

CAMBRIDGE LAW SCHOOL FOR WOMEN:  
THE EVOLUTION AND LEGACY OF THE  
NATION'S FIRST GRADUATE LAW SCHOOL  
EXCLUSIVELY FOR WOMEN

*Nina A. Kohn\**

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\* Assistant Professor of Law, Syracuse University College of Law; J.D. Harvard Law School; A.B. Princeton University. The author is indebted to Benjamin Beale, Arielle Dewart, Joseph Edwards, James King Edwards, Lydia Smith, Betsy Weaver, and Bill Wesselhoeft, who generously offered their personal recollections. The author also benefited from the assistance of Kathy Kroft of the Radcliffe College Archives, Jean N. Berry of the Wellesley College Archives, Sarah Boling of the New England School of Law School Archives, David Warrington of the Harvard Law School Archives, and Professor C. Ronald Chester of New England School of Law. Finally, the author thanks Professor Daniel Coquillette of Harvard Law School for his assistance and enthusiasm, and Professor Janis McDonald of Syracuse University College of Law for her helpful comments.

## I. INTRODUCTION

In 1915, at the edge of Harvard University, two historical movements coalesced to give rise to the nation's first and apparently only graduate level law school exclusively for women.<sup>1</sup> The first movement was the women's suffrage movement; the second, the growing dominance of the elite model of legal education. The school was Cambridge Law School for Women.

Cambridge Law School for Women (CLSW) opened in the fall of 1915 to an eager class of eleven students. Modeled directly on Harvard Law School, the school drew upon some of Harvard Law School's finest professors to form a unique law school experience specifically for college-educated women. In doing so, the school brought graduates from the nation's most elite women's colleges together with some of the foremost legal scholars of the day in an effort to forge a new kind of law school for women.

Although several scholars have briefly discussed CLSW in conjunction with work on other subjects, this Article presents the first comprehensive history of the school. The Article begins in Section Two by exploring how and why CLSW came into being in 1915 after two young Radcliffe suffragists led an unsuccessful campaign for admission to Harvard Law School. Section Three examines the design, pedagogical foundations, and day-to-day workings of the school during its first two years. Sections Four and Five explore the historical events that led to CLSW's closure in 1917. These sections also document and discuss the school's subsequent, and previously undocumented, reopening in 1921. In Section Six, the Article traces the careers of eight of the students who attended CLSW. Finally, it concludes with a discussion of the school's legacy and what its history reveals about American legal education in the early part of the twentieth century. In doing so, it debunks the gender-influenced myths that have arisen about the school. Throughout, the

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1. In addition to being the first, it appears that CLSW remains the nation's only law school ever created exclusively for college-educated women. The nation's other two law schools designed for women, Washington College of Law begun in 1896 and Portia Law School begun in 1908, served students both with and without college educations, including many working class and immigrant women. In addition, Washington College of Law admitted men. See RONALD CHESTER, *UNEQUAL ACCESS: WOMEN LAWYERS IN A CHANGING AMERICA* 9–13 (1985). Similarly, Emily Kempin's law class begun in 1889 and incorporated into New York University in 1890 did not require any previous higher education. See Phyllis Eckhaus, *Restless Women: The Pioneering Alumnae of New York University School of Law*, 66 N.Y.U. L. REV. 1996, 2000 (1991). See also *Law School for Women*, N.Y. TIMES, OCT. 5, 1889.

Article explores how the idea and desire for CLSW grew out of the women's suffrage movement and its accompanying emphasis on professional roles for women, while the school's form was largely dictated by the increasing emphasis on the elite model of legal education championed by Harvard Law School.

## II. THE FOUNDING OF CAMBRIDGE LAW SCHOOL FOR WOMEN

### *A. The Idea*

In the spring of 1914, Radcliffe junior Greta Coleman decided to pursue the study of law. Greta<sup>2</sup> was an active participant in the women's suffrage movement, both on and off the Radcliffe campus. She attributed her interest in studying law to her "interest in legal reform,"<sup>3</sup> a topic central to the women's suffrage movement. The women's suffrage movement urged legal reform both in terms of reforming existing law to allow women to vote and in terms of the reforming effect that allowing women to vote would have on the nation's laws.

Greta would have been familiar with the call for legal reform from her work with the women's suffrage movement. During the summer between her junior and senior years of college, Greta canvassed towns and small cities in Ohio to secure support for a petition for a referendum on women's suffrage. Her typical day would begin with making calls on houses and talking to people on the street, and end with making a speech on a street corner before catching the next train out of town. She continued this work the next summer when she worked to promote women's suffrage in Massachusetts, often campaigning from ten in the morning until ten at night with no break for meals.<sup>4</sup> Greta was also active in the women's suffrage movement at Radcliffe, where the campus was buzzing with discussion of the issue. Prior to her summer in Ohio, Greta had joined Radcliffe's newly formed "suffrage club." In her senior year she participated in what, according to the *Radcliffe News*, was one

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2. Throughout this Article, students of CLSW are often referred to using their first names, and professors, by using their last. This distinction is not meant to condone gender stereotypes, but rather to reflect the roles of the participants in CLSW and to humanize them as individuals.
  3. Radcliffe Alumnae Association, Radcliffe Class of 1915 in 1940, at 14 (1940) (on file with the Radcliffe Archives, Radcliffe Institute, Harvard University, Cambridge, Massachusetts). The Radcliffe Archives will hereafter be referred to as the "RA."
  4. Greta C. Coleman file, Women's Rights Collection, Schleisinger Library, Harvard University, Cambridge, Massachusetts.

of largest events of the year: "The big debate, 'Why I am a Suffragist' or 'Why I am an Anti-Suffragist.'"<sup>5</sup>

The focus on women's suffrage at Radcliffe corresponded with a growing emphasis on professional employment for Radcliffe graduates. The Board of Vocations, a Radcliffe institution designed to help students find employment, recognized that socially prestigious fields such as law and medicine, which had previously been restricted to men, were now real possibilities for their female graduates. The Board encouraged Radcliffe women to consider these opportunities. The legal profession appears to have been of particular interest to students, and that year the Board sponsored Emma Fall, an attorney serving as the director of the Women's Education and Industrial Union ("W.E.I.U.") Department of Law and Thrift, to speak on "law as a profession for women."<sup>6</sup>

It was in this climate that, by the fall of 1914, Greta and her classmate Elizabeth Beale began "agitating" for legal studies at Radcliffe.<sup>7</sup> Like Greta, Elizabeth was a member of the suffrage club and one of the pro-suffrage debaters in the "big debate." Unlike the Kentucky-born Greta, however, Elizabeth had close ties to Harvard Law School, as her father, Professor Joseph Henry Beale, was the Royall Professor of Law at the school.

Professor Beale quickly became involved in the young women's efforts to pursue legal studies at Radcliffe. On November 24, 1914, Radcliffe College President LeBaron Russell Briggs wrote to Professor Beale to discuss the possibility of law classes being offered at Radcliffe. Briggs expressed interest in expanding course offerings, but questioned how such a plan could be implemented within the structure of Radcliffe. He also expressed concern that Harvard University President A. Lawrence Lowell and Harvard Law School Dean Ezra Thayer would oppose plans to offer legal education to Radcliffe students.<sup>8</sup> In response,

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5. Reflecting the growing interest in the issue, the *Radcliffe News* urged attendance at the debate, stating that "[e]very girl in college should hear this timely debate." RADCLIFFE NEWS, Mar. 19, 1915 (on file with the RA).

6. Radcliffe Union, RADCLIFFE BULLETIN, No. 37, Feb. 1915, at 15 (on file with the RA). Ms. Fall subsequently became Assistant Attorney General for the state of Massachusetts, and then Judge for the First District Court of Eastern Massachusetts. See 16 WOMEN LAWYERS JOURNAL 3 (1928) and 27 WOMEN LAWYERS JOURNAL 5 (1940).

7. In a November letter, Radcliffe President LeBaron Russell Briggs noted that "two or three girls have been agitating on the subject" of studying law at Radcliffe. Letter from LeBaron Russell Briggs to Joseph Henry Beale (Nov. 24, 1914) (on file with the RA, Briggs Presidential Papers, outgoing correspondence). Although Briggs does not mention either Greta or Elizabeth by name, subsequent letters by Briggs indicate that he was referring to them.

