

ARTICLE

“WHERE IS JUSTICE?” AN EXPLORATION OF BEGINNINGS

By: **The Honorable Lynne A. Battaglia***

I. INTRODUCTION

Seated in a darkened ballroom hearing about the story of African-American lawyers in Maryland,¹ I realized that the State’s history of female lawyers was lost to me and the others seated at the table. That recognition led to this exploration, which, hopefully, will germinate into a larger work that will elucidate the factors that influenced as well as contributed to the development of women lawyers in the Free State.²

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¹ Joint Bar Association’s Dinner Honoring Chief Judge Bell on February 17, 2005, during which Larry Gibson, a professor from the University of Maryland Law School, presented a visual history.

² The Finding Justice Project was established for the purpose of publishing a literary work on the history of women lawyers in Maryland. The Finding Justice Project Vision Statement provides:

Today, women in Maryland serve in the legal profession with distinction at all levels, whether as lawyers, judges, professors or elected officials. The fact that some women have achieved prominence in the law obscures the significant barriers that still remain and disconnects us from the struggles faced by women historically. By understanding and embracing the history of women in the law, including the recent past, we can determine what forces bridged the legal system from exclusion to inclusion. Knowing how individual women in their professional and personal lives contributed to this societal change will help forge a secure foundation for future women in the law. This project will showcase these women’s achievements, lives, and goals in an historical context; it will describe and preserve the efforts that ensured the place that women lawyers enjoy today; and the project will illuminate the goals that have yet to be achieved by future generations of women in the law.

See Maryland Finding Justice Project, <http://marylandfjproject.com/index.htm>, (last visited Feb. 1, 2011).

What we do know is that only 534 women³ were admitted to the Maryland Bar until 1974, when 90 women entered the profession in that year alone, signaling a shift in which women, for the first time, were admitted in recognizable numbers. What motivated these earlier Portias⁴ to persevere in their quest and to flourish in the face of myriad challenges?

Part I of the Article examines the dichotomy between attorneys-in-fact and attorneys-at-law and describes Margaret Brent, heralded as the first female attorney in the American colonies, as an attorney-in-fact. Part I also considers the professionalization of the practice of law in the American colonies and the rise of legislation addressing qualifications for bar membership, particularly the evolution of Maryland's bar admission statute, which ultimately would exclude women from the Bar. Part II identifies Maryland's status in the rolls of states that admitted women into the profession and the journey of Etta Maddox, the first woman admitted to the Maryland Bar. This Section also explores the impact of the Married Women's Property Act, which enabled married women to engage in business, enter into contracts, and sue and be sued, on the ability of women to gain access to the legal profession. Finally, Part III identifies women who followed in Maddox's footsteps, from the early 1900s until 1974, the watershed year, and explores trends among women attorneys. The first wave of Portias were mostly single women, mostly clustered in Baltimore City.⁵ A significant portion of the second wave of women, admitted in the 1920s, 1930s, and 1940s, were either Jewish immigrants or the daughters of Jewish immigrants, who focused on educational opportunities in the New World and forged alliances to gain

³ From 1902 to 1909, five women were admitted to practice in Maryland. From 1910 to 1919, only two women became members of the Bar. From 1920 to 1929, thirty-nine women were admitted, and from 1930 to 1939, forty-two women were admitted to practice. That number jumped to eighty-five from 1940 to 1949, and eighty-six women were admitted from 1950 to 1959. From 1960 to 1969, 124 women were admitted to the Maryland Bar. From 1970 to 1974, 227 women were admitted; after 1974, women began entering the profession in record numbers. Fourteen attorneys admitted between 1902 and 1974 remain unidentified in terms of gender. These numbers were compiled, arduously, by beginning with a list, provided by the Court of Appeals of Maryland, of admittees to the Maryland Bar from 1902 to 1974. Those names that obviously belonged to male admittees were excluded, and using census data and other public records, the gender of the remaining admittees was confirmed and included in the final count.

⁴ Portia was the beautiful, highly intelligent, wealthy heiress, and heroine of Shakespeare's *The Merchant of Venice*. WILLIAM SHAKESPEARE, *THE MERCHANT OF VENICE* 74 (William Lyon Phelps ed., Yale U. Press 1923). In the play, Portia disguises herself as a man and appears in court as a lawyer representing (successfully) a friend of the man she wants to marry. *Id.*

⁵ The Honorable John Carroll Byrnes, *Commemorative Histories of the Bench and Bar: In Celebration of the Bicentennial of Baltimore City 1797-1997*, 27 U. BALT. L.F. 5 (1997).

traction in the profession.⁶ This Section also discusses the impact of mentoring among female attorneys, as well as of civic involvement in causes affecting women, as factors enabling women to persevere in the profession.

II. THE COLONIAL EXPERIENCE TO THE NINETEENTH CENTURY: ATTORNEYS-IN-FACT AND THE RISE OF BAR MEMBERSHIP

Margaret Brent, one of Maryland’s earliest settlers, often has been called the first female attorney in the United States, although that appellation diminishes the struggle faced by those women who eventually persevered to actually gain admission to the Maryland Bar.⁷ Born in 1601, Margaret Brent arrived in colonial Maryland with her sister Mary and brothers Giles and Fulke, on November 22, 1638.⁸ Catholics of noble descent, the sisters carried a letter from their distant cousin, Lord Baltimore, ordering that they be granted land on favorable terms.⁹ It was particularly striking that the sisters never married, especially in the context of early colonial Maryland, a society where men greatly outnumbered women.¹⁰

Most accounts state that Margaret Brent was an attorney and emphasize her appearances in court, but “[t]his is a misleading picture of what she was doing.”¹¹ Indeed, she was not a lawyer--there were no lawyers admitted to practice in Maryland prior to the 1660s.¹² In fact, Margaret Brent was a businesswoman who frequently made appearances in court, where litigants, including unmarried women, were permitted to

⁶ SAMUEL JOSEPH, *JEWISH IMMIGRATION TO THE U.S. FROM 1881 TO 1910*, at 56-80 (Arno Press, Inc. 1969) (1914).

⁷ American Bar Association, *21st Annual Margaret Brent Women Lawyers of Achievement Awards Luncheon*, <http://www.abanet.org/women/awards.html> (last visited Feb. 1, 2011).

⁸ Lois Green Carr, *Margaret Brent—A Brief History*, <http://www.msa.md.gov/msa/speccol/sc3500/sc3520/002100/002177/html/mbrent2.html> (last visited Feb. 1, 2011).

⁹ *Id.* Lord Baltimore issued a letter to his brother and agent in Maryland, Leonard Calvert, and which he gave to Margaret Brent, stating as follows:

I would have you pass to Margaret Brent and her sister Mary and their heirs and assigns for and in respect of four maid servants, besides themselves, which they transport this year to plant in the Province of Maryland, a grant of as much land in and about the Town of Saint Maries and elsewhere in the Province, in as ample a manner and with as large privileges as any of the first adventurers had.

MARY E.W. RAMEY, *CHRONICLES OF MISTRESS MARGARET BRENT* 4 (1915).

¹⁰ Carr, *supra* note 8.

¹¹ *Id.*

¹² *Id.*

plead on their own behalf.¹³ “She appeared for herself in court to collect her debts and in general handled her business affairs as a man would have done and without assistance from her brothers.”¹⁴ In other words, Margaret Brent was an attorney-in-fact, rather than an attorney-at-law.¹⁵

Margaret Brent’s experience, although unusual for a woman, was otherwise consistent with practices during the colonial period, when “many people either handled their own legal affairs or appointed someone with no specialized training.”¹⁶ In particular, whenever the husband’s absence prevented his wife from protecting his interests, “she could petition the court to grant her full power of attorney.”¹⁷ Unmarried women were permitted to act as attorneys-in-fact even for principals who

¹³ *Id.*

¹⁴ *Id.* In Carr’s words,

Margaret made loans and brought actions for repayment; she was the defendant also on occasion. As Leonard Calvert’s executrix, she used the courts as necessary to collect debts owed him and pay those he owed. She accepted commissions to act for others as attorney-in-fact, most often for her brother Giles and for Lord Baltimore. None of her cases involved complex technical procedures.

Id. Margaret Brent also was famous for her demand for the right to vote in the General Assembly. Carr, *supra* note 8; MATTHEW P. ANDREWS, THE FOUNDING OF MARYLAND 113-30 (Williams & Wilkens Co., 1933). During a civil war fought against Protestant settlers, she played a leadership role. Carr, *supra* note 8; ANDREWS, *supra*, at 123-24. A crisis developed after a surprise raid led by Captain Richard Ingle, a Roundhead sympathizer, resulted in the burning of the Catholic chapel and the kidnapping and imprisonment of Giles and the Jesuit priests. Carr, *supra* note 8; ANDREWS, *supra*, at 118-99. Faced with an emergency, she sold cattle belonging to Lord Baltimore, without his consent, to raise funds to pay loyal soldiers who had been promised payment by Leonard Calvert. Carr, *supra* note 8; ANDREWS, *supra*, at 121, 123-24. Lord Baltimore was furious at what he regarded as confiscation of his property and banished the Brents to lands in the Northern Neck of Virginia, where Margaret died in 1671. Carr, *supra* note 8; ANDREWS, *supra*, at 124-25.

¹⁵ An attorney-in-fact is “one who is designated to transact business for another; a legal agent.” BLACK’S LAW DICTIONARY 147 (9th ed. 2009). For many years, the Maryland Code grouped statutes concerning regulation of the Maryland Bar and statutes addressing powers of attorney in the same Article, entitled “Attorneys at Law and Attorneys in Fact.” *See, e.g.*, MD. CODE art. 11, at 52 (1860); MD. CODE art. 10, at 84 (1888); MD. CODE art. 10, at 377 (1957, 1968 Repl. Vol.). In 1969, the General Assembly amended Article 10 so that, henceforth, the section addressing powers of attorney was contained in a different Article. 1969 Md. Laws 133. Today, the relevant section is codified at Section 13-602 of the Estates and Trusts Article of the Maryland Code. MD. CODE ANN., EST. & TRUSTS § 13-602 (1974, 2001 Repl. Vol.).

¹⁶ ROBERT R. BELL, THE PHILADELPHIA LAWYER: A HISTORY, 1735-1945, at 25 (Associated U. Press, Inc. 1992).

¹⁷ *Id.* According to Bell, “[w]henver the absence of the husband prevented the wife from protecting **her own interests** or those of her husband, she could petition the court to grant her full power of attorney.” *Id.* (emphasis added). It is unclear to what extent a wife’s legal interests existed as distinct from those of her husband. This is an area that deserves further investigation.

were unrelated to them; Margaret Brent appeared as attorney-in-fact on behalf of Lord Baltimore.¹⁸

Gertrude James, widow of Reverend Cartwright James,¹⁹ appeared as attorney-in-fact on behalf of Captain William Claiborne, a Protestant Virginian who engaged in a protracted dispute with Maryland’s Catholic hierarchy over conflicting land claims to Kent Island.²⁰ The Proceedings and Acts of the General Assembly of March 7, 1638, contain a reference to “an action of Mrs. Gertrude James against Captain Evelin &c,” in which the pretorial court²¹ ordered “that the damages demanded should be alledged and drawn up in form next day.”²²

The relative independence of women in the early colonial period coincided with a dearth of trained professionals, especially lawyers. In seventeenth century America, there was a “paucity of lawyers,” in marked contrast with the situation in England, where the legal profession was “increasing [in] eminence and influence.”²³ In 1658, however, Governor Josias Fendall issued a proclamation barring women from being “admitted or allowed as attorneys for their husbands.”²⁴ Fendall’s declaration apparently acted as a brake on the emancipation of women in Maryland; it would take more than two centuries before its effects would be undone.

This gubernatorial proclamation did *not* preclude a woman from appearing on her *own* behalf.²⁵ Not without a touch of irony, Mary Vanderdunke, a married woman also known as Mrs. Hugh O’Neale,²⁶ brought an action of debt against former Governor Fendall in September 1661, alleging nonpayment for her services--curing three of Fendall’s servants and demanding as payment 1,200 pounds of tobacco.²⁷ Under her married name, she brought a defamation suit against William Heard, for allegedly claiming that Mrs. O’Neale had poisoned Joane Parker in a

¹⁸ *Id.* at 25-26.

¹⁹ *Id.* at 25.

²⁰ ANDREWS, *supra* note 14, at 94-112.

²¹ The pretorial court was an early court of record in colonial Maryland. 2 JOHN LEEDS BOZMAN, THE HISTORY OF MARYLAND FROM ITS FIRST SETTLEMENT, IN 1633, TO THE RESTORATION, IN 1660, at 132 (James Lucas & E.K. Deaver eds., 1837).

²² Maryland General Assembly Proceedings, February – March 1638/9, at 37, *available at* <http://www.msa.md.gov/megafile/msa/speccol/sc2900/sc2908/000001/000001/html/am1--37.html>.

²³ PETER CHARLES HOFFER, LAW AND PEOPLE IN COLONIAL AMERICA 44 (rev. ed. 1998).

²⁴ Provincial Court Proceedings, 1658, at 233, *available at* <http://www.msa.md.gov/megafile/msa/speccol/sc2900/sc2908/000001/000041/html/am41--233.html>.

²⁵ A potentially fertile ground for investigation is why women apparently ceased to appear in Maryland courts, even on their own behalf, later in the 1700s.

²⁶ Charles County Court Proceedings, 1658-1662, at 229, *available at* <http://aomol.net/megafile/msa/speccol/sc2900/sc2908/000001/000053/html/am53--229.html>.

