ohio out of almost four hundred names. Even in 1939 only 3 women (including Allen) were listed in the 1939-1940 edition out of about 1000 names. While there may have actually been 10,000 lawyers in 1939, presumably those in the volume were the leaders of the bar. True, some men would be convinced that a particular woman lawyer could do the job, notwithstanding what they earlier might have thought. For example, local judges rated Florence Cronise among the best lawyers in the area, and the then county prosecutor considered Florence Allen, after only five years in practice, among the best lawyers, in Cleveland.

That the four had to start their own firms evidences the resistance that was present. Florence Allen tells us that a colleague on the Federal Circuit Court at first would not even look at her, presumably because he believed she had no place there. That judge was won over, but only after Allen took cautions initially "asserting myself little except in the matter of voting," consciously employing a strategy to slowly win over her colleagues on the bench. Being perceived as acting like a man seemed to advance that goal. That Florence Cronise was interested in mathematics and languages rather than in "effeminate studies" was seen as to her credit. Florence Allen's boss, the county

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prosecutor, declared that "she will do a man's job." It seemed important that she was a "big woman," and that "her voice has a masculine depth." Allen helped win over her colleagues on the federal court by showing them that she was tough enough to be available to hear oral argument despite a battered face and bruises. Earlier, Allen had to make clear to her colleagues on the common pleas bench that being a woman gave her no greater expertise or interest in presiding over a divorce division that they created for her. In addition, she had to emphasize that being a woman should not disqualify her from sitting on patent cases, notwithstanding the technical complexities of such cases. Mary Grossman, presumably to overcome the impression made from her diminutive appearance, intentionally created a feisty, no-nonsense persona.

Doubtless the four held the view that women ought to be judged with men on a uniform standard in terms of their qualifications and performance. At the same time, Judge Allen and Judge Grossman readily accepted the support of women's groups, and each was the "woman's" candidate.

Moreover, happenstance played a part in the achievements of the four women: There was Nelson's condition, causing him to rely on Nettie much more than he would otherwise have; the school board's refusal at first to carry out its promises to her sister; Florence Allen's fall down the steps, providing an opportunity to demonstrate her toughness; and the availability of a night law school in Cleveland where bookkeeper Grossman could study law.

Three of the women, not surprisingly, took a close interest in women's rights. Although Florence Cronise might protest that she

was simply a lawyer seeking clients, her friends joked that she ought to put up a sign, "Widows a Specialty," so many of those cases did she handle. Allen involved herself in matters pertaining to woman's suffrage and labor laws. Grossman, both as attorney and as judge, was active in helping protect women in the context of paternity, other claims for child support, and wife abuse.

* * * *

Much has changed since even the end of the 1950's, when Grossman and Allen retired. Young women now comprise more than 40% of today's law students, and more women are taking their rightful places as full participants in the legal profession and in other public sectors. Yet the leadership positions are still overwhelmingly held by men. If the pioneering efforts of the four remarkable women described -- and the others in their ranks -- are to bear fruit, much more needs to be done. Expanded educational efforts are needed so that males and females recognize their basic public sameness and equality. Sameness, however, is only one part of that picture, albeit a large part. Men and women in our culture perceive themselves as different in important ways. It will not be easy to separate legitimate from illegitimate cultural distinctions and to ensure empowerment, yet we must be vigorous and ongoing in our efforts.

In the meantime, we must take steps that will move the process of complete personhood and equality forward: assurance of the abortion choice, protection against spousal and child abuse, health care, equal pay for women, and adequate child support payments.

Agencies charged with enforcing anti-discrimination mandates must have sufficient funding. Furthermore, as long as our culture sees women as having the caretaker role--and query whether it should?-- there must be meaningful affirmative assistance to women, such as adequate day care programming, job training for women returning to the workforce, and flex-time.

In surveying the landscape of equality in America, it is clear that we have a long road to travel before the promise of equal rights -- reflected in the careers of Nettie Cronise Lutes, Florence Cronise, Florence Allen, and Mary Grossman -- is fulfilled.