8. *Id.*

Beale formulated a plan for offering legal education to women at Radcliffe that would have involved forming a non-degree granting law school at Radcliffe College.<sup>9</sup> Under the plan, Harvard Law School professors would have each taught one course a year to Radcliffe students.<sup>10</sup> The proposal was to try the program for a year and, if there were also interest in subsequent years, add additional instructors.<sup>11</sup>

Professor Beale's plan failed to garner adequate support in part because it did not interest many of its potential students. Writing to Thayer in December 1914, Briggs noted that "Beale's plan appears to be falling through of its own weight" because many of the women did not want to attend a school that did not confer a degree.<sup>12</sup> In addition, a number of the women apparently did not want to attend a law school in Cambridge unless it was Harvard Law School.<sup>13</sup> The plan was also opposed both by the Radcliffe Council and by Lowell. Lowell expressed concern that the plan would interfere with the regular work of Harvard Law School professors. In a letter to Thayer, he wrote that:

[I]t would impair the efficiency of a professor in the Law School to give a course elsewhere which he is not giving in the School. Also I cannot help thinking that for each of these men to give three courses would be more than is consistent with their work in the School, even if those courses are simply repetitions of those given in the Law School.<sup>14</sup>

It is unclear whether Lowell was actually concerned that the plan would tax professors' time. While the plan might have diverted professors' attention and time away from their other work, it was then common for Harvard University professors to offer Radcliffe students classes that were essentially identical to those that they offered Harvard students. Moreover, having Harvard Law School faculty members teach at another school was certainly not unprecedented. For example,

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9. Letter from LeBaron Russell Briggs to Ezra Thayer (Dec. 15, 1914) (on file with the RA, Briggs Presidential Papers, outgoing correspondence).

10. Letter from LeBaron Russell Briggs to A. Lawrence Lowell (Dec. 8, 1914) (on file with the Harvard University Archives, Harvard University, Cambridge, Massachusetts, Lowell Papers, correspondence 1914-17, folder 324). The Harvard University Archives will hereafter be referred to as the "HUA."

11. *Id.*

12. Letter from Briggs to Thayer, *supra* note 9.

13. *Id.*

14. Letter from A. Lawrence Lowell to Ezra Thayer (Dec. 7, 1914) (on file with the HUA, Lowell Papers, correspondence 1914-17, folder 324).

Harvard Law School Dean James Barr Ames, and “other distinguished faculty members” including Louis Brandeis, taught at the Boston YMCA Law School.<sup>15</sup>

Perhaps a more accurate understanding is that Lowell’s stated reasons were largely pretextual. It appears that his reaction was colored at least in part by his distrust of Beale’s motives for starting the program. Again writing to Thayer, Lowell noted that:

Dean Briggs thinks that one of Beale’s propositions . . . is merely to take this one class of girls through the three years, so that each of the professors would give only one course at a time; but if so, the proposal is merely to educate Beale’s daughter and a few of her friends, and cannot be said to have a general educational or philanthropic motive.<sup>16</sup>

As is discussed in more depth later, this suspicion of motives plagued CLSW throughout its tenure and even long after it closed.

Whatever the actual reasons, the effect of the opposition by the Radcliffe Council and by Lowell was clear. Professor Beale’s proposition to teach law as part of a Radcliffe-sanctioned program had failed. In a letter to Thayer, Briggs correctly concluded that “the Law School-Radcliffe episode is over.”<sup>17</sup> The story, however, was merely beginning. As Briggs noted in December 1914,<sup>18</sup> the Radcliffe women were preparing for the next stage in their campaign for legal education: petitioning for admission to Harvard Law School.

### *B. The Petition*

In February 1915, Greta Coleman and Elizabeth Beale along with thirteen other socially elite women from the nation’s foremost women’s colleges petitioned the Harvard Law School Faculty and the Harvard Corporation for admittance to Harvard Law School.<sup>19</sup> The petitioners

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15. ROBERT GRANFIELD, *MAKING ELITE LAWYERS: VISIONS OF LAW AT HARVARD AND BEYOND 170–71* (1992). The Boston YMCA Law School is today known as the Northeastern University School of Law.

16. Letter from A. Lawrence Lowell to Ezra Thayer (Dec. 11, 1914) (on file with the HUA, Lowell Papers, correspondence 1914–17, folder 324).

17. Letter from Briggs to Thayer, *supra* note 9.

18. *Id.*

19. The petitioners represented five of the prestigious “seven sister” schools. Two were from Radcliffe (Greta Coleman and Elizabeth Beale), two from Bryn Mawr (Isabelle Bridge and Susan Brandeis), two from Barnard (Beulah Amidon and Alice Jones),

declared themselves “earnestly desirous of entering the Harvard Law School with the object of preparing ourselves for the practice of law” and asked that they be admitted on the same terms as men.<sup>20</sup> Consistent with Briggs’ comments of the previous December, the petition appears to have been started at Radcliffe by Greta Coleman and Elizabeth Beale, with copies circulated to contacts at other women’s colleges.<sup>21</sup> The petition was not merely a request for admittance, but also a forceful declaration of the petitioners’ views on the role of women in society, as well as a reflection of the significant value they placed on attaining a Harvard Law School education as opposed to a legal education in general.

The petition’s lengthy argument in favor of admittance embodied the dominant perspective on women’s rights of the era’s women’s suffrage movement. The petitioners presented law as a tool to promote social causes and to protect the interests of women, arguing that allowing women to pursue law as a career would promote the public good and improve legal representation for women. Specifically, the women stated that it was “highly desirable” that “properly qualified women” enter the legal profession because:

- (a) Many women are better fitted to contribute to the social good through that activity than through any other.
- (b) The service of women lawyers is especially valuable in connection with charity organizations, settlements, bureaus of municipal research, and other forms of social work.

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seven from Vassar (Ruth Nash, Lolitta Folks, Francis Marburg, Mona Cowell, Dorothy Holt, Madeline Hoff, and Nettie Carll), and one each from Smith and Wellesley (Dorothy McCormick and Anne Taylor, respectively). See *Petitions to the Corporation of Harvard University and the Faculty of Harvard Law School* (February 1915) (on file with the HUA, Lowell Papers, correspondence 1914–17, folder 324).

20. *Id.*

21. While there is no direct evidence that the petition started at Radcliffe, the circumstantial evidence is strong. First, Radcliffe women had been agitating for legal education taught by Harvard professors prior to the petition’s existence. Second, there is reason to believe that Professor Beale was involved in the petition. Third, Greta Coleman had experience with petitioning from her work in Ohio. Fourth, Greta and Elizabeth’s signatures were the first two of the six signatures on the copy of the petition that included signatures from multiple schools. Finally, newspaper coverage of the opening of CLSW spoke of the petition as originating with Elizabeth Beale and other Radcliffe students.

- (c) The services of women lawyers are especially valuable to women who would prefer to consult a woman in certain trying or delicate circumstances.<sup>22</sup>

Rather than viewing law as primarily a tool to promote the interests of individuals through professional interactions, the women portrayed law as a tool for promoting social good and civic objectives in many spheres of life. Indeed, they concluded the petition by stating that if Harvard Law School admitted women it would be “giving them opportunity to increase their social usefulness through both professional and non-professional channels.”<sup>23</sup> The women noted that legal education would not be wasted if female students later decided to marry because a woman’s legal training would nevertheless “be a great liberalizing influence; and her gain in breadth and enlightenment should react favorably upon the standards of home and community life.”<sup>24</sup> In this regard, the petitioner’s rhetoric echoed the ideology of Republican Motherhood, which Linda Kerber has described taking root over a century earlier in Revolutionary America. The ideology of Republic Motherhood reflected an acceptance of the notion that a woman’s domestic role could serve a political purpose. Specifically, by raising children with the values and attributes needed to successfully participate in the new republic, a woman assumed a political role.<sup>25</sup>

These twin arguments—that legal education would help women use their natural strengths to benefit society and that the benefit would extend into the home and civic activities—were consistent with the arguments made by the women’s suffrage movement in favor of enhanced rights for women. As Paula Baker has explained, the second generation of women suffragists “attempted to combine women’s sphere with women’s rights.” Rather than arguing for women’s rights on the basis that men and women are fundamentally the same and thus are entitled to equal rights and responsibilities, the second generation of women suffragists argued that women had unique virtues; by empowering women, the nation and, in particular, those sectors of society that were traditionally considered the domain of women, could benefit from those virtues.<sup>26</sup> For example, a chief argument in favor of women’s suffrage

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22. Petitions to the Corporation, *supra* note 19.