²⁷ *Id.* at 139, 145-47.

failed attempt to cure her.²⁸ This is remarkable on at least two accounts--not only did Mary Vanderdunke, a married woman, perform a primitive form of medical services for others, for remuneration,²⁹ but she also brought in court an action to collect a debt. This latter fact is consistent with an argument made several centuries later in Etta Maddox's failed petition for admission to the Maryland Bar--that "[t]he English Common Law did not forbid women to act as Attorneys."³⁰

During the eighteenth Century, the practice of law in the American colonies became more professionalized.³¹ Litigation became more formalized, as the complexities of common law pleading were imported from England.³² Improvements in transport and shipping led to increased importation of English law books, and by mid-century, wealthy lawyers in every colony had amassed law libraries "of considerable size and diversity."³³ During this period, bar associations appeared,³⁴ with the approval of the legislatures, "themselves increasingly penetrated by members of the legal profession."³⁵ "Bar examinations went hand in hand with licensing examinations by judges, the result of which was a more influential profession as well as a more English one."³⁶ Early in the Eighteenth Century, attorneys generally were untrained; by mid-century, the professionalization of the law coincided with the exclusion of women.³⁷

²⁸ *Id.* at 261-62.

²⁹ The unavailability of trained professionals extended to medicine. Later, when the practice of medicine became rationalized and achieved the status of a science, women generally were excluded until the late nineteenth and early twentieth centuries, almost contemporaneously with the removal of barriers to women in the practice of law. *See, e.g., Women Medical Practitioners*, BALT. SUN, Apr. 10, 1883, at 6 (exclusion of women from Baltimore Medical College because of opening of another medical college exclusively for women). The parallel struggles of women in the medical profession and other professions also merits exploration, especially since women lawyers likely drew inspiration and support from their "sisters" who were lawyers and non-lawyers alike.

³⁰ Brief of Etta Maddox at 3, *In re Maddox* (Nov. 11, 1901), available at <http://www.msa.md.gov/megafile/msa/speccol/sc3500/sc3520/012400/012464/html/12464sources.html>. It merits further investigation to determine how married women lost the basic right to collect on a debt owed them. Clearly, the records regarding Mary Vanderdunke are inconsistent with what later was regarded as settled law, not to be abrogated until the passage in 1898 of the Married Women's Property Act.

³¹ HOFFER, *supra* note 23, at 92-97.

³² *Id.* at 94.

³³ *Id.*

³⁴ Maryland, however, was one of the last states in the nation to establish a bar association. The Maryland State Bar Association was founded in 1896, and its first president was Chief Judge James McSherry of the Court of Appeals. Byrnes, *supra* note 5, at 11. Chief Judge McSherry later would author the opinion denying Etta Maddox's bar application. *In re Maddox*, 93 Md. 727, 50 A. 487 (1901).

³⁵ HOFFER, *supra* note 23, at 96.

³⁶ *Id.*

³⁷ *Id.* at 94. According to Hoffer:

By the early 1700s, the Maryland General Assembly had enacted a statute addressing qualifications for bar membership.³⁸ According to the 1715 statute, “no Attorney or other person whatsoever shall practice the Law in any of the Courts of this province without being Admitted thereto by the Justices of the Severall Courts.”³⁹ Although couched in the seemingly gender-neutral terms “Attorney” and “person,” the context makes it clear that only males were eligible--just a few lines later, the statute uses the masculine pronouns “he,” “him,” and “himselfe.”⁴⁰ This

Increased litigation in the 1720s and 1730s made lawyering lucrative and attracted able young men, but women were not accepted as apprentices in lawyers’ offices, nor were they licensed to practice law by the superior courts. By the 1730s most of the statutory barriers to law practice for [white] men had fallen

*Id.*³⁸ Maryland General Assembly Proceedings, April 26-June 3, 1715, at 252, *available at* <http://aomol.net/megafile/msa/speccol/sc2900/sc2908/000001/000030/html/am30--252.html>.

³⁹ *Id.* The full text of the statute follows:

And be itt Further Enacted by the Authority Advice and Consent afd that from and after the End of this present Sessions of Assembly no Attorney or other person whatsoever shall practice the Law in any of the Courts of this province without being Admitted thereto by the Justices of the Severall Courts who are hereby Impowered to Admitt and Suspend them (Salvo Iure Coronae) untill his Majesties pleasure shall be known therein but any Attorney or any other person that practiceth the Law in this province or the plaintiffe that shall sue in any County Court where he doth not reside shall be Oblidged to give Security for the paymt of all the Officers ffees that shall Accrue upon any suite by him to be Commenced Either att the time of the Issueing of the writt in the Action or dureing the Continuance of the Court to which Such writt shall be returned on paine of paying such ffees himselfe or Suffering his Clyent to be non suited in default of such Security to be given or of such Attorneys Signifying his Intention to pay such ffees Any Law Statute Usage Custome rule of Court or order from any persons to the Contrary notwithstanding.

Provided always that nothing in this Act shall Extend or be Construed to Extend to give right to any Courts of this province to Admitt any Attorney or other person practiceing the Law to practice in any Court that has been already refused soe to doe by his Excellency and his Majestys Honrble Councill nor to any person that shall not Qualifie himselfe by takeing the Oaths appointed to be taken by Act of Parliament made in the sixth year of the Reigne of her Late Majesty of pious Memory Entituled an Act for the Security of her Majestys person and Government and of the Succession to the Crown of Great Brittain in the Protestant Line.

*Id.*⁴⁰ *Id.*

statute also established a decentralized process for bar admission – the authority to admit lawyers was vested in “the Justices of the Severall Courts,”⁴¹ a practice that continued until the close of the nineteenth century, when the Board of Law Examiners was established.⁴²

In 1783, the General Assembly enacted the first bar admission statute in the post-Revolutionary period.⁴³ This statute provided that “no person shall hereafter be permitted to act as an attorney or solicitor in this state . . . unless **he** shall be a person of integrity, ability, and known and unquestionable attachment to our present government.”⁴⁴ The preamble to the statute was, if anything, even more explicit in excluding women:

WHEREAS it is of the highest consequence, not only to the suitors, but to the public, that no persons should be permitted to practise as attornies or solicitors, in the courts of law or equity, or in the court of admiralty or orphans courts, except **gentlemen** of integrity, ability, and known attachment to our present government, and principles of liberty and independence, as happily established by the late glorious revolution^[45]

In 1831, the General Assembly, desiring to establish a more uniform bar admission process, enacted a statute explicitly restricting eligibility to “any free white male citizen of Maryland, above the age of twenty-one years,” who had been “a student of law” anywhere in the United States for

⁴¹ *Id.*

⁴² *See, e.g.*, MD. CODE art. 11 § 2 (1860) (all bar applications shall be to “some one of the Circuit Courts for the counties, the Superior Court of Baltimore city, the Circuit Court for Baltimore city, or to the Court of Appeals”); MD. CODE art. 10 § 2 (1888) (all bar applications shall be to “some one of the circuit courts for the counties, the supreme bench of Baltimore city, or to the court of appeals”).

⁴³ Alexander Contee Hanson, ed., *Laws of Maryland*, Chap. 17 (1783) (Annapolis: Frederick Green, 1787), available at <http://www.aomol.net/megafile/msa/speccol/sc2900/sc2908/000001/000203/html/am203--348.html>.

⁴⁴ *Id.* (emphasis added).

⁴⁵ *Id.* (emphasis added). The remaining sections of the statute resembled in overall structure the later codifications of 1860 and 1888. *Compare id.*, with MD. CODE art. 11 (1860), and MD. CODE art. 10 (1888). All three statutes, for example, set forth requirements that no one should be admitted to practice law who had not first studied for a term of years. All the statutes likewise contained provisions for disciplining attorneys who charged unreasonable fees. Furthermore, the 1783 statute, for the first time, set forth an examination process that judges had to follow when considering whether to admit an applicant; the judge (or chancellor, for the court of chancery) had to consider the applicant’s suitability and fitness, as well as his conduct and behavior.

at least two years.⁴⁶ The section on eligibility was essentially unchanged in the 1860 Code.⁴⁷

The most significant change in the bar admission statute in the latter half of the nineteenth century was the removal of the racial barrier. In the aftermath of the Civil War and passage of the Fourteenth Amendment, African Americans began to challenge their exclusion from the Maryland Bar.⁴⁸ The General Assembly in 1872 amended Article 11, Section 3 of the Code, which thereafter extended eligibility to “any white male citizen of Maryland” older than twenty-one.⁴⁹ The Legislature in 1888 again amended the statute to permit “any male citizen of Maryland above the age of twenty-one years” to apply for bar membership, assuming, of course, that he met the qualifications of education and moral character.⁵⁰

⁴⁶ 1831 Md. Laws 135-56. The entire section stated as follows:

SEC. 2. And be it enacted, That upon every such application for admission to practise law as aforesaid, for any free white male citizen of Maryland above the age of twenty-one years, and who shall have been a student of law in any part of the United States, for at least two years previous to said application, it shall be the duty of the court to whom such application shall be made, to examine said applicant upon some day during the regular session thereof, touching his qualification for admission as an attorney; and they shall also require and receive evidence of his probity and general character, and if upon such actual examination, and being satisfied that he has been a student of law, at least two years as aforesaid, and having heard evidence as to his probity and general character, the said court shall be of opinion that said applicant is qualified to discharge the duties of an attorney and worthy to be admitted, they shall admit him.

Id.

⁴⁷ MD. CODE art. 11 § 3 (1860). Except for minor stylistic differences, the 1831 and 1860 versions of the bar admission statute were identical. *Compare id.*, with 1831 Md. Laws 135-36. Throughout the latter half of the nineteenth century, there were several inconsistent attempts at codifying Maryland statutes. At various times between 1860 and 1900, the statutes regulating the practice of law, including bar admission, were codified at different Articles of the Code, including Article 10, Article 11, and Article 59. For a more detailed explanation of the history of Maryland codes, see Alan M. Wilner, *Blame It All On Nero: Code Creation and Revision in Maryland* (Feb. 14, 1994), available at <http://www.msa.md.gov/megafile/msa/speccol/sc2900/sc2908/html/history.html>.

⁴⁸ See, e.g., *In re Taylor*, 48 Md. 28 (1877) (bar application of African-American male denied by the Court of Appeals). The obliteration of racial barriers to participation in the legal system is obviously an important topic in its own right, but is not the focus of this paper. For a detailed investigation of the breakdown of bar admission barriers to African-American women in Maryland, see Taunya Lovell Banks, *Setting the Record Straight: Maryland's First Black Women Law Graduates*, 63 MD. L. REV. 752 (2004).

⁴⁹ 1872 Md. Laws 134-35. Apparently, the General Assembly was reluctant to break down the racial barrier, because this change reflected only the abolition of slavery, but left standing the statutory barrier to bar admission for African Americans.

⁵⁰ 1888 Md. Laws 316. By then, the statute was codified at Section 2, Article 11 of the Maryland Code. *Id.* At the time, various versions of the Maryland Code were in existence, some of which did not share a common, uniform system of arrangement and organization. For

Yet another change in the bar admission statute reflected the changing mode of legal education from apprenticeships to formal training in law schools.⁵¹ For example, in 1876, the statutory requirement that an applicant have studied law for at least two years was amended to include also any “graduate of the law department of the University of Maryland.”⁵² By 1888, law graduates of the University of Maryland were presumed qualified, and henceforth, were examined only for probity and general character.⁵³ Later, when other Maryland law schools were established,⁵⁴ the General Assembly amended the statute to extend the same bar admission privilege to graduates from those other institutions.⁵⁵

In the final decade before the close of the nineteenth century, a parallel development was taking place that had an important effect on the legal landscape confronting Maryland women. Legal education was becoming more centralized and rationalized, and its focus shifted from “reading the law,” i.e., working essentially as an apprentice with an experienced attorney, to formalized instruction in law schools. At first, this development took place in the law department of the University of Maryland, the predecessor of what now is the University of Maryland School of Law.

A second law school, the Baltimore University School of Law, opened in 1890.⁵⁶ That school, unlike the University of Maryland, admitted women “on the same terms as men.”⁵⁷ In 1893, Catherine Hunckel, a student at the Baltimore University School of Law, became the first woman to graduate from a Maryland law school.⁵⁸ In 1900, the Baltimore Law School was incorporated by an act of the General Assembly.⁵⁹ The Baltimore Law School “was a reorganization of the Law School of the Baltimore University.”⁶⁰ At this point, there were

example, despite the explicit mention of Article 11, “Attorneys-at-law and Attorneys in fact” in the 1888 session law, at least one commonly used statutory compilation listed the same set of statutes in Article 59. *See* REVISED CODE OF THE PUBLIC GENERAL LAWS OF THE STATE OF MARYLAND: WITH THE CONSTITUTION OF THE STATE 542 (Lewis Mayer, Louis C. Fischer, and E.J.D. Cross, compiler, Baltimore: John Murphy & Co., 1879). *See supra* note 47 for further explanation.

⁵¹ Traditionally, new lawyers-in-training served as apprentices in the offices of established lawyers. *See, e.g.,* HOFFER, *supra* note 23, at 94. In the latter half of the nineteenth century, it became the norm for lawyers to be trained in law schools.

⁵² 1876 Md. Laws 469-70.

⁵³ MD. CODE, PUB. GEN. LAWS, art. 10 § 3 (1888).

⁵⁴ *See infra* notes 187-92 and accompanying text.

⁵⁵ *See, e.g.,* 1892 Md. Laws 50-51 (extending presumption of legal qualification to graduates of the law department of Baltimore University).

⁵⁶ *Three Law Schools Now*, BALT. SUN, Sept. 14, 1900, at 10.

⁵⁷ *Medical and Law Schools*, BALT. SUN, Oct. 3, 1892, at 8.

⁵⁸ *Physicians and Lawyers*, BALT. SUN, Mar. 30, 1893, at 8.

⁵⁹ 1900 Md. Laws 776-78.