23. *Id.*

24. *Id.*

25. See LINDA K. KERBER, *WOMEN OF THE REPUBLIC: INTELLECT AND IDEOLOGY IN REVOLUTIONARY AMERICA* 283–84 (1980).

26. Paula Baker, *The Domestication of Politics: Women and American Political Society, 1780–1920*, 89 *AM. HISTORICAL REV.* 620, 638 (June 1984).

circulating at the time of the petition was that women could use the vote to protect themselves more effectively than men were protecting them.<sup>27</sup> A variation of this argument was that the enfranchisement of women would help pass better laws.<sup>28</sup> That is, it was argued that the enfranchisement of women would promote “legal reform,” the very subject Greta described as sparking her interest in legal study.

In addition to reflecting dominant themes of the women’s suffrage movement, the petition reflected the intense appeal of Harvard Law School. The petition argued that women would be most effective in the legal field if they received high quality legal training and that, therefore, a Harvard Law School education was of particular value to them. The petitioners referred to Harvard Law School as the institution “offering the finest training” for law in the United States. They argued that “[a] degree from this institution representing a high standard of preparation, would be of the greatest practical value” to capable women interested in pursuing law.<sup>29</sup>

While such language may have been an ingratiating attempt to appeal to their readers’ pride, the women clearly felt that Harvard Law School offered something special. The women were aware that many other law schools would have accepted them. At least one copy of the petition attached data about women’s admissions to law schools in the form of two lists. The first list, taken from a then unpublished Report of the United States Department of the Interior, indicated all American law schools that then admitted women. The second list indicated foreign universities in which women were permitted to study law.<sup>30</sup> At the bottom, the petitioners helpfully calculated the percentage that admitted women (55%) and the percentage of those that belonged to the Association of American Law Schools that admitted women (76%). These schools included two in the Boston area—Boston University Law School and Portia Law School—as well as such institutions as the University of Pennsylvania School of Law, University of Chicago Law School, University of Michigan Department of Law, New York University Law School, and Cornell College of Law.

Anticipating the likely response of Harvard Law School faculty and the Harvard Corporation, the women presented a strong case as to why

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27. AILEEN S. KRADITOR, *THE IDEAS OF THE WOMAN SUFFRAGE MOVEMENT, 1890–1920*, 54–55 (1965).

28. *Id.* at 73–74.

29. Petitions to the Corporation, *supra* note 19.

30. *Id.* Notably, from 1902 to 1905, Beale served on the executive committee of the Association of American Law Schools. Obituary from unidentified newspaper, *Prof. Beale, Harvard, Dies* (on file with the HUA, Joseph Henry Beale faculty file).

their admission would not harm Harvard Law School. They explained that their work would be tested by the same standards used for men. They also argued that past experiences at other graduate institutions, including the Harvard Graduate School of Arts and Sciences, indicated that no harm would occur from admitting women to Harvard Law School.<sup>31</sup>

That the petitioners saw admittance to Harvard Law School—as opposed to a more willing law school—as so critical to their aims is of little surprise. By 1915, Harvard Law School had come to be regarded as the “citadel” of legal academia, and a Harvard Law School education was a powerful symbol of prestige.<sup>32</sup>

Harvard Law School’s “citadel” status was largely the result of several key innovations that together made the school more unattainable for the average man, less immediately relevant to the business of law, and more prestigious. Starting in the 1870’s, under the guidance of Christopher Columbus Langdell, the School pioneered the case method of teaching law which came to be recognized as the preferred method for teaching law.<sup>33</sup> The use of the case method, through which students were taught to distill principles from cases, focused students’ attentions on the theoretical aims of law and away from seeing law as a business. As one critic complained, the result was the “emphasis of principle and noble disregard for the lawyer’s work-a-day world.”<sup>34</sup> Later, in 1875, Harvard Law School pioneered new standards for admission to law school including a requirement that students be college graduates or pass an entrance exam, and also lengthened the course of study to three years.<sup>35</sup> This second set of innovations helped increase both the immediate cost and opportunity cost of attending law school. For example, the insistence on an undergraduate degree, which by 1915 was virtually a requirement at Harvard Law School, created a potentially insurmountable barrier for the socio-economically disadvantaged.

Together, these key innovations formed the backbone of a new model of legal education, hereafter referred to as the “elite model” of

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31. *Id.*

32. See generally JOEL SELIGMAN, *THE HIGH CITADEL: THE INFLUENCE OF HARVARD LAW SCHOOL* 20–46 (1978). See also Michael Ariens, *Law School Branding and the Future of Legal Education*, 34 ST. MARY’S L. J. 301, 307–308 (2000).

33. See ARTHUR E. SUTHERLAND, *THE LAW AT HARVARD* 175–179 (1967). For a heated historical criticism of this approach see Jerome Frank, *A Plea for Lawyer-Schools*, 56 YALE L.J. 1303 (1947).

34. Henry Jackson Darby, *A Criticism of Our Law Schools*, 12 ILL. L. REV. 342, 344 (1917–18).

35. SELIGMAN, *supra* note 32, at 39.

legal education. By 1915, this decidedly exclusive model was increasingly becoming entrenched as the dominant model for legal education. Innovations adopted by Harvard Law School rapidly spread to other schools, and, by 1920, nearly every law school in the nation had adopted Harvard Law School's core curriculum.<sup>36</sup>

To this point, the petition could be seen as advancing a relatively conservative argument: allowing women to attend Harvard Law School would help them better society through the use of their womanly virtues and would do no harm to that "finest" of institutions, Harvard Law School. However, the petitioners made one more point: they argued that women had proven their ability to excel in law, citing two "eminent women lawyers": Jessie Ashley and Frances Kellor.<sup>37</sup> In this final argument, the petitioners presented a truly progressive, arguably even radical, view of the legal profession.

The first woman cited, Frances Kellor, was known not as a great attorney, but rather as a fierce social reformer. While Kellor had earned a law degree from Cornell Law School, she was "more interested in the new field of experimental sociology than in the dry applications of the law,"<sup>38</sup> and it was her social science research skills that she primarily relied on in promoting her legal reform goals.<sup>39</sup> The first woman to head a New York State executive department, Kellor was best known for her work promoting the "Americanization" of immigrant groups, although she was also active in a variety of other causes including the women's suffrage movement.<sup>40</sup>

The work of the second woman, Jessie Ashley, also focused on social transformation. A graduate of the New York University School of Law, Ashley was at the forefront of many of the most controversial left-wing causes of her day. Using both her skills and her wealth, she helped organize the first women's suffrage march, served as treasurer of the National American Woman Suffrage Association, and was actively involved in the Industrial Workers of the World union. After Ashley's death, anarchist Emma Goldman honored Ashley by stating that, "[n]o other

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36. *Id.* at 42.

37. Petitions to the Corporation, *supra* note 19.

38. LILLIAN FADERMAN, *TO BELIEVE IN WOMEN: WHAT LESBIANS HAVE DONE FOR AMERICA—A HISTORY* 140 (1999).

39. See ELLEN FITZPATRICK, *ENDLESS CRUSADE: WOMEN SOCIAL SCIENTISTS AND PROGRESSIVE REFORM* 130–165 (1990).

40. *Id.* After World War I, Kellor also achieved prominence in the field of arbitration. See Anne Ruggles Gere and Lindsay Ellis, *Composition, Law, and ADR*, 101 *LEGAL WRITING: J. LEGAL WRITING INST.* 91, 100 (2004). *Cf.*, FRANCES KELLOR, *AMERICAN ARBITRATION, ITS HISTORY, FUNCTIONS, AND ACHIEVEMENTS* (1948).

American woman of her position had allied herself so completely with the revolutionary movement.”<sup>41</sup>

In short, the women the petitioners presented as role models were not then known as great legal thinkers, or as pioneers in the field of law, but rather as successful and courageous social reformers who used law merely as one of their weapons in their fight against social injustice.

Perhaps just as interesting as the rationales the petitioners provided to support their proposed admission to Harvard Law School are the possible rationales that they chose not to provide. Advertisements from roughly the same period for Portia Law School, the nation's first established law school exclusively for women, and for the Washington College of Law, the nation's first co-educational law school that was established by women with the primary aim of educating other women, provided a very different set of rationales for women studying law.<sup>42</sup> Portia's advertisement, entitled “Why should women study law,” listed six reasons, the first being “for social advancement.” Washington College of Law used a parallel advertisement, entitled “Why Women Should Study Law,” which also listed specific reasons why women should study law. Like Portia's list, its first reason reflected a desire for social advancement. It stated that women should study law “To Fit Them to Become Active Members of a Learned and Honorable Profession.—The law leads to political and judicial honors.”<sup>43</sup> Similarly, both advertisements indicated that better employment opportunities were a primary reason for women to study law. The Washington College of Law advertisement stated that legal study would “Fit Them for Better Positions and Better Pay,”<sup>44</sup> while the Portia Law School advertisement stated that legal study would allow for “promotion in employment.”<sup>45</sup> Both advertisements also stated that an important reason was that “Ignorance of the Law Excuses No One” and indicated that the study of law would help women protect their individual interests.<sup>46</sup>

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41. Eckhaus, *supra* note 1, at 199.