⁶⁰ *Only for Legal Study*, BALT. SUN, June 26, 1900, at 7.

three law schools in Baltimore: University of Maryland, Baltimore University, and Baltimore Law School.⁶¹ The Baltimore Law School admitted Etta Maddox, who later would become the first woman admitted to the Maryland Bar, to its first class that same year.

In 1898, the General Assembly rewrote the statutory scheme regulating attorneys in Maryland.⁶² Among the changes wrought by the 1898 enactment, the most significant was the creation, for the first time, of the Board of Law Examiners. The newly created Board, consisting of three members of the Bar of at least ten years' standing who were appointed by the Court of Appeals, was responsible for assessing the qualifications of bar applicants, and was empowered to assess fees to cover its expenses.⁶³

Whereas the previous system was more informal and decentralized, with examination performed by boards appointed by each circuit court,⁶⁴ the new bar admission regime promulgated in 1898 created a single, centralized Board, directly answerable to and under the control of the Court of Appeals.⁶⁵ Henceforth, all bar applications in Maryland had to be made by petition to the Court of Appeals,⁶⁶ rather than to a circuit court, and the Court of Appeals then referred the application to the Board.⁶⁷ The Board, moreover, was envisioned as a more or less permanent institution.⁶⁸

In rewriting Article 10 of the Code,⁶⁹ the General Assembly also repealed the language restricting bar membership to “any male citizen of Maryland above the age of twenty-one years.”⁷⁰ The new statute,

⁶¹ *Three Law Schools Now*, *supra* note 56, at 10.

⁶² 1898 Md. Laws 599-601.

⁶³ *Id.*

⁶⁴ Under the 1888 Code, it was “the duty of the court to which such application shall be made, to appoint an examining board of not less than three members of the bar.” MD. CODE, PUB. GEN. LAWS, art. 10 § 3 (1888). Furthermore, just prior to 1898, “the circuit court for the counties, and the supreme bench of Baltimore city,” were authorized to appoint “a permanent examining board, but no member of said board shall be appointed for a longer period than one year.” *Id.*

⁶⁵ 1898 Md. Laws 599-601. Moreover, the statute stated its explicit intent that the Court of Appeals “shall prescribe rules providing for a *uniform system of examinations in this State*, which shall govern the Board of Law Examiners in the performance of its duties.” *Id.* at 600 (emphasis added).

⁶⁶ *Id.* at 599.

⁶⁷ *Id.* at 600.

⁶⁸ The Board's initial terms of membership were staggered, so that only one member's term would expire in any given year. 1898 Md. Laws 599-600. The members served three-year terms, compared to a maximum of one year under the previous statute. *Compare* 1898 Md. Laws 599-600, *with* MD. CODE, PUB. GEN. LAWS, art. 10 § 3 (1888).

⁶⁹ *See supra* notes 43 and 47.

⁷⁰ *Compare* MD. CODE, PUB. GEN. LAWS, art. 10 § 3 (1888) (“Upon every such application for any male citizen of Maryland”), *with* 1898 Md. Laws 600 (“All applications for admission to the bar shall be referred by the Court of Appeals to the State Board of Law

couched in terms of the “applicant,” could have been construed as extending bar eligibility to women, a point subsequently argued by Etta Maddox in her unsuccessful bar application.⁷¹

Although Etta Maddox was unsuccessful before the Court of Appeals in 1901, other women had been admitted in some Midwestern states as much as thirty years earlier. In 1869, Lemma Barkaloo, originally from New York, became the first female law student in the nation when she matriculated into Washington University in St. Louis, after she was denied admission to Columbia University in New York.⁷² The earliest female law graduates in the United States were in Illinois, Iowa, Missouri, and Michigan in the early 1870s.⁷³

These “frontier” states of the latter nineteenth century bore at least a superficial resemblance to colonial Maryland in the Margaret Brent era. They were comprised of small, independent communities far from the “civilizing influences” of the developed East (or, in Brent’s era, England itself). The western states had less established legal systems, and tended to have looser admission standards both for law school and for the bar.⁷⁴ In the words of one commentator, “[t]he egalitarian development of these new towns and the need that new territories had for women settlers contributed to a more balanced view of women and their abilities than existed back East.”⁷⁵

From prairie schoolhouses to universities, schools of all types in the West and Midwest were open to women,⁷⁶ likewise, career opportunities beckoned. The relative societal openness of the Western states was driven in part by a simple reality--frequently, there simply were not enough men.⁷⁷ In particular, according to correspondence from a pioneering woman attorney and activist, female attorneys could thrive as generalist lawyers in small communities.⁷⁸

Examiners, who shall examine the applicant, touching his qualifications for admission to the bar.”)

⁷¹ Brief of Etta H. Maddox at 5, *In re Maddox* (Md. Nov. 11, 1901), available at <http://www.msa.md.gov/megafile/msa/speccol/sc3500/sc3520/012400/012464/html/12464sources.html>.

⁷² VIRGINIA G. DRACHMAN, *SISTERS IN LAW: WOMEN LAWYERS IN MODERN AMERICAN HISTORY* 37 (Harvard Univ. Press 1998); KAREN BERGER MORELLO, *THE INVISIBLE BAR: THE WOMAN LAWYER IN AMERICA 1683 TO THE PRESENT* 44-45 (Random House 1986).

⁷³ DRACHMAN, *supra* note 72, at 283; Letter from Belva A. Lockwood to Sisters of the Equity Club (April 30, 1887), reprinted in VIRGINIA G. DRACHMAN, *WOMAN LAWYERS AND THE ORIGINS OF PROFESSIONAL IDENTITY IN AMERICA: THE LETTERS OF THE EQUITY CLUB, 1887 TO 1890*, at 56-59 (1993).

⁷⁴ MORELLO, *supra* note 72, at 40.

⁷⁵ *Id.* at 43.

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ DRACHMAN, *supra* note 72, at 58.

Iowa was the first state to admit a woman into the practice of law. In June 1869, Arabella Mansfield was admitted to the Iowa bar⁷⁹ after passing the bar exam and successfully persuading Justice Francis Springer that an Iowa statute allowing bar admission to “any white male person, twenty one years of age, who is an inhabitant of this State . . . who possesses the requisite learning,” should be deemed gender-neutral in light of a statutory rule of construction.⁸⁰ The following year, the State legislature expressly removed sex from the statute regulating bar admission.⁸¹ Mansfield never practiced law, however, working instead as an academic at Iowa Wesleyan and DePauw Universities.⁸²

The first of the original thirteen states to admit a woman by judicial act was North Carolina, in 1878.⁸³ The first of the original thirteen to do so legislatively was Massachusetts, in 1882.⁸⁴ The last of the original thirteen to do so, Delaware, did not act legislatively to admit women until prompted by the ratification of the Nineteenth Amendment, in 1923.⁸⁵

In 1882, a panel of the Supreme Court of Errors of Connecticut, likewise, held that women could be admitted to the bar of that state.⁸⁶ The Connecticut bar admission statute was notable because its language was gender-neutral.⁸⁷ The court explained that those opposing the admission of women argued that “at the time [the statute] was passed its application to women was not thought of, while the fact that women have never been admitted as attorneys, either by the English courts or by any

⁷⁹ See MORELLO, *supra* note 72, at 11; Lisa Small, *15 Years of Advocacy: Women and the Law Time Line 1619-1998*, at 3, Women’s Legal History Biography Project, Stanford University Law School, <http://www.law.stanford.edu/library/womenslegalthistory/articles/womtimelinepdf.pdf> (last visited Feb. 1, 2011). At the time Mansfield was admitted, at least one woman already was practicing law in Iowa. *Id.* The *Chicago Legal News* documented that Mary E. Magoon practiced locally in North English, Iowa. *Id.* Local practice in Iowa at the time did not require state bar admission. *Id.*

⁸⁰ MORELLO, *supra* note 72, at 11. The statute governing bar admission at that time was Section 1610 of the Iowa Code of 1851. *Id.* A separate statute governing rules of interpretation provided that “words importing the masculine gender only may be extended to females.” *Id.*

⁸¹ *Id.* at 12-13.

⁸² *Id.*

⁸³ DRACHMAN, *supra* note 72, at 251; MORELLO, *supra* note 72, at 37.

⁸⁴ DRACHMAN, *supra* note 72, at 252; MORELLO, *supra* note 72, at 37.

⁸⁵ DRACHMAN, *supra* note 72, at 36; MORELLO, *supra* note 72, at 251-53.

⁸⁶ *In re Hall*, 50 Conn. 131 (1882).

⁸⁷ *Id.* at 131. The statute provided:

The Superior Court may admit and cause to be sworn as attorneys such persons as are qualified therefor agreeably to the rules established by the judges of said court; and no other person than an attorney so admitted, shall plead at the bar of any court of this state, except in his own cause.

Id.

of the courts of this country, had established a common-law disability, which could be removed only by a statute intended to have that effect.”⁸⁸ The court examined the legislative history of the bar admission statute through several re-codifications and determined that, “[t]he legislators must be presumed to have” deliberately inserted the phrase “no other *person*,” which had been omitted in a previous re-codification.⁸⁹ The majority further opined that, “all statutes are to be construed, as far as possible, in favor of equality of rights . . . [and that] [a]ll restrictions upon human liberty, all claims for special privileges, are to be regarded as having the presumption of law against them,” and thus, its holding was consistent with the presumption in favor of equality of rights.⁹⁰

Several other states also began to grant bar admission to women. Pennsylvania removed its gender barrier in 1886.⁹¹ The Supreme Court of Indiana followed suit seven years later, in a noteworthy opinion that stated, “We have searched in vain for any expression from the common law excluding women from the profession of the law.”⁹²

Other states, however, interpreted their bar admission statutes to require exclusion of women from the legal profession. A panel of the Supreme Court of Illinois, for example, refused to admit to its bar Myra Bradwell, a married woman.⁹³ Like Iowa, Illinois had a statute which, in the words of the court, provided that “whenever any person is referred to . . . by words importing the masculine gender, females, as well as males, shall be deemed to be included.”⁹⁴ A related section of the interpretive statute contained an exception, however, such that a gender-neutral construction was inapplicable “when there is anything in the subject or context repugnant to such construction.”⁹⁵ The panel applied the exception to its bar admission statute in denying admission to Mrs. Bradwell, reasoning that to admit her would be to act beyond its

⁸⁸ *Id.* at 132. The panel voted three to one in favor of admitting women; the lone dissenter contended that the exclusion of women, which had its origins in English common law, should be presumed unless the Legislature explicitly abolished it. *Id.* at 138-39 (Pardee, J., dissenting).

⁸⁹ *Id.* at 135-36.

⁹⁰ *Id.* at 137.

⁹¹ *In re Kilgore*, 5 A. 872 (Pa. 1886). It was noteworthy that Mrs. Kilgore’s bar application was presented by her husband, Damon Y. Kilgore, also an attorney. *Id.*

⁹² *In re Leach*, 34 N.E. 641, 641 (Ind. 1893). In her brief to the Court of Appeals of Maryland, Etta Maddox quoted this passage to support her argument that the “English Common Law did not forbid women to act as Attorneys.” Brief of Etta Maddox at 3, *In re Maddox* (Nov. 11, 1901), available at <http://www.msa.md.gov/megafile/msa/speccol/sc3500/sc3520/012400/012464/html/12464sources.html>.

⁹³ *In re Bradwell*, 55 Ill. 535 (1869).

⁹⁴ *Id.* at 541.

⁹⁵ *Id.*

legitimate authority and that such a far-reaching departure from settled practice could only be adopted by the legislature.⁹⁶

Mrs. Bradwell filed a writ of error to the U.S. Supreme Court, which affirmed the Illinois judgment denying admission.⁹⁷ Bradwell argued on the basis of the Privileges and Immunities Clause of the then-recently enacted Fourteenth Amendment.⁹⁸ A majority of the Court applied its narrow construction of that Clause from *The Slaughter-House Cases*⁹⁹ to hold that the right to admission to a state bar was not a right that “depends on citizenship of the United States,” and thus, was not a privilege or immunity of U.S. citizenship.¹⁰⁰ For all intents and purposes, the Privileges and Immunities Clause was rendered a dead letter in *The Slaughter-House Cases*, and remains so to this day.

State Supreme Courts in Wisconsin,¹⁰¹ Massachusetts,¹⁰² Oregon¹⁰³ and Tennessee¹⁰⁴ applied essentially the same reasoning as the Supreme Court of Illinois, and thus, denied bar admission to women. Nevertheless, by 1901, when Etta Maddox became the first woman to

⁹⁶ *Id.* at 540-42.

⁹⁷ *Bradwell v. Illinois*, 83 U.S. 130 (1873).

⁹⁸ *See id.* In relevant part, Section 1 of the Fourteenth Amendment provides:

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States[.]

U.S. CONST. amend. XIV, § 1.

⁹⁹ 83 U.S. 36 (1873).

¹⁰⁰ *Bradwell*, 83 U.S. at 139. It is noteworthy that the Court has never repudiated its narrow interpretation of the Privileges and Immunities Clause, in spite of repeated admonitions to do so. As recently as the October 2009 Term, the Court considered and rejected an argument that the Second Amendment right to keep and bear arms, as construed in *District of Columbia v. Heller*, 554 U.S. 570, should be applied to the states through the Privileges and Immunities Clause. *McDonald v. Chicago*, 130 S. Ct. 3020 (2010). Although five justices held that the Amendment was enforceable against the states, only one justice would have reached that result through the Privileges and Immunities Clause. *McDonald*, 130 S. Ct. at 3058-59 (Thomas, J., concurring).

¹⁰¹ *In re Goodell*, 39 Wis. 232 (1875) (bar admission statute refers only to males, and cannot be construed as to include females in light of uniform exclusion of women from practice of law dating back to common law England).

¹⁰² *Robinson’s Case*, 131 Mass. 376, 383 (1881) (applying same rationale as *Goodell* to deny bar admission to an unmarried female, stating that the bar admission statute cannot be construed to include females).

¹⁰³ *In re Leonard*, 6 P. 426, 426-47 (Or. 1885) (per curiam) (denying bar application of woman already admitted to practice in the Washington Territory, based on court’s interpretation of legislative intent).

¹⁰⁴ *Ex parte Griffin*, 71 S.W. 746, 746 (Tenn. 1901) (holding that an unmarried woman who is already admitted to practice before the inferior courts of the state is denied the right to practice before the Tennessee Supreme Court).

apply for Maryland Bar membership, thirty-seven states had removed the gender barrier.¹⁰⁵

III. 1898 TO 1902: THE MARRIED WOMEN'S PROPERTY ACT AND THE ADMISSION OF ETTA MADDOX

It was within the context of the English common law tradition¹⁰⁶ and the jurisprudence of those courts that confronted the issues of admission of women to the legal profession that the Court of Appeals of Maryland addressed the petition of Etta Maddox for bar membership.¹⁰⁷ Ms. Maddox had been trained at the Baltimore Law School, a precursor to what is now the University of Maryland School of Law.¹⁰⁸

Etta Maddox was not the first woman to graduate from a Maryland law school, although she was the first to be admitted to the Maryland Bar.¹⁰⁹ As noted, Catherine Hunckel,¹¹⁰ along with her husband Otto, graduated from the Baltimore University Law School on March 29, 1893.¹¹¹ Although Otto was admitted to the Baltimore City Bar that same year, Catherine did not apply for admission until 1902,¹¹² after Etta Maddox had been admitted. After her 1902 application was rejected, Catherine did not reapply for admission.¹¹³ Her recalcitrance reflected

¹⁰⁵ *She Will Graduate in Law*, BALT. SUN, June 6, 1901, at 7. Etta Maddox was quoted as saying, "When I told a lawyer in town the other day that women were allowed to practice law in New York, in Pennsylvania, and in many of the other Eastern States he said: 'Why, I thought they were only allowed to do it out on the prairies.'" *Is Anxious to Practice Law*, BALT. SUN, June 8, 1901, at 12.

¹⁰⁶ Several authors have examined the history of women's bar admission in Great Britain and its Commonwealth, countries with which the United States shares a common legal heritage. See, e.g., Christine Alice Corcos, *Portia Goes to Parliament: Women and their Admission to Membership in the English Legal Profession*, 75 DENV. U. L. REV. 307 (1998); Linda J. Kirk, *Exclusion to Emancipation: A Comparative Analysis of Women's Citizenship in Australia and the United States 1869-1921*, 97 W. VA. L. REV. 725 (1995). See also Ruth B. Cowan, *Women's Representation on the Courts in the Republic of South Africa*, 6 U. MD. L.J. RACE, RELIGION, GENDER & CLASS 291, 305 (2006); Ruth Bader Ginsburg, *Advocating the Elimination of Gender-Based Discrimination: The 1970s New Look at the Equality Principle*, speech before the University of Cape Town, South Africa (Feb. 10, 2006) (transcript available at http://www.supremecourt.gov/publicinfo/speeches/viewspeeches.aspx?Filename=sp_02-10-06.html).

¹⁰⁷ *In re Maddox*, 93 Md. 727, 50 A. 487 (1901).

¹⁰⁸ See *She Will Graduate in Law*, *supra* note 105, at 7 (stating that Etta Maddox graduated from Baltimore Law School on the evening of June 6, 1901 at the Ford Opera House).

¹⁰⁹ *Id.*

¹¹⁰ She also was known as Katherine or Katharine.

¹¹¹ *Physicians and Lawyers*, *supra* note 58, at 8.

¹¹² *She Must Be Examined*, BALT. SUN, June 25, 1902, at 7 (Catherine Hunckel's application was denied because she was not a law student at the time set by the General Assembly for exemption from the examination requirement).

¹¹³ No further historical records indicate that she ever applied again for admission to practice law.

the experience of Belva Lockwood,¹¹⁴ who failed to gain admission to the Prince George’s County Bar in 1878¹¹⁵ because of the legal constraints placed on married women in the era prior to the enactment of the Married Women’s Property Act in 1898.¹¹⁶

Prior to the Married Women’s Property Act, married women were legally barred from engaging in business, from entering into contracts, and from suing and being sued in their own names.¹¹⁷ Section 5 of the Act removed these legal disabilities.¹¹⁸ Other sections, however, permitted married women to appoint attorneys to act on their behalf, seeming to suggest that the Legislature intended that women may acquire representation, but not themselves act as attorneys. Section 16 of the Act provided that “[a]ny married woman, against whom any proceeding may be taken under the two preceding sections, shall have power to appoint an attorney at law to act for her in such proceeding.”¹¹⁹

¹¹⁴ Belva Lockwood, who died at age eighty-six, was born October 24, 1830 and graduated from Genesee College in New York. WASH. POST, May 20, 1917, at 14. She began studying law about 1870, and “after a spirited controversy was admitted to practice before the Supreme Court of the District of Columbia.” *Id.* She lobbied tirelessly to secure passage of a bill that permitted women to practice before the Supreme Court of the United States, and, in 1879, was the first woman to take advantage of this law, being admitted to practice before the high Court. *Id.* In 1884, and again in 1888, she was nominated for the Presidency by the Equal Rights Party, even though nationwide women’s suffrage would not become a reality until 1920, three years after her death. *Id.*

¹¹⁵ *Letter from Washington*, BALT. SUN, Oct. 19, 1878, at 4.

¹¹⁶ 1898 Md. Laws 1082, which provided:

Married women shall have power to engage in any business, and to contract, whether engaged in business or not, and to sue upon their contracts, and also to sue for the recovery, security or protection of their property, and for torts committed against them, as fully as if they were unmarried; contracts may also be made with them, and they may also be sued separately upon their contracts, whether made before or during marriage, and for wrongs independent of contract committed by them before or during their marriage, as fully as if they were unmarried; and upon judgments recovered against them execution may be issued as if they were unmarried; nor shall any husband be liable upon any contract made by his wife in her own name and upon her own responsibility, nor for any tort committed separately by her out of his presence, without his participation or sanction.

1898 Md. Laws 1082.

¹¹⁷ *See id.*

¹¹⁸ *Id.*

¹¹⁹ 1898 Md. Laws 358. The two preceding sections referred to in Section 16 were as follows:

14. No husband shall be liable in any manner for any debts of his wife contracted, or for any claims or demands of any kind against her, arising prior to marriage, but she and her property shall remain liable therefor, in the same manner as if the marriage had not taken place.

In *Wolf v. Frank*,¹²⁰ the Court of Appeals interpreted the Married Women's Property Act to hold that a married woman could sue in her own name for torts committed against her, regardless of whether the cause of action accrued before or after the effective date of the statute. The Court reasoned that the Act granted a new right of enforcement of a cause of action, but that the underlying cause of action accrued independently of whether it was enforceable.¹²¹

In *Masterman v. Masterman*,¹²² the Court held that a married woman could sue her husband in equity, and could sue in her own name to protect her property. In that case, a married couple owned property as tenants by the entireties, and subsequently, the husband left the wife.¹²³ The wife continued to live on the property, which later was damaged by fire.¹²⁴ The wife sought to collect on insurance, but the husband tried to prevent her from using his share of the proceeds to repair the damaged property.¹²⁵ The Court held that he was answerable to the wife in a court of equity.¹²⁶

Even prior to the Married Women's Property Act, the General Assembly had enacted a statute that permitted a married woman to employ her own counsel when being sued jointly with her husband on a contract.¹²⁷

15. Proceedings at law or in equity, according to the nature of such debts, claims or demands, may be taken against such married woman, notwithstanding her coverture in her married name, joining her husband therein as defendant; but no judgment or decree shall pass against the husband or his estate, but such judgment or decree shall be passed against the wife only; and it shall operate only upon her estate held and owned by her prior or subsequent to said marriage.

1898 Md. Laws 357.

¹²⁰ 92 Md. 138, 143, 48 A. 132, 134 (1900).

¹²¹ *Id.*

¹²² 129 Md. 167, 177, 98 A. 537, 540-41 (1916).

¹²³ *Id.* at 167, 98 A. at 538.

¹²⁴ *Id.*

¹²⁵ *Id.* at 167, 98 A. at 538.

¹²⁶ *Id.* at 177-78, 98 A. at 541.

¹²⁷ 1872 Md. Laws 442-43. The previous statute provided:

AN ACT to repeal section two, of article forty-five, of the Code of Public General Laws, entitled "Husband and Wife," and to substitute the following in lieu thereof:

SECTION 1. Be it enacted by the General Assembly of Maryland, That section two, of article forty-five, of the Code of Public General Laws, entitled "Husband and Wife," be and the same is hereby repealed, and the following substituted in lieu thereof:

2. The property acquired or owned, according to the provisions of the preceding section, by a married woman she shall hold for her separate use, with power of devising the same, as fully as if she were a feme sole, or she may convey the same by a joint deed with her husband; or

In *Taylor v. Welslager*,¹²⁸ the Court of Appeals interpreted an 1872 statute so as to disallow the husband from appointing counsel for the wife without her approval.¹²⁹ Consequently, a judgment entered against the wife under such a circumstance was void for want of jurisdiction.¹³⁰

It also is important to note what the Married Women’s Property Act did *not* do.¹³¹ In *Furstenburg v. Furstenburg*,¹³² the Court of Appeals held that the Act did not abrogate the common law doctrine of interspousal immunity. Even though the Act permitted a married woman to sue for torts committed against her, the Court determined that the Legislature did not intend to create personal causes of action between spouses.¹³³ Subsequent development of the law in this respect would have to await the enactment of Article 46 of the Maryland Declaration of Rights, known as the Equal Rights Amendment.¹³⁴

where the husband is a lunatic or insane, and has been so found upon inquisition, and said finding remains unreversed and in force, she may convey the same as fully as if she were a feme sole by her separate deed, whether the same be absolute or byway of mortgage; provided that if she die intestate and leaving children, her husband shall have a life estate in her property, real and personal, but if she die intestate leaving no children, her husband shall have a life estate in her real property, and her personal property shall vest in him absolutely; any married woman may be sued jointly with her husband in any of the courts of this State, or before any Justice of the Peace, on any note, bill of exchange, single bill, bond, contract, or agreement which she may have executed jointly with her husband, and may employ counsel and defend such action or suit separately or jointly with her husband, and judgments recovered in such cases shall be liens on the property of defendants, and may be collected by execution or attachment in the same manner as if the defendant were not husband and wife; provided that in all cases where a married woman has made such contract or agreement as a feme sole, under the seventh section of this article, she may be proceeded against as therein provided.

SEC. 2. And be it enacted, That this Act shall take effect from the date of its passage. Approved April 1, 1872.

Id.

¹²⁸ 90 Md. 414, 45 A. 478 (1900).

¹²⁹ *Id.* at 415-16, 45 A. at 478-79.

¹³⁰ *Id.*

¹³¹ In a similar vein, we have yet to explore the impact of the vestiges of coverture, in which a married woman’s legal identity was subsumed by her husband, *see* *Bozman v. Bozman*, 376 Md. 461, 469, 830 A.2d 450, 455 (2003), on the personal and professional choices of women.

¹³² 152 Md. 247, 136 A. 534 (1927).

¹³³ *Id.* at 252-53, 136 A. at 536.

¹³⁴ The doctrine of interspousal tort immunity was abolished in stages, beginning with “outrageous, intentional” torts. *Lusby v. Lusby*, 283 Md. 334, 390 A.2d 77 (1978). *Boblitz v. Boblitz*, 296 Md. 242, 462 A.2d 506 (1983), abolished interspousal immunity in negligence

Etta Maddox¹³⁵ was born in Baltimore on January 6, 1860,¹³⁶ the daughter of John T. Maddox and Susannah Moore.¹³⁷ Her father, known as Squire Maddox, was a magistrate in Baltimore City. Her ancestors “were among the earliest settlers of Maryland, and took a lively interest in Colonial affairs.”¹³⁸ Etta Maddox had two older sisters: Margaret Ann, a schoolteacher, and Emma Jane, who married Dr. J. William Funck, an eye specialist and active campaigner for women’s suffrage.¹³⁹

As a young girl, Etta and her family lived on East Monument Street, and she attended public schools.¹⁴⁰ She graduated from Eastern Female High School on June 26, 1873,¹⁴¹ and from the Peabody Conservatory in 1875.¹⁴² She was an accomplished vocalist and was well-known in Baltimore, Washington, Richmond, and other cities.¹⁴³ She taught voice, served as Director of the Seventh Baptist Church Choir, and sang in the choirs at several area churches.¹⁴⁴

Ms. Maddox worked tirelessly for women’s rights; she was an active member of the Maryland Suffrage Association.¹⁴⁵ Founded in 1894, the Association lobbied the General Assembly, at every session, to enact legislation granting women’s suffrage, and after Congress enacted the Nineteenth Amendment, lobbied for its ratification.¹⁴⁶ Emma Jane

cases, and finally, in *Bozman v. Bozman*, 376 Md. 461, 830 A.2d 450 (2003), the court abolished the doctrine in its entirety.

¹³⁵ “Her given name was Henrietta Haynie Maddox, but she was always known as Etta.” HOLLIS ATKINSON, *ETTA HAYNIE MADDUX, MARYLAND’S FIRST WOMAN LAWYER: A BIOGRAPHY 2* (Women’s Bar Association of Baltimore City 1950), available at <http://www.msa.md.gov/megafile/msa/speccol/sc3500/sc3520/012400/012464/html/12464sources.html>.