42. Unlike CLSW, Portia did not require a college education or equivalent experience in order to matriculate. Similarly, unlike CLSW, Washington College of Law did not require a college degree or equivalent experience to matriculate, and also allowed men to matriculate.

43. Mary L. Clark, *The Founding of the Washington College of Law: The First Law School Established by Women for Women*, 47 AMER. U. L. REV. 613, 643 (1998).

44. *Id.* at 613, 643.

45. “Portia Pointers” (an advertisement), 1 Portia Law School Scrapbook 32 (c. 1921) (on file with the Portia Law School Archives, New England Law School, Boston, Massachusetts). The Portia Law School Archives will hereafter be referred to as the “Portia Archives.”

46. Clark, *supra* note 43, at 643; “Portia Pointers,” *supra* note 45.

Compared to Portia Law School and Washington College of Law, the petitioners to Harvard Law School presented a more political and altruistic set of reasons for their study of law. The petitioners did not cite an interest in personal advancement (be it in terms of obtaining personal honor, enhancing social standing, protecting personal interests, or improving their earning potential), but rather they presented their legal study as being of potential benefit to other women and to society in general. This difference probably reflected the status of the petitioners: these women were already members of a social elite. They came primarily from prominent families, and had already had the benefit of an elite undergraduate education. They were women who likely could expect to have no pressing need for additional or self-generated social advancement, protection, or income. Similarly, they did not portray themselves as ignorant individuals in need of knowledge to protect their own interests, but rather as learned individuals seeking knowledge to protect the interests of other women.

While the petitioners' desire for a more elite form of education might appear to be in conflict with the notions of equality that one might suppose were at the core of the women's suffrage movement, their approach was in fact consistent with the rhetoric of that movement. By the time of the petition, egalitarianism was no longer a primary argument for women's suffrage. To the contrary, although suffragists in the twentieth century expressed increasing sympathy for working women and immigrants, most were white, native-born women of the middle and upper classes, and "most suffragists were willing to claim the vote because all human beings, native and foreign born, were *not* equal, and the inferior ought not to rule the superior."<sup>47</sup> Suffragists frequently argued that if Blacks, immigrants, drunkards, and other socially and morally suspect male individuals were allowed to vote, so too should cultivated, educated Caucasian women.<sup>48</sup> Indeed, Florence Kelley, a prominent suffragist, argued in favor of a federal constitutional amendment granting women the right to vote on the grounds that otherwise they would have to campaign among the voters of each of the states for separate state amendments. This was unacceptable because, in her words, it was "an ignominious way to treat us [women], to send us to the Chinamen in San Francisco, to the enfranchised Indians of other Western States, to the negroes, Italians, Hungarians, Poles, Bohemians and innumerable Slavic immigrants in Pennsylvania and other mining

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47. KRADITOR, *supra* note 27, at 127, 147.

48. *Id.* at 123–38, 164, 200, 212, 254.

States to obtain our right of suffrage.”<sup>49</sup> Thus, the petitioners portrayed themselves as members of an intellectual elite, much as certain leaders of the women’s suffrage movement portrayed themselves as members of a racial and cultural elite.

Despite the strong efforts of the petitioners, and probably of Professor Beale, who likely assisted in the petition’s preparation,<sup>50</sup> the petition was soundly rejected. The Harvard Law School faculty, meeting on February 22, 1915, voted to effectively delegate judgment on the petition to the Harvard Corporation. Specifically the faculty voted that the petition be given to the Corporation with a statement that “in view of the previous action of the Corporation on similar petitions the Faculty would be glad to know whether the Corporation desires an opinion on the merits of the petition.”<sup>51</sup> The faculty was likely referring, at least in part, to an event just six years prior when, after significant debate on the subject of co-education, Harvard Law School rejected an impassioned application for admittance by Vassar graduate Inez Milholland.<sup>52</sup>

Even aside from the Milholland incident, the Harvard Law School Faculty would have known that the Corporation would not be a particularly sympathetic audience for the petition. As *The New Republic* reported that spring, “[a] majority of these gentlemen [who vote on behalf of the Corporation] are opposed to woman suffrage; one of them, it is said, disapproves of the higher education of women.”<sup>53</sup> Consistent with such views, only three years earlier, the President and Fellows of Harvard University had closed the college’s lecture halls to pro-suffrage speakers invited by the students.<sup>54</sup> It could not have been surprising then that the Corporation responded to the Harvard Law School Faculty by voting to reject the petitioners’ request. The Corporation provided the Faculty with three reasons for its decision to reject the request: (1) the

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49. *Id.* at 139.

50. Professor’s Beale’s participation is suggested by his extensive prior involvement in the issue, the fact that his daughter Elizabeth was heavily involved, the fact that the petition reflected a clear understanding of the political structures at Harvard University (it was addressed to the Harvard Corporation, not merely to Harvard Law School), and the use of statistics referring to the Association of American Law Schools, an organization in which he was an active member.

51. Harvard Law School Faculty Meeting Minutes (Feb. 22, 1915) (on file with the Harvard Law School Archives, Harvard University, Cambridge, Massachusetts). The Harvard Law School Archives will hereafter be referred to as the “HLA.”

52. See VIRGINIA G. DRACHMAN, *SISTERS IN LAW: WOMEN LAWYERS IN MODERN AMERICAN HISTORY* 142 (1998); Henry Lee Higginson, Letter to A. Lawrence Lowell (on file with the HUA, Lowell Papers, correspondence 1914–17, folder 324).

53. Editorial, *NEW REPUBLIC*, May 8, 1915, at 4.

54. *Id.*

law school already had sufficient students, (2) co-education would not help the school and might harm it, and (3) if anything should be done to educate women in the law, Radcliffe, not Harvard Law School, should do it.<sup>55</sup> In response to a subsequent inquiry made by Walter Lippman of *The New Republic*, President Lowell elaborated on the Corporation's reasons for refusing the petition. Lowell's reasons varied slightly from the reasons provided to the Harvard Law School Faculty. He did not mention any concern about the number of students or Radcliffe's role. Rather, he focused on the potential pitfalls of co-education. Lowell explained that the value of co-education in higher learning was still "unsettled," and, while it might be desirable for some institutions to be co-educational, single-sex education should not be eliminated.<sup>56</sup>

Given the relatively well-established attitude of the Harvard Corporation and the highly political nature of the petition, the petition might be mistaken for a gesture of protest. To the contrary, although the petition may have been politically appealing to the petitioners, it also appears to have reflected a genuine desire to attend Harvard Law School. While only three of the signers (Greta Coleman, Elizabeth Beale, and Anne Taylor) eventually matriculated at CLSW, a number of the remaining fifteen pursued legal study elsewhere. For example, Mona Helen Cowell, then a student at Vassar College, entered Creighton University in her home state of Nebraska in 1916, and graduated with a L.L.B. in 1918.<sup>57</sup> Byrn Mawr classmates Isabelle Bridge and Susan Brandeis enrolled in the University of Chicago Law School as members of the class of 1919. Susan Brandeis, daughter of Harvard Law School professor—and later United States Supreme Court justice—Louis D. Brandeis, went on to become a famous lawyer in her own right, and was among the first women to argue a case in front of the United States Supreme Court. In 1925 she made history when she argued a case involving the War Insurance Act in front of the Court, thus becoming the first daughter of a Supreme Court Justice to appear before that

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55. Letter from F.W. Hunnewell 2d to Richard Ames (Mar. 11, 1915) (on file with the HUA, Lowell Papers, correspondence 1914–17, folder 324).

56. Letter from A. Lawrence Lowell to Walter Lippman (April 20, 1915) (on file with the HUA, Lowell Papers, correspondence 1914–17, folder 324).