¹³⁶ The exact year of Ms. Maddox’s birth is uncertain. *Id.* See also Md. Comm’n for Women, *Etta H. Maddox*, MARYLAND WOMEN’S HALL OF FAME, <http://www.mdgovpap.net/msa/educ/exhibits/womenshall/html/maddox.html> (last visited Feb. 1, 2011). On her bar application, Ms. Maddox stated her date of birth “Jan. 6 - [18]67.” Bar application of Etta Maddox at 2 (Oct. 28, 1901), available at <http://www.msa.md.gov/megafile/msa/speccol/sc3500/sc3520/012400/012464/images/barapplication.tif>. Such a late birth date is doubtful, however, in light of the fact that she graduated high school in 1873. ATKINSON, *supra* note 135, at 1.

¹³⁷ ATKINSON, *supra* note 135, at 1.

¹³⁸ *Id.* See also MARGIE HERSH LUCKETT, *MARYLAND WOMEN* 239 (1937) (“[H]er ancestors [were] among the earliest settlers in Maryland and Virginia.”), available at <http://www.msa.md.gov/megafile/msa/speccol/sc3500/sc3520/012400/012464/images/luckett.tif>.

¹³⁹ ATKINSON, *supra* note 135, at 1.

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² *Id.*; LUCKETT, *supra* note 138, at 239.

¹⁴³ ATKINSON, *supra* note 135, at 1; LUCKETT, *supra* note 138, at 239.

¹⁴⁴ ATKINSON, *supra* note 135, at 1-2.

¹⁴⁵ LUCKETT, *supra* note 138, at 239.

¹⁴⁶ ATKINSON, *supra* note 135, at 13-14; Md. Comm’n for Women, *supra* note 136.

Funck, Ms. Maddox’s sister, served as president of the Association for more than thirty years.¹⁴⁷

As previously explained, the passage of the Married Women’s Property Act hinted at a new era in the status of women in Maryland. Although (or perhaps because) Ms. Maddox was single, social and political developments may have appeared ripe for her to seize new opportunities. When the Baltimore Law School opened in 1900,¹⁴⁸ Etta Maddox was included among its initial class of thirteen students and was its only woman.¹⁴⁹ In 1901, after completing her course of study, she applied for admission to the Maryland Bar. Howard Bryant,¹⁵⁰ a prominent attorney who had been her law school instructor, represented her. Ms. Maddox argued¹⁵¹ primarily on two grounds: “the right to practice law is a natural right, inherently possessed by every one alike, without regard to sex, and, therefore, dependent in no way upon legislative authorization”; and the Maryland statute governing bar admissions should be interpreted to bring her within its terms.¹⁵²

The Court of Appeals, in an opinion written by Chief Judge James McSherry, quickly disposed of Maddox’s first argument by relying on *In re Taylor*,¹⁵³ in which the Court had considered the bar application of Charles Taylor, an African-American male. Taylor previously had been admitted to the Massachusetts Bar, and subsequently moved to Maryland, where he already was admitted to practice in Federal, but not State, courts.¹⁵⁴ The bar admission statute applicable to his case provided eligibility for any “white male citizen of Maryland, above the age of

¹⁴⁷ LUCKETT, *supra* note 138, at 239.

¹⁴⁸ See 1900 Md. Laws 776 (an act incorporating the Baltimore Law School, which, at the time, was the only law school in Maryland to admit women). Indeed, in 1907, the Baltimore Law School rescinded its policy, and thereafter, until 1920, no Maryland law school admitted women. *Shade of Blackstone Weeps: Women Excluded From Baltimore Law School*, BALT. SUN, Sept. 27, 1907, at 7.

¹⁴⁹ *She Will Graduate in Law*, *supra* note 105, at 7.

¹⁵⁰ See *The Building of the New Court-House*, BALT. SUN, Apr. 13, 1893, at 8 (publicizing Bryant’s motion to admit Mrs. Otto Hunckel to the Maryland Bar).

¹⁵¹ Bryant averred that Maddox herself actually wrote the brief. In a handwritten appendix to the brief, Bryant wrote, “[t]his brief was prepared by Miss Maddox herself and whatever there is of merit in it is due to her efforts.” Brief of Etta Maddox, *supra* note 30, at 12.

¹⁵² *In re Maddox*, 93 Md. 727, 727-28, 50 A. 487, 487 (1901). Ms. Maddox also contended that, because the bar admission statute permitted out-of-state attorneys to be admitted in Maryland under gender-neutral restrictions, and that some states already had admitted women, who thus, presumably, were eligible to be admitted in Maryland, that Maryland women should be treated equally and, therefore, were eligible for admission. Brief of Etta Maddox, *supra* note 30, at 7-8. In the Court’s view, this argument “beg[ged] the whole question.” *In re Maddox*, 93 Md. at 735, 50 A. at 490.

¹⁵³ 48 Md. 28 (1877).

¹⁵⁴ *Id.* at 28-29.

twenty-one years.”¹⁵⁵ Taylor contended that this statute was repugnant to the Privileges and Immunities Clause of the Fourteenth Amendment, but the Court applied the *Slaughter-House Cases*¹⁵⁶ and *Bradwell v. Illinois*¹⁵⁷ to hold that the “privilege of admission to the office of an attorney cannot be said to be a right or immunity belonging to the citizen, but is governed and regulated by the Legislature, who may prescribe the qualifications required, and designate the class of persons who may be admitted.”¹⁵⁸ The *Maddox* Court regarded *Taylor* as “conclusively settl[ing]” the issue,¹⁵⁹ and rejected “the theory that the right to practice law was a right existing independently of statute.”¹⁶⁰

Maddox’s second argument related to statutory interpretation. Just prior to 1898, the bar admission statute provided that “any male citizen of Maryland” possessing the requisite qualifications was eligible for bar membership.¹⁶¹ In 1898, the General Assembly extensively revised the

¹⁵⁵ Act of Apr. 7, 1876, ch. 264, 1876 Md. Laws 469. The bar admission statute was then codified at Section 3 of Article 11 of the 1860 Maryland Code. The statute was amended in 1872, and again in 1876. As amended, the statute at the time of *Taylor* was as follows:

3. Upon every such application for any white male citizen of Maryland, above the age of twenty-one years, and who shall, have been a student of law in any part of the United States for at least two years previous to said application, or a graduate of the law department of the University of Maryland, it shall be the duty of the court to which such application shall be made to appoint an examining board of not less than three members of the bar, who shall examine the applicant in the presence of the court touching his qualification for admission as an attorney; and the said court shall also require and receive evidence of his probity and general character, and if upon such actual examination, and being satisfied that he has been a student of law for at least two years, or a graduate of the law department of the University of Maryland, and having heard evidence of his probity and general character, the said court shall be of the opinion that said applicant is qualified to discharge the duties of an attorney and worthy to be admitted, the said court shall admit him, and the Circuit Courts for the counties and the Supreme Bench of Baltimore city are authorized to appoint a permanent examining board, but no member of said board shall be appointed for a longer period than one year.

Act of Apr. 7, 1876, ch. 264, 1876 Md. Laws 469-70.

¹⁵⁶ 83 U.S. 36 (1873).

¹⁵⁷ 83 U.S. 130 (1873).

¹⁵⁸ *In re Taylor*, 48 Md. at 33.

¹⁵⁹ *In re Maddox*, 93 Md. at 728, 50 A. at 488.

¹⁶⁰ *Id.* at 729, 50 A. at 488.

¹⁶¹ Just prior to 1898, the bar admission statute was codified at Section 3 of Article 10 of the 1888 Maryland Code, as amended by the 1892 Laws of Maryland, Chapter 37:

SEC. 3. Upon every such application for any male citizen of Maryland, above the age of twenty-one years, and who shall have been a student of law in any part of the United States for at least two years previous to

statute and related sections of the Code.¹⁶² The new statute applied to “all applications for admission to the bar,” and referred to “the applicant” in

said application, it shall be the duty of the court to which such application shall be made, to appoint an examining board of not less than three members of the bar, who shall examine the applicant, in the presence of the court, touching his qualification for admission as an attorney, and the said court shall also require and receive evidence of his probity and general character, and, if upon such actual examination, and being satisfied that he has been a student of law for at least two years, and having heard evidence of his probity and general character, the said court shall be of the opinion that said applicant is qualified to discharge the duties of an attorney, and worthy to be admitted, the said court shall admit him; and the circuit courts for the counties, and the Supreme Bench of Baltimore City, are authorized to appoint a permanent examining board, but no member of said board shall be appointed for a longer period than one year. Graduates of the law department of the University of Maryland, and of the law department of the Baltimore University, shall be entitled to admission upon the production of their diplomas, without undergoing such examination and upon offering such evidence of their probity and general character as the court shall require.

MD. CODE, PUB. GEN. LAWS, art. 10 § 3 (1888).

¹⁶² See *supra* notes 62-71 and accompanying text. The new statute provided:

3. All applications for admission to the bar shall be referred by the Court of Appeals to the State Board of Law Examiners, who shall examine the applicant, touching his qualifications for admission to the bar. The said board shall report their proceedings in the examination of applicants to the Court of Appeals with any recommendations said board may desire to make. If the Court of Appeals shall then find the applicant to be qualified to discharge the duties of an attorney, and to be of good moral character and worthy to be admitted, they shall pass an order admitting him to practice in all the courts of this State. The Court of Appeals shall prescribe rules providing for a uniform system of examinations in this State, which shall govern the Board of Law Examiners in the performance of its duties. The expenses of said board, including such compensation to the members thereof as the Court of Appeals may determine, shall be paid out of the fees of the applicants. No one shall be examined who shall not have studied the law in a law school in any part of the United States or in the office of a member of the bar of this State for at least three years. Every applicant, upon presenting himself for examination before the Board of Law Examiners, shall pay to the treasurer of the board such fee, not exceeding twenty-five dollars, as may be fixed by the Court of Appeals. On payment of one examination fee, the applicant shall be entitled to the privilege of three examinations, but no more. Any fraudulent act or representation by an applicant in connection with his application or examination, shall be sufficient cause for the revocation of the order admitting him to practice. The Board of Law Examiners shall render an annual account of their expenses to the Court of Appeals.

seemingly gender-neutral language.¹⁶³ Maddox contended that the masculine pronouns “his,” “him,” and “himself,” which appeared in various parts of the statute, likewise should be interpreted in a gender-neutral manner.¹⁶⁴ She buttressed her argument through reliance on a statutory rule of interpretation that provided, “[t]he masculine includes all genders, except where such construction would be absurd or unreasonable.”¹⁶⁵

Chief Judge James McSherry, writing for the Court, rejected this argument, adopting instead the rationale of cases such as *In re Bradwell*,¹⁶⁶ *Robinson’s Case*,¹⁶⁷ and *In re Goodell*,¹⁶⁸ which refused to apply a rule of construction interpreting masculine pronouns in a gender-neutral manner in the specific context of bar admission statutes, holding instead that a gender-neutral construction “would attribute to the Legislature an intention which we find nothing to indicate ever existed.”¹⁶⁹ The *Maddox* Court invoked Article 5 of the Maryland Declaration of Rights, according to which “the Inhabitants of Maryland are entitled to the Common Law of England[.]”¹⁷⁰ Contending that, in England, “no instance is known in which a woman was admitted to practice as an attorney, solicitor or barrister,”¹⁷¹ and, that repeal by implication was disfavored, the Court rejected Ms. Maddox’s application.¹⁷² The Court concluded with a challenge to the General Assembly:

We are not to be understood as disparaging the laudable ambition of females to become lawyers. It is for the General Assembly to declare what class of persons shall be admitted to the bar. We have no power to enact legislation. The Courts can only interpret what the Legislature adopts. If we should say that females are entitled to be admitted to the bar, when the Legislature has not said so, we would exceed our authority and usurp the functions of a different and an independent department of the State Government. If the General Assembly thinks, at its approaching

¹⁶³ 1898 Md. Laws 600.

¹⁶⁴ Brief of Etta Maddox, *supra* note 30, at 5; Heather Garms, *Etta Haynie Maddox*, Women’s Legal History Biography Project, Stanford University Law School, 13 (Feb. 28, 2003), <http://www.law.stanford.edu/library/womenslegalthistory/papers0203/MaddoxE-Garms03.pdf>.

¹⁶⁵ MD. CODE, PUB. GEN. LAWS, art. 1 § 6 (1888).

¹⁶⁶ 55 Ill. 535, 541-42 (1869).

¹⁶⁷ 131 Mass. 376, 377 (1881).

¹⁶⁸ 39 Wis. 232, 240-43 (1875).

¹⁶⁹ *In re Maddox*, 93 Md. at 732-33, 50 A. at 489.

¹⁷⁰ MD. CONST. DECLARATION OF RIGHTS, art. 5.

¹⁷¹ *In re Maddox*, 93 Md. at 731, 50 A. at 488 (citing *Robinson’s Case*, 131 Mass. 376 (1881)).

¹⁷² *In re Maddox*, 93 Md. at 731-33, 736, 50 A. at 488-90.

session, that females ought to be admitted to the bar it can so declare. Until then we have no power to admit the applicant and her request to be allowed to stand for examination must be denied.^{173]}

Etta Maddox and her supporters then implemented a backup plan--they would lobby the General Assembly to abrogate the holding of *In re Maddox*.¹⁷⁴ A sympathetic state senator, Jacob M. Moses,¹⁷⁵ introduced a bill the following session to “amend the law to admit women to the bar.”¹⁷⁶ The bill faced opposition in the Senate Judiciary Committee,¹⁷⁷ but Maddox’s view prevailed after she and her supporters testified in favor of passage.¹⁷⁸ Ultimately, the bill was adopted¹⁷⁹ and became effective the same year.¹⁸⁰ For the first time, women were eligible for admission to the bar in Maryland. Maddox’s achievement is notable, not only for her perseverance, but also because of her effective lawyering and advocacy. She effected change by crafting legal arguments in her case before the Court of Appeals and by persuading the General Assembly to change the law.

¹⁷³ *Id.* at 735-36, 50 A. at 490.

¹⁷⁴ *Is Anxious to Practice Law*, *supra* note 105, at 12. Ms. Maddox was quoted as saying: “[i]f I am refused the privilege of taking the examination for admission to the bar I will keep on asking until I get permission to take it. If the next Legislature refuses to strike out the word ‘male’ – well, I’ll petition again, that’s all.” *Id.*

¹⁷⁵ See Jennifer Hafner & Alicia Brooks, *Biographical Series: Etta Haynie Maddox (c. 1860-1933)*, MD. STATE ARCHIVES (Mar. 9, 2006), <http://www.msa.md.gov/megafile/msa/speccol/sc3500/sc3520/012400/012464/html/12464bio.html>.

¹⁷⁶ *Id.*

¹⁷⁷ See *Grinding Out Laws*, BALT. SUN, Feb. 11, 1902, at 9 (“[M]embers of the committee are about unanimous against the bill [because] [t]hey are lawyers and do not want to try cases against a pretty girl lawyer.”).

¹⁷⁸ Among those who appeared at the February 20, 1902 Senate Judiciary Committee hearing were Mrs. J. Ellen Foster, a lawyer from Iowa; Dr. Cora Eaton of Minneapolis; Miss Laura Clay, President of the Equal Rights Society of Kentucky; Miss Gail Laughlin, a lawyer from New York; Mrs. M.B. Thomas of Maryland; and Mr. Henry B. Blackwell of Massachusetts. See *Women as Lawyers*, BALT. SUN, Feb. 21, 1902, at 8.

¹⁷⁹ See *To Dismiss All Contests*, BALT. SUN, Mar. 5, 1902, at 9 (“arguments of the ladies brought to Annapolis by Miss Etta Maddox to support the bill to admit women to the bar had their effect [and] [t]he bill has now passed the Senate.”); *Women as Lawyers*, *supra* note 178, at 1 (Etta Maddox “expressed great gratification over the passage of the Moses bill and said that the Governor assured her he would approve it.”).

¹⁸⁰ The bill, signed by Governor John Walker Smith on April 8, 1902, was inserted into Article 10 of the Code, immediately after Section 3 and stated, “3A. Women shall be permitted to practice law in this State upon the same terms, conditions and requirements and to the same extent as provided in this Article with reference to men. No discrimination shall be made on account of race, creed, complexion or previous condition of servitude.” 1902 Md. Laws 566.

IV. 1902 TO 1974: SINGLE WOMEN, JEWISH WOMEN, FAMILY LAW
FIRMS, AND ACTIVISM

A subsequent development illustrates an all-too-common pitfall—a sense of historical inevitability that perhaps reflects hindsight rather than historical scholarship.¹⁸¹ It would be easy—but incorrect—to think that once Etta Maddox was admitted to the Maryland Bar, in short order, all barriers to women as lawyers would be seen as atavistic relics of the past, and thus, discarded. The reality was quite different. In 1907, the Baltimore Law School, “the only law school in [Maryland] which ha[d] admitted female students . . . without ceremony closed its doors to them.”¹⁸²

The re-establishment of the law school admission barrier to women likely retarded growth in the number of new female attorneys in the first decade after Etta Maddox’s admission. Several women did follow in her footsteps, however, and were admitted to the Maryland Bar, mostly women who had been admitted to the Baltimore Law School before 1907. Among them were Anna Grace Kennedy, who was admitted in 1906; Emilie A. Doetsch, who was admitted in 1907; Marie Elizabeth Kirk Coles, who was admitted in 1908; Mary Virginia Meushaw, who was admitted in 1909; Helen F. Hill, who was admitted in 1912; and Emily Dashiell, who was admitted in 1918.¹⁸³ Kennedy, Doetsch, Coles, and Meushaw were graduates of the Baltimore Law School.¹⁸⁴ Dashiell graduated from George Washington University School of Law in

¹⁸¹ One scholar deemed this school of thought the Whig theory of history. *See generally* HERBERT BUTTERFIELD, *THE WHIG INTERPRETATION OF HISTORY* (W.W. Norton & Co., Inc. 1965) (1931).

¹⁸² *Shade of Blackstone Weeps: Women Excluded From Baltimore Law School*, BALT. SUN, Sept. 27, 1907, at 7. The Dean of the Law School, Judge Alfred S. Niles, stated, “[n]either of the other law schools in the city has ever admitted women, and it seemed to us that it would be better to conform to the general custom in this matter.” *Id.* The *Sun* further reported that the change was prompted by a petition from the male students. *See id.* *See also* BALTIMORE AMERICAN PUBLISHER, *DISTINGUISHED MEN OF BALTIMORE AND MARYLAND* (Fleet-McGinley Co. 1914), *available at* <http://www.archive.org/stream/distinguishedmen00balt#page/n7/mode/2up>; Banks, *supra* note 48, at 757 (noting that not until 1920 did the new, consolidated University of Maryland School of Law admit women); *Law Schools Consolidate*, BALT. SUN, Jan. 5, 1911, at 4 (stating that on February 1, 1911, the Baltimore Law School and the Baltimore University School of Law merged under the name of the Baltimore Law School); *Law Schools Now One*, BALT. SUN, July 16, 1913, at 3 (stating that, in 1913, the Baltimore Law School merged into the University of Maryland School of Law).

¹⁸³ *See* COURT OF APPEALS OF MARYLAND, *TEST BOOK: 1851-1916*, Volume I, pages 240, 248, 260, 277, 305; *see also* *Emily R. Dashiell dies, had been law librarian*, BALT. SUN, Feb. 9, 1983, at F5.

¹⁸⁴ *See* *She Leads Bar Candidates*, BALT. SUN, Dec. 14, 1905, at 9; *Another Woman Lawyer*, BALT. SUN, June 12, 1906, at 7; *Doctors, Lawyers, Dentists*, BALT. SUN, May 22, 1908, at 12.

Washington, D.C.¹⁸⁵ Hill had attended law school a year earlier than Etta Maddox, before any Maryland law school admitted women; she graduated from The Washington College of Law.¹⁸⁶

An important question remains largely unanswered: why did the earliest women attorneys decide to enter the legal profession? Only scattered hints of their motivations are known. Etta Maddox was the daughter of a magistrate,¹⁸⁷ a fact that may have influenced her. Moreover, she entered law school in middle age, after years performing as a singer.¹⁸⁸ At least one author has speculated that Maddox was motivated by the desire to further women’s suffrage, a cause about which she was impassioned, along with her older sister Emma Jane Funck.¹⁸⁹

As to other early women attorneys in Maryland, even less is known regarding what influenced their choices. It may have been significant, for example, that by the time she was a teenager, Emily Dashiell lived in a household headed only by her mother.¹⁹⁰ It also is known that Anna Grace Kennedy, the daughter of an Irish immigrant carpenter, had an older brother William who was a dentist,¹⁹¹ whose educational aspirations may have influenced her to become a lawyer.

Another topic that merits further inquiry is the influence of critically placed male allies on the earliest Portias. For example, Howard Bryant, an attorney and law professor, represented Etta Maddox before the Court of Appeals in her unsuccessful 1901 attempt to gain bar admission.¹⁹² The following year, State Senator Jacob M. Moses introduced the legislation that resulted in abolition of the statutory bar to women’s bar admission in Maryland.¹⁹³ Dr. William Funck, husband of Etta Maddox’s sister Emma, was a noted advocate of women’s suffrage and most certainly provided support to his sister-in-law.¹⁹⁴

¹⁸⁵ See *Emily R. Dashiell dies, had been law librarian*, *supra* note 183, at F5.

¹⁸⁶ *Helen F. Hill, Was Lawyer Since 1900*, WASH. POST TIMES HERALD, Mar. 17, 1966. The Washington College of Law was founded in 1896 by Helen Spenser Mussey and Emma M. Gillett to provide legal training to “serious minded women” who were denied admission, year after year, from other schools. At first, classes were held in Mussey’s law offices, but the program later expanded as more and more women enrolled. The Washington College of Law’s original articles of incorporation stated, “primarily the college aims to provide such a legal education for women as will enable them to practice the legal profession.” History of WCL, <http://www.wcl.american.edu/history/founders.cfm> (last visited Feb. 1, 2011).

¹⁸⁷ ATKINSON, *supra* note 135, at 1.

¹⁸⁸ *Id.*

¹⁸⁹ Garms, *supra* note 164, at 6-7, 23.

¹⁹⁰ U.S. CENSUS, BALT. CITY, MD., line 65 (1900) (showing the head of household for the residence of 14-year-old Emily Dashiell as her mother, Elizabeth Dashiell).

¹⁹¹ U.S. CENSUS, BALT. CITY, MD., lines 41, 44 (1910) (showing that Andrew, a carpenter, was the head of household of the home where Anna and William, a dentist, resided).

¹⁹² See ATKINSON, *supra* note 135, at 5.

¹⁹³ See *id.* at 7.

¹⁹⁴ See *id.* at 5.

What we do know is that, interestingly, Maddox, as well as Kennedy, Doetsch, Coles, Meushaw, Hill, and Dashiell, were all single.¹⁹⁵ Emilie Doetsch, moreover, lived in Baltimore City with her sisters Elsa and Louisa, who were also unmarried,¹⁹⁶ all three had graduated from Goucher, then an all-women's college.¹⁹⁷ Kennedy, Doetsch, and Coles all lived in Baltimore City.¹⁹⁸ Whether Maryland's experience differed from that of other states in terms of their early female admittees' marital status, geographical orientation, and attendance at women-only educational institutions must be explored.

The challenges confronting women who aspired to bar membership continued into the 1960s and 1970s. A limited number of law schools admitted women,¹⁹⁹ while law firms would hire them only as secretaries.²⁰⁰ Clients were reluctant to pay women in coin of the

¹⁹⁵ See generally Garms, *supra* note 164, at 6, 29 (mentioning the matrimony of her sister without mentioning Etta's marriage); U.S. CENSUS, BALT. CITY, MD., line 45 (1910) (listing Anna Grace Kennedy as single); U.S. CENSUS, BALT. CITY, MD., line 64 (1930) (listing Emilie Doetsch as single); U.S. CENSUS, BALT. CITY, MD., line 19 (1920) (listing Marie E. K. Coles as single); U.S. CENSUS, BALT. CITY, MD., line 32 (1900) (listing Mary V. Meushaw as single); U.S. CENSUS, BALT. CITY, MD., line 93 (1900) (listing Helen F. Hill as single).

¹⁹⁶ U.S. CENSUS, BALT. CITY, MD., line 65 (1930) (stating that Emilie Doetsch lived in the same residence as Elsa and Louisa Doetsch).

¹⁹⁷ See Goucher College: History of the Towson Campus, <http://www.goucher.edu/x31143.xml> (last visited Feb. 1, 2011) (stating that the Women's College of Baltimore was incorporated in 1885, that the name was changed to Goucher College in 1910, and that the school became co-ed in 1986). Another topic we must explore is the relative independence and economic status of single women, as factors prompting these women to pursue legal careers. It may be that single women, at least early on, turned to the law as a way to earn a living, while married women, without any economic impetus, were less likely to do so.

¹⁹⁸ U.S. CENSUS, BALT. CITY, MD., line 45 (1910) (showing the location of Anna Kennedy's residence as Baltimore City); U.S. CENSUS, BALT. CITY, MD., line 64 (1930) (showing the location of Emilie Doetsch's residence as Baltimore City); U.S. CENSUS, BALT. CITY, MD., line 19 (1910) (showing the location of Marie E. K. Coles' residence as Baltimore City).

¹⁹⁹ The University of Maryland Law School did not admit women until 1920. See Byrnes, *supra* note 5, at 17. The first women admitted were B. Olive Cole, Fannie Kurland, Ida Clare Lutzky, Marie White Presstman, and Helen Sherry. UNIV. OF MD., COMMENCEMENT, CATALOGUE AND ANNOUNCEMENT OF THE SCHOOL OF LAW 24 (1923), <http://www.law.umaryland.edu/marshall/schoolarchives/documentspriv/Catalog1923.pdf> (last visited Feb. 1, 2011). The Washington College of Law was founded in 1896 by Ellen Spencer Mussey and Emma M. Gillett, the first law school "founded by women for women." *Washington College of Law Historical Collection: About this collection*, WASH. COLL. L., <http://www.aladin0.wrlc.org/gsdll/collect/wcl/wcl.shtml> (last visited Feb. 1, 2011).

²⁰⁰ J.S. Bainbridge, Jr., *Pioneer applied to join state bar for 20 years*, BALT. SUN, Apr. 22, 1984, at C3. Another fertile area for further exploration is women lawyers who never practiced law. Notably, B. Olive Cole, admitted in 1923, was a pharmacist and became a faculty member of the School of Pharmacy of the University of Maryland. When the University of Maryland Law School decided to admit women, she enrolled "seeing that as both a challenge and an opportunity." Jeanne H. Stevenson, *Dr. B. Olive Cole, 1883-1971: Pioneer Pharmacist and Lawyer*, in NOTABLE MARYLAND WOMEN 76 (Winifred G. Helmes ed., 1977). Cole and her classmate, Marie White Presstman, won a trial advocacy competition

realm,²⁰¹ and even then, women had to reduce their fees in order to compete.²⁰²

Cultural heritage played an essential role for the women who gained admission after the earliest women. More than a handful of women lawyers admitted in the 1920s, 1930s, and 1940s were either Jewish immigrants or the daughters of Jewish immigrants, many from the Russian empire, who had emigrated at the turn of the century to escape mounting anti-Semitism and oppression.²⁰³ Apparently, Jewish immigrants focused on educational opportunities in the new world, as described by Marcia Synnott in her essay, “Anti-Semitism and American Universities,” when she said, “Jews were the most educationally mobile of all first generation immigrants despite the fact that their parents were usually manual workers.”²⁰⁴ Between 1915 and 1935, for example, the number of Russian Jewish immigrants who held professional jobs in the United States nearly doubled, indicating that this community viewed education as a path to a better life.²⁰⁵ This second wave of women included Grace Gerber, admitted in 1920,²⁰⁶ Jennie Plotkin Deckelman, admitted in 1921,²⁰⁷ Helen Sherry, admitted in 1923,²⁰⁸ Jeanette Rosner Wolman, admitted in 1924,²⁰⁹ Sarah Rosenberg Burke, admitted in

in their first year at the Law School. Willis R. Jones, *Women “Fight” To Victory In “Suit” Over Party Wall At Mock Court Of U. of M.*, BALT. SUN, Nov. 26, 1921, at 4. Although Cole never practiced law, she made the legal aspects of pharmacy law of expertise and also taught a course discussing pharmacy laws and regulations. Flora Murray, *Pharmacist And Lawyer*, BALT. SUN, Jul. 13, 1947, at F5. Cole is emblematic of the intellectualism of early women attorneys; many envisioned the law as a challenge and were attracted to the intellectual nature of the law. This topic deserves further development, as well.