57. See Board of Vocational Information, Questionnaire completed by Mona Helen Cowell, Study of the Vocational Application of Legal Training for Women (April 15, c. 1920) (on file with the Schleisinger Library, Harvard University, Cambridge, Massachusetts, Board of Vocational Information Archives, folder 152).

Court.<sup>58</sup> Isabelle Bridge, in turn, became the first woman to attend Yale Law School. Indeed, Yale Law School became co-educational in 1918 when Bridge, who had been instructed by a Yale law professor in her earlier studies, applied to Yale with his support and was admitted.<sup>59</sup> Similarly, Smith graduate Dorothy McCormick (later Dorothy McCormick Powell) went on to receive an L.L.B. from the University of Michigan and practiced as a lawyer for a number of years, describing herself at one point as a “lawyer and housewife.”<sup>60</sup>

### C. *The Compromise*

The failure of the petition did not end the women’s fight to receive a Harvard Law School education. Their first response appears to have been to ask to be allowed to take classes at Harvard Law School through an affiliation with Radcliffe. In return, they would receive a certification of their work rather than a Harvard Law School degree.<sup>61</sup> Apparently at the request of Elizabeth Beale and Greta Coleman, LeBaron Russell Briggs discussed this possibility with Ezra Thayer, who rejected the idea.<sup>62</sup> Briggs agreed with Thayer and wrote to Professor Beale explaining that such a plan would tax Radcliffe’s financial resources, that Radcliffe was not prepared to undertake professional education not leading to a degree, and that Radcliffe’s involvement would not be necessary to meet the women’s goals.<sup>63</sup>

Briggs, with the blessing of Thayer, instead suggested that the women seek private instruction, explaining this suggestion to Professor Beale as follows:

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58. Obituary, *Susan Brandeis Gilbert is Dead: Lawyer Was Daughter of Jurist*, N.Y. TIMES, Oct. 9, 1975, at 44; Mary L. Clark, *Women as Supreme Court Advocates, 1879–1979*, 30 J. OF SUP. CT. HIST. 47, 53–54 (Mar. 2005).

59. DRACHMAN, *supra* note 52, at 142.

60. Questionnaire completed by Dorothy McCormick for the Smith College Class of 1915’s Fifteenth Reunion Class Book (Jan. 10, 1930) (on file with the Smith College Archives, Smith College, Northhampton, Massachusetts).

61. Letter from LeBaron Russell Briggs to Joseph Henry Beale (Mar. 18, 1915) (on file with the RA, Briggs Presidential Papers, outgoing correspondence).

62. *Id.*

63. *Id.*

It is, of course, quite conceivable that the girls should get certificates from individual instructors. That is, neither Ezra nor I can see why the scheme does not resolve itself into a scheme for private instruction in the law by such instructors of the Harvard Law School as are willing to give it to the girls, with such testimony as those instructors are willing to give at the end of the year.<sup>64</sup>

Ironically, Briggs' solution would have had precisely the effect that Lowell had cited earlier that month as a primary reason to refuse to provide legal education at Radcliffe: that doing so would distract Harvard Law School professors from their regular students and overburden their time.

At this point, there were two primary options available to Professor Beale and the young women: to admit defeat and accept that the women would not receive a Harvard Law School education, or to enter into a scheme for private instruction such as Briggs proposed. Professor Beale, presumably after discussion with his daughter, decided to pursue the second possibility—but on a scale far grander and in a manner far more formal than Briggs had probably envisioned. In June of 1915, Professor Beale wrote to Briggs to explain his latest scheme. He planned to establish a private law school to provide education in “the science of law.” He would personally teach at the school, alongside some of the “younger men” of Harvard Law School. Although a significant endeavor, the goals he set forth for the school were cautious: he would only commit to one year's worth of classes.<sup>65</sup>

Within several months, however, the school had come to be known as Cambridge Law School for Women and the goals of the school (or at least the public perception of those goals) had expanded greatly. Rather than being depicted as a small, experimental project undertaken after months of battling with the multiple University administrations, the scheme was portrayed in the media as a ground-breaking endeavor enjoying the support of Harvard Law School faculty. In announcing the formation of the school that August, one Boston newspaper emphasized its permanence as follows:

The new school is to be not merely a temporary institution of protest, but, its sponsors believe, a permanent and growing

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64. *Id.*

65. Letter from Joseph Henry Beale to LeBaron Russell Briggs (June 3, 1915) (on file with the RA, Briggs Presidential Papers, Box 9, folder 83).

addition to the educational life of Cambridge. They propose to give that seat of learning an important place in the liberalization of the education and activity of women.<sup>66</sup>

Similarly, *The New York Times Magazine* spoke with glowing enthusiasm about the prospect of women being educated by Harvard Law School graduates, and hailed the school as the “first graduate law school in America designed exclusively for the instruction of women.”<sup>67</sup> Although the magazine noted that Beale cautioned that the school was “only an experiment” and that “only time could tell” whether it would succeed, *The New York Times Magazine* spoke of long-term plans for the school:

Next year and the year after the Faculty will have to be increased to take care of the second and third year courses. Until the new school is liberally endowed, the teaching staff will consist largely of graduate students of Harvard law school.<sup>68</sup>

In short, in the span of only a few months, talk of an “experiment” had turned to talk of an “endowment.”<sup>69</sup>

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66. See *Cambridge to Have New Law School for Women*, unidentified newspaper, Aug. 19, 1915 (on file with the HUA, Joseph Henry Beale faculty file). In addition, the papers emphasized that Professor Beale was in full agreement with the decision not to admit women to Harvard Law School. Although Professor Beale may not have been a strong supporter of co-education, his earlier interactions with Briggs suggest that he had at least tacitly approved of women receiving instruction at Harvard Law School.

67. *First Women's Law School Opens This Fall*, N.Y. TIMES MAGAZINE, Oct. 3, 1915, at 14.

68. *Id.*

69. In this hype, many key facts were ignored or glossed over, resulting in a portrait of CLSW which exaggerated the role of Elizabeth Beale and her fellow women and minimized that of Professor Beale. In none of the seven newspaper articles that the author has located announcing the school was Professor Beale's involvement with the project prior to the petition mentioned. Rather, the papers reported Professor Beale's role as if it had been entirely reactive. *The New York Times Magazine*, for example, reported that “the young women learned from one of their number that Professor Beale believed the legal profession should be open to women and they appealed to him.” *Id.* Consistent with this report, there is no indication that Professor Beale opposed the admission of women to the University of Chicago Law School when he served as its first dean. Cf. Bernard D. Meltzer, *The University of Chicago Law School: Ruminations and Reminiscences*, 70 U. CHI. L. REV. 233, 236 (2003) (noting that two women and seventy-six men were enrolled as regular students in Chicago Law School's first class).

### III. CAMBRIDGE LAW SCHOOL FOR WOMEN 1915–1916: CREATION OF A REPLICA

The Cambridge Law School for Women (CLSW) that opened in the fall of 1915 was a mirror image of Harvard Law School. In its choice of students, course offerings, and professors, CLSW carefully attempted to recreate Harvard Law School. As one newspaper explained:

The Cambridge Law School for Women will be as nearly a replica of the Harvard Law School as it is possible to make it. It will duplicate the curriculum of the men's institution, will use the same school case books and the same methods of instruction. All of the lecturers will be Harvard Law graduates . . . .<sup>70</sup>

Another paper announced the school with the sub-heading of “Beale Head of Institution That is Almost Harvard But Not Quite,” and explained that the school would be “conducted as nearly along the lines of Harvard Law School as circumstances will permit.”<sup>71</sup> Yet another newspaper promised that the courses at CLSW would be “identical” to those at Harvard Law School.<sup>72</sup>

While CLSW went to great lengths to copy Harvard Law School, its desire to replicate Harvard was not unique. By 1915, Harvard Law School was well-established as the “market leader” among law schools,<sup>73</sup> and Harvard's elite model of legal education was increasingly becoming accepted as the ideal model by other institutions. As historian Robert Stevens has explained: “[i]n the fifty years from 1870 to 1920, one school [Harvard Law] was intellectually, structurally, professionally, financially, socially, and numerically to overwhelm all the others.”<sup>74</sup> Materials, teaching techniques, and even extra-curricular activities adopted by Harvard Law School were appropriated by the nation's other law schools. Most notably, the case method for legal study, first developed by Langdell at Harvard Law School in the 1870's, went from being

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70. See *Cambridge to Have Law School Exclusively for College Women*, unidentified newspaper (on file with the RA, Cambridge Law School for Women folder).

71. *Women to Have Law School at Cambridge*, unidentified newspaper, Aug. 19, 1915, (on file with the HUA, Joseph Henry Beale faculty file).

72. *Cambridge to Have New Law School for Women*, *supra* note 66.

73. See generally ROBERT STEVENS, *LAW SCHOOL: LEGAL EDUCATION IN AMERICA FROM THE 1850S TO THE 1980S* 35–50 (1983).

74. *Id.* at 41.

an unpopular and novel method unique to Harvard Law School to being accepted as the standard method for training lawyers.<sup>75</sup>

Even prior to founding CLSW, Professor Beale had embraced the notion that Harvard Law School was the exemplar upon which other “high grade” schools were to be modeled. In the 1902–03 and 1903–04 academic years, Harvard Law School granted Professor Beale a leave of absence so that he might “organize and develop . . . a law school in the University of Chicago similar to the Harvard Law School in its methods and aims.”<sup>76</sup> With this grant, he had spent two years in Chicago helping to create the University of Chicago Law School, not because Chicago did not have its own legal scholars, but rather because it was seen as necessary to have a leader who could ensure that the new school mirrored the Harvard model. Professor Beale was faithful to this mission and appears to have quickly rejected the possibility of offering any class at the new Chicago law school that was not already offered at Harvard Law School.<sup>77</sup>

While, as explored in the next several subsections, CLSW earnestly attempted to mimic the Harvard Law School experience, it was by no means an exact replica of Harvard Law School. In addition to not having its own facility or a permanent teaching staff, it appears that CLSW never promised to provide a degree to students who completed its coursework. Rather, CLSW’s 1916–17 announcement explained: “[n]o degree can at present be offered to graduates of the school; the diploma of the school will, however, it is believed, answer all purposes of a degree.”<sup>78</sup>

### *A. The Students*

Like Harvard Law School, CLSW required all of its students to be college graduates or to have equivalent experience. Professor Beale explained that:

The experience of Harvard Law School has shown that college graduates desire to study law with their fellow graduates, rather than with men of less education, and instruction can be

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75. SUTHERLAND, *supra* note 33, at 174–180 (discussing the early years of the case method).

76. *Id.* at 215.

77. See STEVENS, *supra* note 73, at 40.

78. Announcement and course catalog, “Cambridge Law School for Women, 1916–17,” 6 (on file with the HLA).

given better to a body of students of substantially equal preliminary training. There is every reason to believe that the same is true for women; and no school which can in any sense be called a graduate school is open to them east of Chicago.<sup>79</sup>

As Professor Beale intimated, the concept that legal education was a subject best studied among fellow college graduates had been pioneered at Harvard. In 1915, the notion of a law school exclusively for college graduates—as opposed to the study of law being the subject of an undergraduate education or the focus of an apprenticeship—was still something quite new. Until 1916, Harvard Law School was the nation's only law school to enforce a requirement (with only extremely limited exceptions) that its law students be college graduates.<sup>80</sup> Indeed, as late as 1921, only five of the approximately 150 law schools then existing enforced such a requirement.<sup>81</sup>

Consistent with the Harvard Law School model, CLSW opened in the fall of 1915 with an elite group of first year students. The students had been educated at the nation's most desirable women's colleges.<sup>82</sup> Of the eight regular students in the 1915–16 school year, two had bachelor degrees from Radcliffe; two had bachelor degrees from Wellesley; one had both bachelor and masters degrees from Radcliffe and had also graduated from Portia Law School; one had both bachelor and masters degrees from Mount Holyoke and was also a fellow at Radcliffe; one had studied for three years at Boston University and for two years at the School for Social Workers; and one had an undergraduate degree from

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79. *First Women's Law School Opens This Fall*, *supra* note 68, at 14.

80. SELIGMAN, *supra* note 32, at 44.

81. *Id.*

82. According to CLSW's announcement and course catalog, the regular students for the 1915–16 school year were: Elizabeth Chadwicke Beale (A.B., Radcliffe), Grace Ives Calhoun (A.B. and A.M., Mt. Holyoke), Greta Clare Coleman (A.B., Radcliffe), Elizabeth Harrison Hartshorne (A.B., Wellesley), Marjorie Hurd (A.B. and A.M., Radcliffe), Shirley Moore (Ph.B, Wisconsin), Anne Taylor (A.B., Wellesley), Amy Woods (three years, Boston University, and two years, School for Social Workers). The special students were: Eleanor Clarke (three years, Radcliffe), Elspeth Verity MacLeod, and Lilian D. Powers. See Announcement and course catalog, *supra* note 78, at 8. It is possible, however, that Amy Woods never in fact studied at the school. In October of 1915, the *Radcliffe News* reported that nine students were studying at CLSW, and listed them by school affiliation. Neither Boston University nor the School for Social Workers were listed. See *The New Law School*, THE RADCLIFFE NEWS, October 15, 1915, at 1 (on file with the RA). On the other hand, the paper only listed one Wellesley graduate, although records maintained by Wellesley college clearly indicate that both of the above-listed Wellesley graduates matriculated at CLSW.

Wisconsin. Of the three special students (*i.e.*, students deemed to have had the equivalent of a college degree), one had studied at Radcliffe for three years.<sup>83</sup>

By virtue of their social class and educational backgrounds, the women were already part of a socially elite network and many had personal connections to one another. Three of the students (Elizabeth Beale, Greta Coleman, and Anne Taylor) had been among the original petitioners. At least two of the other women had personal ties to these original three. CLSW student Eleanor Clarke had been in Radcliffe's Civics Club with Greta and Elizabeth and had debated in the "Big Debate" with them; in addition, her father was a "schoolmate" of Professor Beale.<sup>84</sup> Similarly, CLSW student Elizabeth "Betty" Hartshorne had been friends with Anne Taylor since their freshman year of college, and had greatly admired her.<sup>85</sup>

The precise reasons why each woman chose to study law are unknown, but there are a number of clues. For at least one woman, the interest appears to have been primarily academic. Having already received her masters degree, Grace Calhoun was at Radcliffe on a scholarship pursuing a history fellowship,<sup>86</sup> with the apparent career goal of teaching history.<sup>87</sup> Others appear to have been motivated by a desire to promote social progress. Greta Coleman, as her leadership with the petition and interest in "legal reform" indicates, was one such student. Amy Woods also was apparently interested in social work, having completed two years of study at the School for Social Workers.<sup>88</sup> Marjorie Hurd's background suggests that she too might have been motivated by progressive social concerns. After graduating from Radcliffe in 1908, she

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83. See Announcement and course catalog, *supra* note 78, at 8. The educational backgrounds of the other two students are not known.

84. Paper labeled "Eleanor Clarke Bowser," (undated) (on file with the RA, Eleanor Clarke file).

85. Class Note (undated) (on file with the Wellesley College Archives, Wellesley College, Wellesley, Massachusetts, Anne Taylor folder). The Wellesley College Archives will hereafter be referred to as the "Wellesley Archives."

86. *Ottumwa Girl Dies in Texas*, unidentified newspaper, 1918 (on file with the Mount Holyoke College Archives, Mount Holyoke College, South Hadley, Massachusetts, Grace Calhoun folder); Questionnaire completed by Grace Calhoun Frere for the Appointment Committee of Mount Holyoke College (Mar. 25, 1916) (on file with the Mount Holyoke College Archives, Mount Holyoke College, South Hadley, Massachusetts, Grace Calhoun folder). The Mount Holyoke College Archives will hereafter be referred to as the "Mt. Holyoke Archives."

87. Questionnaire completed by Grace Calhoun Frere, *supra* note 86; Obituary, Second Class Letter of the Class of 1912 (April 1916) (on file with the Mt. Holyoke Archives, Grace Calhoun folder).