²⁰¹ Bainbridge, *supra* note 200, at C3. Rose Zetzer recalled that her first clients paid her with candy and “a couple of pair of hose.” *Id.* Similarly, Jeanette Wolman recounted that, in her early years of practice, one of her male clients tried to compensate her with a pair of silk stockings: “He was very happy that I won his case for him but his jaw dropped when I handed him the bill.” Byrnes, *supra* note 5, at 19-20.

²⁰² Elise A. Braase, *Rose S. Zetzer – A Pioneer Who Cleared The Path For Women* (on file with the The Jewish Museum of Maryland, Rose Zetzer file).

²⁰³ See SAMUEL JOSEPH, *JEWISH IMMIGRATION TO THE UNITED STATES FROM 1881 TO 1910* 56-80 (Samuel Joseph ed., 1914).

²⁰⁴ Marcia Graham Synnott, *Anti-Semitism and American Universities*, in *ANTI-SEMITISM IN AMERICAN HISTORY* 236 (David A. Gerber ed., 1986). In a 1908 survey, thirteen percent of the nearly four-thousand law students nationwide were Jewish, and they represented the largest single ethnic group. RITA J. SIMON, *IN THE GOLDEN LAND A CENTURY OF RUSSIAN AND SOVIET JEWISH IMMIGRATION IN AMERICA* 35 (1997).

²⁰⁵ See SIMON, *supra* note 204, at 36; see also MELISSA R. KLAPPER, *JEWISH GIRLS COMING OF AGE IN AMERICA, 1860–1920* 81 (2005) (noting that “[m]ost immigrant Jewish families believed that poverty and ignorance were inextricably linked”).

²⁰⁶ U.S. CENSUS, WASH. COUNTY, MD., line 13 (1930) (mother’s and father’s place of birth was “Russia” and both spoke “Hebrew”).

²⁰⁷ U.S. CENSUS, BALT. CITY, MD., line 13 (1930) (born in “Russia” and spoke “Jewish”).

²⁰⁸ U.S. CENSUS, BALT. CITY, MD., line 13 (1920) (mother’s and father’s place of birth was “Russia”).

²⁰⁹ U.S. CENSUS, BALT. CITY, MD., line 84 (1930) (father’s place of birth was “Austria”).

1924,²¹⁰ Goldie Rose Miller, admitted in 1925,²¹¹ Rose Zetzer, admitted in 1925,²¹² Fannie Coplan, admitted in 1930,²¹³ Anna Carton, admitted in 1933,²¹⁴ and Lottie Friedler, admitted in 1940.²¹⁵

When Rose Zetzer formed the first law firm in Baltimore composed entirely of women, she tapped Carton and Friedler, also Jewish, as partners.²¹⁶ Zetzer turned to women who shared her cultural heritage in establishing the firm; Friedler and their other law partner, H. LaRue Parke, admitted in 1942, even attended the same high school as Zetzer, albeit later.²¹⁷ Zetzer likely mentored Friedler and Parke, her younger counterparts, because she had considerably more experience and had worked as a solo practitioner for fifteen years before starting the firm.²¹⁸

While Jewish women lawyers were able to forge alliances to gain traction in the profession, they nevertheless encountered discrimination because of their religion.²¹⁹ In the early 1950s, Zetzer lobbied to become the first woman assistant state's attorney in Baltimore City.²²⁰ She received enthusiastic support, including that from her Jewish male counterparts,²²¹ but was denied the job by then State's Attorney Anselm Sodaro who declined to appoint Zetzer, mentioning "the matter of

²¹⁰ U.S. CENSUS, BALT. CITY, MD., line 31 (1900) (mother's place of birth was "Poland" and she spoke "Yiddish"); see also Fred Rasmussen, *Sarah Burke, Pioneering Lawyer*, BALT. SUN, Mar. 20, 1994, at 4B (describing that Burke was buried in Hebrew Friendship cemetery).

²¹¹ U.S. CENSUS, BALT. CITY, MD., line 6 (1910) (born in "Russia" and spoke "Jewish").

²¹² U.S. CENSUS, BALT. CITY, MD., line 23 (1930) (mother's and father's place of birth was "Russia" and both spoke "Yiddish").

²¹³ U.S. CENSUS, BALT. CITY, MD., line 10 (1930) (mother's place of birth was "Russia" and spoke "Jewish").

²¹⁴ *Anna W. Carton Lawyer-Activist*, BALT. SUN, Dec. 29, 1992, at 4B (mentioning that Carton was a member of several Jewish women's organizations, including the National Council of Jewish Women and the Baltimore chapter of Hadassah).

²¹⁵ U.S. CENSUS, BALT. CITY, MD., line 24 (1930) (listed Friedler as speaking "Magyar"); *Miss Friedler To Speak*, BALT. SUN, Feb. 28, 1948, at 12 (announcing Friedler "will speak on women jurors at the annual paid-up tea of the Shaarei Zion Sisterhood at 1:30 P.M. Wednesday in the auditorium of the Shaarei Zion Synagogue").

²¹⁶ Lottie Friedler described the origins of Zetzer, Carton, Friedler & Parke as follows: "We were all practicing law together in the Munsey Building and then decided to go and establish a firm. That's how it started." Fred Rasmussen, *Rose Zetzer, 94, founded 1st all-female law firm in Md.*, BALT. SUN, Apr. 9, 1998, at 11B.

²¹⁷ *Maryland Lone Feminine Law Firm Attracts Men* (on file with Jewish Museum of Maryland, Collections and Research, Rose Zetzer file, catalog number 1998.086.032).

²¹⁸ Rasmussen, *Rose Zetzer*, *supra* note 216, at 11B.

²¹⁹ See *infra* notes 225-27.

²²⁰ Letter from Rose S. Zetzer to Anselm Sodaro, Balt. City State's Attorney (Jan. 5, 1951) (on file with the Enoch Pratt Library).

²²¹ Letter from Herbert Myerberg to Anselm Sodaro, Balt. City State's Attorney (Feb. 6, 1951) (on file with the Enoch Pratt Library); Letter from Rubin Gertz to Anselm Sodaro, Balt. City State's Attorney (Feb. 9, 1951) (on file with the Enoch Pratt Library) (Myerberg and Gertz knew Zetzer both as a member of the Bar and also as Director of the Jewish Big Brother League).

religion” as an explanation.²²² The influence of religious affiliation and discrimination must be explored further.

The women admitted in the 1930s and 1940s²²³ also found support in the arms of their husbands. Anna Carton’s husband was not an attorney, but he cared for their two-year-old son while Anna, who was admitted in 1933, attended classes at night and “encouraged [her] all the way.”²²⁴ Carton became the first mother to graduate from Baltimore Law School.²²⁵ Anne Musgrave, admitted in 1934, went into practice with her husband, George, who sponsored her admission to practice before the U.S. District Court and U.S. Court of Appeals for the District of Columbia Circuit.²²⁶ Anne, in turn, likely influenced her younger brother, Septimus B. Sightler, to become a lawyer;²²⁷ husband, wife and brother all practiced together in Washington, D.C.²²⁸

Some went into practice with their husbands, such as Helen Sherry, admitted in 1923,²²⁹ Jeanette Wolman, admitted in 1924,²³⁰ Sarah Rosenberg Burke, admitted in 1924,²³¹ Constance Putzel, admitted in 1945,²³² Lee Miller Fuller, admitted in 1946,²³³ and Doris Peterson Scott, admitted in 1949.²³⁴ Ease of affiliation may have been a factor in the formation of family law firms, as well as the experience of females who were offered jobs as secretaries rather than lawyers.²³⁵ The genesis of

²²² Letter from Rose Zetzer to Burnita Shelton, Judge, U.S. Dist. Court for D.C. (Mar. 21, 1952) (on file with the Enoch Pratt Library).

²²³ In the 1930s and 1940s, 127 women were admitted to practice in Maryland.

²²⁴ Charles V. Flowers, *Making a Case for Women*, BALT. SUN, Dec. 5, 1982, at 281. Carton said that boredom with being a housewife prompted her to go to law school: “I was very bored with the occupation of housewife, which was sitting around with other housewives and talking about babies.” *Id.*

²²⁵ *Anna W. Carton Lawyer-Activist*, *supra* note 214, at 4B.

²²⁶ “Family Affair” Is Planned In Court Today By Musgrave: Lawyer to Propose Wife, Partner and 21-year-old Protégé for Practice Before United States Circuit Court of Appeal, BALT. SUN, Jan. 12, 1934, at 7.

²²⁷ *Id.*

²²⁸ *Id.*

²²⁹ Banks, *supra* note 48, at n.41. Although Sherry and her husband, Louis, later divorced. Editorial, *Woman Attorney Given Divorce For Desertion*, BALT. SUN, April 14, 1933, at 7.

²³⁰ Fred Rasmussen, *Jeanette R. Wolman, 96, Lawyer for Seven Decades*, BALT. SUN, Jan. 20, 1999, at 6B.

²³¹ Rasmussen, *Sarah Burke*, *supra* note 210, at 4B.

²³² Penny Kolsrud, *Women In Perspective: Mrs. Putzel – Wife, Mother, Lawyer – To Speak at Notre Dame Institute*, BALT. SUN, July 10, 1971, at A10.

²³³ See Editorial, *Lee M. Fuller, Practiced Law In Rockville*, WASH. POST, Jan. 8, 1981, at C5.

²³⁴ Brendan Kearney, *It’s ‘full speed ahead’ for Cecil County trailblazer*, DAILY REC. (Balt., Md.), Oct. 9, 2007.

²³⁵ See Braase, *supra* note 202. Zetzer was turned down by every law firm: “They all said, ‘You can be a secretary.’” *Id.*

family firms merits exploration, as well as their acceptance in the legal community.

Many of the second wave of female attorneys received encouragement from family members other than their husbands. Jeanette Rosner Wolman, admitted in 1924, found a champion in her father, who encouraged her to pursue a legal career at an early age.²³⁶ “When she was two-and-a-half [years old], her dad read the funny papers to her, and apparently she was very bright, and he decided then and there that she should be a lawyer.”²³⁷ Wolman described her father as “a very advanced man for his time” and recalled that when she was twelve, he entered her in a suffragette parade.²³⁸ He pushed her to attend the University of Maryland Law School after she had been rejected by Columbia²³⁹: “I told my father I still wanted to be a lawyer and he was very supportive. He took me down to the University of Maryland Law School and I was accepted right away. It was the second year the law school had admitted women and there were three of us in that class.”²⁴⁰

Helen Sherry and her sister, Fannie Kurland Kerpelman, attended the University of Maryland Law School at the same time.²⁴¹ They graduated in 1923, members of the first class to include women.²⁴² Although Helen actively practiced and eventually became an assistant city solicitor, Fannie married her law school classmate, Morrie E. Kerpelman, and gave up legal work altogether, about a year after graduation.²⁴³

Women embarking on a legal career in the 1950s and 1960s, like their earlier counterparts, also found valuable role models in their families.²⁴⁴ Lena King Lee, admitted in 1952, described her father as a major influence in encouraging her to become a teacher and, later, a lawyer.²⁴⁵ She was one of the first African-American women to graduate from the

²³⁶ *Lawyer Women’s Advocate Jeanette Rosner Wolman: A Soldier in the Fight for Women’s Rights*, BALT. SUN: ANNIVERSARY ISSUE, May 17, 1987, at 107.

²³⁷ Phone interview with Sue Wolman, Relative of Jeanette Wolman, (July 20, 2010).

²³⁸ *Lawyer Women’s Advocate Jeanette Rosner Wolman*, *supra* note 236, at 107.

²³⁹ *Id.* Wolman wrote to Columbia Law School for admission when she was a junior in high school and received a letter from the dean saying, “Columbia does not admit women to its law school. If you’re interested in going to college, apply at Barnard.” She pasted the letter in her high school memory book. Rasmussen, *Jeanette R. Wolman*, *supra* note 230, at 6B.

²⁴⁰ *Lawyer Women’s Advocate Jeanette Rosner Wolman*, *supra* note 236, at 107. The other two women were Sarah Rosenberg Burke and Ruth Shapiro.

²⁴¹ *Attorneys Kerpelman Present Son Leonard To Bench Today*, BALT. SUN, Dec. 3, 1949, at 7.

²⁴² *Id.*

²⁴³ *Id.*

²⁴⁴ More than two hundred women were admitted to practice in Maryland in the 1950s and 1960s.

²⁴⁵ Yvonne Shinhoster Lamb, *Pioneering Md. Delegate, Educator Lena Lee, 100*, WASH. POST, Aug. 28, 2006, at B6.