88. Announcement and course catalog, *supra* note 78, at 8.

received a masters degree from Radcliffe in 1911. Around the same time, she also graduated from Portia Law School.<sup>89</sup> Following graduation, Hurd worked as an investigator for the state of Massachusetts and then as a “children’s worker” at the Cambridge Social Union;<sup>90</sup> she was also involved in the W.E.I.U. throughout her life.<sup>91</sup> Elizabeth Beale, according to one of her children, also had an interest in social justice, as well as a general love of knowledge.<sup>92</sup> Others may simply have found the study of law intellectually satisfying. Eleanor Clark never practiced law, but later wrote that “Professor Beale and Professor Manley O. Hudson . . . were the two keenest minds I have ever met,”<sup>93</sup> and described the school as “the most interesting thing I ever did.”<sup>94</sup>

Law appeared to be a good match for many of the women’s personalities. Elizabeth Beale’s classmates apparently thought she had the qualities of a lawyer, selecting her as the “Class Lawyer” for the Radcliffe class of 1915.<sup>95</sup> Many of the women appear to have relished debate. Marjorie Hurd’s college classmates described her as bright and argumentative.<sup>96</sup> Similarly, as previously noted, Eleanor Clarke, Elizabeth Beale,

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89. Paper labeled “Some Sources and Information on Activities of Miss Marjorie Hurd” (c. 1977) (on file with the RA, Marjorie Hurd file). Hurd did not receive a degree from Portia, however, as the school did not begin granting official degrees until 1919. In the 1910–11 school year, Portia Law School was still quite small with only 24 students, although that number represented a nearly two and a half fold increase over the previous year. 2 Portia Law School Scrapbook 59 (on file with the Portia Archives).

90. See Paper labeled “Some Sources and Information on Activities of Miss Marjorie Hurd,” *supra* note 89.

91. Telephone Interview with Lydia Smith, niece of Marjorie Hurd (Mar. 14, 2002).

92. Interview with James Edwards, son of Elizabeth Beale, in Barnstable, Massachusetts (May 18, 2002).

93. Paper labeled “Eleanor Clarke Bowser,” *supra* note 84.

94. Paper entitled “Information for the 1961 Alumnae Directory” (c. 1961) (on file with the RA, Eleanor Clarke Bowser file).

95. Radcliffe Class of 1915, Yearbook 114 (1915) (on file with the RA).

96. In the “Class Prophecy” section of the Radcliffe class of 1908 yearbook, the following vignette was offered:

(Sounds of strife are heard issuing from a neighboring thicket.)

*H.T.* Why, what’s the matter.

*Mrs. M.* Oh, Marjorie Hurd is trying to fight single-handed in a dispute . . . over some problem of economics or other . . .

*Mrs. G.* Well, why on earth is Marjorie trying to cope with such combatants?

*Mrs. M.* Just because she is fond of a dispute, I guess . . . She’s such a bright little thing. I shouldn’t be much surprised if she won out as it is.

Radcliffe Class of 1908, Yearbook 24 (1908) (on file with the RA).

and Greta Coleman all participated in the 1915 debate on suffrage at Radcliffe.

### *B. The Faculty*

In its first academic year, 1915–16, CLSW boasted an impressive group of professors. First, of course, there was Professor Joseph Henry Beale himself. One of the foremost legal scholars of his day, Professor Beale was recognized as a leading authority on conflict of laws, the field of legal study that examines methods of resolving differences among the laws of different jurisdictions or rule-making bodies.<sup>97</sup> Beale was a fierce proponent of the view that law was a science that could be reduced to simple principles that could then be applied to specific circumstances. As Laura Kalman has written, “[a]though Beale relied on the judge to apply proper law, he refused to acknowledge that the judge made law. . . . Beale believed that judges found law and applied it . . . .”<sup>98</sup> The result was an admittedly dogmatic approach to the law.<sup>99</sup> Beale brought his passion for law as science to his teaching. He was an active and enthusiastic teacher. His Harvard Law School students later described him as a dynamic, kindly, and humorous “dialectical swordsman” with a love for teaching law.<sup>100</sup> Consistent with his love of teaching, Professor Beale spent his entire career in academia.<sup>101</sup>

In addition to his academic pursuits, Professor Beale was actively involved in the community socially, politically, and professionally. Among other clubs, he was a member of the Harvard Clubs of Boston and New York, the Faculty Club of Cambridge, the Economy Club of

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97. See Cambridge Club, *In Memory of Joseph H. Beale, 1861–1943* (Apr. 1943) (on file with the Cambridge Historical Society, Cambridge, Massachusetts) (noting that by the time of his death, Professor Beale had received eight separate honorary degrees).

98. LAURA KALMAN, *LEGAL REALISM AT YALE 1927–60* 47 (1986).

99. *Id.* at 48 (explaining that Beale admitted that most of the statements in his treatise on conflicts of law were “dogmatic” and once responded “Does not the Bar desire dogmatic statements?”).

100. SUTHERLAND, *supra* note 33, at 216.

101. After graduating from Harvard College in 1882, Professor Beale served as master at Saint Paul’s School in Concord, New Hampshire. See Obituary, *Joseph H. Beale, 81, Teacher of Law*, unidentified newspaper, 1943 (on file with the HUA, Joseph Henry Beale faculty file). However, after one year, he returned to Harvard, graduating in 1887 with both LL.B. and A.M. degrees. Following graduation in 1887, he became an instructor at Harvard Law School. He was appointed to an assistant professorship two years later, and by 1897 was a full professor. See *Rites Saturday in Cambridge for Prof. Beale*, unidentified newspaper, 1943 (on file with the HUA, Joseph Henry Beale faculty file).

Cambridge and the Cambridge Historical Society.<sup>102</sup> In 1906, he was elected alderman of Cambridge, a position he held for two terms.<sup>103</sup> From 1902 to 1905, he served on the executive committee of the Association of American Law Schools.<sup>104</sup>

The other men Professor Beale brought together to teach at CLSW were also impressive legal thinkers trained in the elite model of legal education. Perhaps most impressive was Jens Iverson Westengard. Professor Beale's junior by ten years, Westengard graduated second in his class from Harvard Law School in 1898 and immediately joined its faculty. He left Harvard Law School from 1903 to 1915 to serve as General Adviser to the King of Siam during a period of rapid cultural and legal westernization.<sup>105</sup> Westengard's motivations for teaching at CLSW are not known, but he was quite friendly with Professor Beale and may have owed him a favor.<sup>106</sup> In addition to having a social acquaintance with Professor Beale, Westengard had relied on Professor Beale to help him secure the Bemis Professorship at Harvard Law School upon his return from Siam in 1915.<sup>107</sup>

Several graduate students also served as instructors at CLSW. One of these was Manley Hudson. Hudson later joined the Harvard Law School faculty, became a world renowned scholar in the field of international law, and served as the first Chairman of the International Law Commission of the United Nations.<sup>108</sup> In 1916, however, he was merely a graduate student who owed Beale a significant favor. Eager to have Hudson teach property law at CLSW, Professor Beale had urged him to come to Harvard Law School as a graduate student, offering to personally help raise scholarship funds to enable him to attend.<sup>109</sup>

Also teaching at CLSW during the 1915–16 year was Gustavus Hill Robinson, then a professor of law at Tulane University who was

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102. *Joseph H. Beale*, 81, *supra* note 101.

103. *Id.*

104. *Prof. Beale, Harvard, Dies*, unidentified newspaper, 1943 (on file with the HUA, Joseph Henry Beale faculty file).

105. Joseph H. Beale, *Jens Iverson Westengard*, 32 HARV. L. REV. 93, 95 (1918).

106. Professor Beale's grandson, James King Edwards, described Westengard as a "good friend" of Professor Beale, noting that Westengard once brought the Prince of Siam with him to the Beales' vacation home in Franconia. Interview with James Edwards, *supra* note 92.

107. Letter from Jens Iverson Westengard to Joseph Henry Beale (Nov. 27, 1920) (on file with the HLA, Westengard Papers, Box 2, folder 3).

108. SUTHERLAND, *supra* note 33, at 275.

109. Letter from Joseph Henry Beale to Manley O. Hudson (Jan. 21, 1916) (on file with the HLA, Hudson Papers, Box 1, folder 6).

spending a year at Harvard Law School on a post-graduate fellowship.<sup>110</sup> Robinson continued to teach after leaving CLSW, eventually spending the majority of his career at Cornell.<sup>111</sup> While perhaps not personally indebted to Professor Beale as were Hudson and Westengard, Robinson also had a strong connection to him. He had studied under Professor Beale while a student at Harvard Law School and Professor Beale had been his favorite professor.<sup>112</sup>

Other instructors included Austin Tappen Wright, who became a well-known law professor at the University of Pennsylvania Law School; Whitney Hart Shepardson, a 1910 Rhodes Scholar and later founder of the Council on Foreign Relations;<sup>113</sup> and Chester McLain, who later became General Counsel for the World Bank.<sup>114</sup>

It is worth noting that while many of these men had successful careers in academia, it appears that they were not hired by Beale for their teaching excellence, but rather for their academic credentials. Most were neither at the height of their careers nor experienced teachers during their time at CLSW. In general, they were quite young; for some, teaching at CLSW appears to have been their first teaching assignment. Even the more experienced professors were not necessarily at the height of their careers or the height of their teaching prowess. According to Professor Beale, for example, during the 1915–16 school year, Westengard was in the process of adapting to the role of professor. It was his first year back at Harvard Law School after his time in Siam and, as Professor Beale tactfully explained, he was just starting the process of “reacquir[ing] the art of teaching.”<sup>115</sup> That Beale would favor teachers with strong academic credentials as opposed to seeking out those with teaching experience or experience as practicing attorneys was consistent with Harvard Law School custom.