University of Maryland Law School,²⁴⁶ and described her coal-miner father as holding her to “very high standards”: “I was always taught by my father that I was meant to make a contribution to my community and country.”²⁴⁷ Lee became a member of the House of Delegates and founded the Maryland Legislative Black Caucus, because she said, “[t]here was a need to huddle together.”²⁴⁸

Barbara Price Day, who graduated from the University of Maryland Law School and was admitted in 1960, also valued her father as a role model.²⁴⁹ Stewart O. Day, her father, served as a Circuit Court judge in Harford and Baltimore counties. Day admired her father, who was her inspiration to pursue a legal career: “She would do anything he did. . . . She was a very unusual avant-garde lady. She enjoyed the law. . . . [S]he was fascinated by it.”²⁵⁰

Women sought other mentors, in order to navigate the shoals of the legal profession; for example, in a newspaper article, H. LaRue Parke, admitted in 1942, described seeking guidance from “older women lawyers” on whether hats were acceptable in the courtroom: “I was not expected to wear a hat, but none told me there was a law against it.”²⁵¹ The formation of the Women’s Lawyers Association in 1927, which later became the Women’s Bar Association, provided not only mentors but networking opportunities.²⁵² The founders of the organization, Jeanette Wolman, Sarah Rosenberg Burke, Ida Kloze, Adelaid Lindenberg, Goldie Miller, Henrietta Stonestreet, and Helen Sherry, were classmates at the University of Maryland and decided to form the association, because women were denied admission to the Baltimore City Bar Association.²⁵³ Wolman was finally admitted to the Baltimore City Bar Association in 1957, but women attorneys continued to derive significant benefits from

²⁴⁶ The others were Elaine Carsely Davis, Virginia Elizabeth Jones, and Juanita Jackson Miller. See Banks, *supra* note 48, at 758.

²⁴⁷ Lamb, *supra* note 245, at B6.

²⁴⁸ Frederick N. Rasmussen, ‘She stood very tall’ Educator was one of first black women in General Assembly, BALT. SUN, Aug. 26, 2006, at 1B.

²⁴⁹ Laura Vozzella, Barbara Price Day, 70, was trailblazing attorney in Harford, BALT. SUN, Jan. 2, 2003, at 5B.

²⁵⁰ *Id.*

²⁵¹ Portias May, But Don’t, Wear Their Hats In City’s Courts, BALT. SUN, Apr. 9, 1941, at 26 (on file with The Jewish Museum of Maryland, Rose Zetzer file).

²⁵² *History of the Women’s Bar Association*, THE WOMEN’S BAR ASSOCIATION OF MARYLAND, <http://www.wba-md.org/history.aspx> (last visited Feb. 1, 2011).

²⁵³ *Id.*; see also Constance K. Putzel, *Jeanette Rosner Wolman, Lawyer and Civic Leader*, in NOTABLE MARYLAND WOMEN, 409, 410 (Winifred G. Holmes ed., 1977); Katherine Thurlow, *First Woman to Attend Law School*, MD. B.J., June 1986, at 24, available at <http://www.msa.md.gov/megafile/msa/speccol/sc3500/sc3520/011700/011775/pdf/profiles.pdf>; Rasmussen, *Sarah Burke*, *supra* note 210, at 4B.

participation in a separate women's bar.²⁵⁴ Judge Rosalyn B. Bell of the Court of Special Appeals speculated that, "There is a very direct correlation between the jurisdictions that have active women's bar associations and those with women in the judiciary."²⁵⁵

Jeanette Wolman, who was admitted in 1924, became a mentor to many of the next generation of women attorneys, including Constance Putzel and Elsbeth Levy Bothe, admitted in 1945 and 1952, respectively.²⁵⁶ Bothe recalled that her mother and Jeanette Wolman were close friends and that when she decided to attend law school, Wolman was the only woman attorney she knew.²⁵⁷ Putzel, in turn, sought out Wolman as a mentor because both practiced family law.²⁵⁸

Similarly, Mary Arabian, admitted in 1945, found a mentor in William Donald Schaefer, the former Maryland governor, Maryland comptroller, and Baltimore City mayor.²⁵⁹ Schaefer was admitted three years prior to Arabian, and they became law partners in 1951.²⁶⁰ Arabian in 1961 became the first woman to serve on the Municipal Court of Baltimore City, the precursor to the District Court.²⁶¹ As governor, Schaefer named Arabian to the University of Maryland Board of Regents, after her retirement from the bench.²⁶²

Arabian became a mentor to other women attorneys, including Mary Ann Saar, who later became Maryland's Secretary of Public Safety and Correctional Services.²⁶³ In an article stressing the importance of mentoring, Saar described Judge Arabian as having a profound impact on

²⁵⁴ J.S. Bainbridge, Jr., *Lawyers Debate the Benefits of Women's Group*, BALT. SUN, Apr. 22, 1984, at C1; THE WOMEN'S BAR ASSOCIATION OF MARYLAND, *supra* note 252.

²⁵⁵ *Id.*

²⁵⁶ Putzel, *supra* note 253, at 409, 411; Interview by Elaine Eff with Elsbeth Levy Bothe, Jewish Women's Archive, Weaving Women's Words, in Baltimore, Md. (Sept. 14, 21, and Oct. 22, 2001); Member Directory, MARYLAND STATE BAR ASSOCIATION, <http://www.msba.org/directory> (search "Last Name" for "Putzel"; then follow "Search" button; then follow hyperlink for "Constance K Putzel"; search "Last Name" for "Bothe"; then follow "Search" button; then follow hyperlink for "Hon Elsbeth Levy Bothe") (last visited Feb. 1, 2011).

²⁵⁷ Interview by Elaine Eff with Elsbeth Levy Bothe, *supra* note 256.

²⁵⁸ Interview with Constance Putzel, in Baltimore, Md. (Aug. 10, 2010).

²⁵⁹ Johnathon E. Briggs, *Mary Arabian, 1st Woman Municipal Court Judge, Dies*, BALT. SUN, Aug. 26, 2002, at 1B.

²⁶⁰ Member Directory, MARYLAND STATE BAR ASSOCIATION, <http://www.msba.org/directory> (search "Last Name" for "Schaefer"; then follow "Search" button; then follow hyperlink for "Hon William Donald Schaefer") (last visited Feb. 1, 2011); Briggs, *supra* note 259, at 1B.

²⁶¹ Briggs, *supra* note 259, at 1B.

²⁶² *Id.*

²⁶³ Mary Ann Saar, *One Hand Helps the Other: Why Women Need to Make Good Connections and Use Them to Help Other Women up the Career Ladder*, CORRECTIONS TODAY, Oct. 1, 2005, available at http://www.thefreelibrary.com/_/print/PrintArticle.aspx?id=137631521.

her career: “She always encouraged me to reach beyond what I thought my capabilities to be.²⁶⁴ When I became a deputy state’s attorney, she encouraged me by saying: ‘You can do anything at all in this world if you want to do it. If you fail, you fail. You will never be 100 percent successful in everything you do.’”²⁶⁵ How these and other women attorneys forged ties merits further discussion.

Importantly, the early female admittees were committed to other women’s causes. Etta Maddox, Emilie Doetsch, and Mary Virginia Meushaw were suffragettes and active in the Maryland Suffrage Association²⁶⁶ and Baltimore City Suffrage Association.²⁶⁷ After the passage of the Nineteenth Amendment,²⁶⁸ Emily Dashiell, Grace Gerber, and Jennie Plotkin Deckelman became members of the League of Women Voters and advocated for key changes in domestic relations laws, including establishing a minimum marriage age of 18 and making child abandonment a criminal offense.²⁶⁹

In the 1930s and 1940s, women attorneys tirelessly advocated for jury service for women, because Maryland excluded women from the jury box.²⁷⁰ Members of the Women’s Bar Association were proponents of jury service measures,²⁷¹ as reflected in Helen E. Brown’s letter to Emanuel Gorfine, Chairman of the Senate Judicial Proceedings Committee, in which she describes jury service as an inalienable right “denied to every woman citizen of Maryland”:

It is almost unbelievable that in the year 1941 women citizens should be asking the General Assembly of the so-called Free State for a right that was wrested from a tyrant at Runnymede in 1215, preserved in the Magna Carta and taken over into the Constitution of the United States as the very keystone of Anglo-American justice—the right to trial by a jury of one’s peers. Strange as it seems, that right is denied to every woman citizen of Maryland today.

²⁶⁴ *Id.*

²⁶⁵ *Id.*

²⁶⁶ Mary Katherine Scheeler, *Emilie A. Doetsch 1882-1969, Suffragist and Lawyer*, in *NOTABLE MARYLAND WOMEN* 107, 107 (Winifred G. Helmes ed., 1977); *Miss Maddox, Leading State Feminist, Dies*, *BALT. SUN*, Feb. 20, 1933.

²⁶⁷ Emily Emerson Lantz, *Demand The Right To Vote*, *BALT. SUN*, Jan. 7, 1906, at A8.

²⁶⁸ The Nineteenth Amendment, ratified in 1920, provides “[t]he right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex. Congress shall have power to enforce this article by appropriate legislation.” U.S. CONST. amend. XIX.

²⁶⁹ *Women Voters Urge Divorce Law Changes*, *BALT. SUN*, Apr. 29, 1921; *Uniformity Demanded In Laws for Women*, *BALT. SUN*, Apr. 10, 1921.

²⁷⁰ Virginia Corrigan, *Social News – Clubwomen To Fight For Jury Service*, *BALT. SUN*, Feb. 17, 1935, at A13.

²⁷¹ *Id.*

It cannot be denied to a Negro man. The Maryland Court of Appeals said in the Euel Lee case that a colored man cannot be convicted by a jury from which colored men are excluded. Such a practice was condemned by the Court as a violation of his Constitutional rights in that it denied him a trial by a jury of his peers, deprived him of the equal prosecution of the laws and branded his citizenship as inferior.

In the course of my work during the past four years, I have had occasion to visit every county in Maryland. I know of my own personal knowledge how deeply women of this State resent the treatment that has been accorded this Bill in the Legislature. They are largely inarticulate but the deep smoldering feeling of injustice is there, and that is a dangerous condition in a so-called democracy. It is an injustice that any Legislature should hasten to correct on its own initiative without urging from anyone.^[272]

Helen Sherry, Anna Carton, and Rose Zetzer testified in 1939 before the General Assembly in support of the jury service bill,²⁷³ arguing that women jurors would provide an alternative viewpoint, thereby enhancing the integrity of the judicial process.²⁷⁴ Although so-called “chivalrous” legislators contended that sex offenses would offend the sensibilities of women, Zetzer and others asserted that a woman’s view in such cases would “give a better cross-section of opinion.”²⁷⁵ A women’s jury service measure was finally enacted in 1947.²⁷⁶

Kathleen O’Ferrall Friedman, admitted in 1967, and Ann Hoffman and Susan Handwerger Tannenbaum, admitted in 1972, were influential in establishing the Women’s Law Center of Maryland, a non-profit legal organization founded “[t]o secure equal rights for women through litigation and other lawful means.”²⁷⁷ The formation of the Women’s Law Center in the 1970s when the Equal Rights Amendment was passed

²⁷² Letter from Helen Elizabeth Brown to Emanuel Gorfine, Chairman of the Senate Judicial Proceedings Committee (Feb. 11, 1941) (on file with The Jewish Museum of Maryland, Rose Zetzer file).

²⁷³ *300 Women Cheer, Clap, Boo To Support Jury Service Bill*, BALT. SUN, Feb. 2, 1939. Anna Carton, then president of the Women’s Bar Association, testified as follows: “We do not seek to usurp any of the privileges or prerogatives of the male sex We only ask to be allowed to share an important civic duty with them.” Flowers, *supra* note 224, at 281.

²⁷⁴ *Ruling Lacks Effect Here*, BALT. SUN, Dec. 11, 1946, at A14. See also Gretchen Ritter, *Jury Service and Women’s Citizenship Before and After the Nineteenth Amendment*, 20 LAW & HIST. REV. 479 (Fall 2002).

²⁷⁵ *Ruling Lacks Effect Here*, *supra* note 274, at A14.

²⁷⁶ 1947 Md. Laws 1495.

²⁷⁷ The Women’s Law Center, Inc., Articles of Incorporation (on file with author). See also Allison Klein, *A family judge retires; Pioneer: Circuit Judge Friedman focused her career on issues affecting women, children, families*, BALT. SUN, Feb. 6, 2002, at B3.

in Maryland,²⁷⁸ although not nationally, was part of the larger transformation, even if only numerically, for women lawyers in the State.

In 1974, 90 women became members of the Maryland Bar, signaling a significant shift in the development of women lawyers in Maryland.²⁷⁹ No year prior to 1974 boasted so many women admitted to the Bar; no year since has seen so few.²⁸⁰ That year is also remarkable, because Mary Natalie McSherry, the great-granddaughter of Chief Judge James McSherry, who authored *In re Maddox*, was admitted to the Bar.²⁸¹ What challenges, opportunities, and motivations supported women lawyers prior to 1974 merits attention beyond this article in order to appreciate and understand the foundation upon which our present and future is based. After all, the travails of Etta Maddox and her progeny were undertaken to encourage “the laudable ambition of females to become lawyers,” as Chief Judge McSherry said.²⁸² It is this goal to which the Finding Justice Project aspires.

²⁷⁸ The Women’s Law Center, Inc., Articles of Incorporation, *supra* note 277.

²⁷⁹ Using a list of admittees provided by the Court of Appeals of Maryland, from 1974 to 2009, it was determined that 90 women were admitted in 1974.

²⁸⁰ Using a list of admittees provided by the Court of Appeals of Maryland, from 1974 to 2009 and counting the number of obviously female admittees in each year, it was confirmed that more than 90 women were admitted in each successive year.

²⁸¹ COURT OF APPEALS OF MARYLAND, TEST BOOK: 1974, Volume II, page 344.

²⁸² *In re Maddox*, 93 Md. at 735-36, 50 A. at 490.