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110. W.B. Munro, *The University, The Opening of the Year*, 24 HARV. GRADUATES' MAG. 1915–16, at 292.

111. Letter from Sarah Robinson Frantz to Herb Glose (Mar. 24, 1981) (on file with the Schleisinger Library, Harvard University, Cambridge, Massachusetts, C. Ronald Chester Papers).

112. *Id.*

113. John W. Shepardson, *Colgate's First Rhodes Scholar*, THE COLGATE SCENE, Mar. 1999, <http://www.colgate.edu/scene/mar1999/rhodes.html>.

114. World Bank, *World Bank Historical Chronology: 1944–1949*, <http://archives.worldbank.org/>.

115. Beale, *supra* note 105, at 96–97.

*C. The Classes*

In the summer of 1915, Professor Beale wrote to Briggs explaining that he would like to use Radcliffe as a location for CLSW, and would be happy to allow Radcliffe students to attend CLSW classes in return for the favor.<sup>116</sup> Despite some opposition from Thayer and Lowell,<sup>117</sup> Radcliffe granted Professor Beale's request. Classes were held on the Radcliffe campus and a portion of the library was made available for Professor Beale's law books, which served as the library for CLSW. The arrangement was advantageous not only because it provided necessary space, but also because it allowed the students to use the library in the evenings.<sup>118</sup>

The classes themselves mirrored those offered at Harvard Law School. Like Harvard students, first year students at CLSW took two hours of Civil Procedure, two hours of Property, and three hours of Contracts. They also took five hours of "Liability of Acts," a class taught by Professor Beale which covered the same issues, was scheduled for the same number of hours, and used the same texts as the Torts and Criminal Law classes at Harvard Law School. The second year curriculum also tracked classes that were offered at Harvard Law School, with the exception that classes on specific issues of commercial law were replaced by two classes broadly labeled "Commercial Law I" and "Commercial Law II." While "Commercial Law I" appears to have mirrored the Harvard Law School curriculum, Commercial Law II differed by placing special emphasis on social and charitable organizations.<sup>119</sup>

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116. Letter from Beale to Briggs, *supra* note 65.

117. Although Thayer and Lowell were not in favor of Beale's decision to run the school, Briggs felt that it would be politically feasible to offer Beale space without offending either. Letter from LeBaron Russell Briggs to Miss Broody (June 10, 1915) (on file with the RA, Briggs Presidential Papers, outgoing correspondence); Letter from LeBaron Russell Briggs to Ezra Thayer (June 5, 1915) (on file with the RA, Briggs Presidential Papers, outgoing correspondence).

118. Such evening study raised some concern. After seeing one of the women studying during the evening, Professor A.C. Coolidge apparently expressed concern that it was not safe for women to be studying so late. President Briggs replied that the "Radcliffe student who studies in the Library on certain evenings . . . is taking Beale's law course and that she is besides doing some [other] work . . . . The evening, I understand, is her only time for work in the Library; and she goes home at half-past nine. Also she is near a good many persons and apparently quite safe. On the whole, it seems . . . better to let the matter go on." Letter from LeBaron Russell Briggs to A.C. Coolidge (Oct. 22, 1915) (on file with the RA, Briggs Presidential Papers, outgoing correspondence).

119. Announcement and course catalog, *supra* note 78, at 6-7.

In addition, Beale attempted to mimic the Harvard Law School experience by creating a mock trial program at CLSW that apparently provided students with the type of oral argument skills that the men at Harvard Law School learned through that school's law clubs. As *The Radcliffe News* reported,

One very interesting feature of the school is a law club, similar to those at Harvard. The law club takes the form of a miniature law court, known as a moot court, in which all the members participate in the roles of lawyer, plaintiff, defendant, associate justice, etc. One member of the faculty acts as chief justice at every trial, preparation for which occupies about three weeks.<sup>120</sup>

Despite this physical linkage between CLSW and Radcliffe, and the clear academic linkage between Harvard Law School and CLSW, both Radcliffe and Harvard Law School were eager to disassociate themselves from CLSW.<sup>121</sup> Harvard University was particularly careful to try to immediately quell any concerns of alumni who might be offended by the idea the University actively educating women to be lawyers. The magazine for Harvard alumni, for example, stated in no uncertain terms that the new school was not affiliated with either Harvard Law School or Radcliffe:

The rumor has apparently gone abroad thorough various newspapers that a separate department for women has been established either by the Harvard Law School or by Radcliffe College this autumn. Such is not the case. From time to time women have applied to be admitted as regular students in the Harvard Law School, but these requests have invariably been declined. A few months ago, however, arrangements were made for the establishment of a "Cambridge Law School for Women" and provision has been made for giving this institution quarters in one of the Radcliffe buildings. . . . The

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120. *The New Law School*, THE RADCLIFFE NEWS, Oct. 15, 1915, at 1 (on file with the RA).

121. Such linkage had apparently led many to inaccurately perceive the new school as having an official affiliation with Harvard University. The co-founder of the Washington College of Law buttressed her case for educating women in the law by declaring that "Harvard University has this year opened an annex law school for women." See Ellen Spencer Mussey, *The Washington College of Law*, 5 WOMEN LAWYERS JOURNAL 3 (Dec. 1915).

Cambridge Law School for Women has no official connection with either Harvard or Radcliffe . . . .<sup>122</sup>

The writer went on to emphasize CLSW's inferiority, noting that it had "no legal authority to confer degrees."<sup>123</sup>

#### IV. CAMBRIDGE LAW SCHOOL FOR WOMEN 1916–1917: STRUGGLE AND CLOSURE

CLSW closed at the end of the 1916–17 academic year. Scholars have attributed this closure to Elizabeth Beale losing interest in the study of law. Further research, however, indicates that this is a myth, and points to an alternative explanation for the school's closure.

##### *A. Debunking the Myth Surrounding CLSW's Closure*

Ironically, while the petitioners to Harvard Law School sought to show the value of legal education for all women, regardless of whether they married and regardless of whether they pursued professional lives, Elizabeth's Beale's marriage in the spring of 1917 has been treated as both the cause and evidence of CLSW's failure.<sup>124</sup> Specifically, most scholars and observers who have considered the matter have concluded that CLSW closed when Elizabeth Beale lost interest in the school and married, causing Professor Beale to lose interest as well. The historical evidence, however, strongly indicates otherwise. First, the school did not end with Elizabeth Beale's marriage in 1917, but merely closed temporarily—most likely due in large part to World War I. Second, while there is some evidence that Elizabeth Beale may not have enjoyed CLSW,<sup>125</sup> and may have lost interest in CLSW, there is no evidence that

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122. Munro, *supra* note 110, at 292.

123. *Id.*

124. See *infra* note 129 and accompanying text.

125. Elizabeth Beale's children disagree as to whether or not she enjoyed the school. Her eldest daughter reported that her mother "enjoyed it a great deal." Telephone Interview with Elizabeth "Betsy" Chadwicke Edwards Weaver, daughter of Elizabeth Beale (Mar. 16, 2002). Elizabeth Beale's youngest son, James King Edwards, disagreed, stating that "she . . . did not enjoy the course at all and I think was relieved to get involved in matrimony instead of continuing it." He reasoned that: "Mother did not like it—whether it was because it was interfering with her romance or, although she was an extremely bright woman, she was not necessarily good at the legal type of thinking." Telephone

she lost interest in law in general or that Professor Beale lost interest in providing legal education for women. Rather, historical evidence uncovered by the author demonstrates that Elizabeth Beale continued to pursue legal study after leaving CLSW and that Professor Beale continued to be interested in providing legal education for women after his daughter abandoned CSLW. Specifically, newly discovered evidence shows that CLSW reopened in 1921 under Professor Beale's direction.

The primary source for the conclusion that the school closed due to the Beales' collective lack of interest is a letter that Sarah Robinson Frantz, wife of CLSW professor Gustavus Hill Robinson, wrote in 1981 to a law student looking into CLSW. In that letter, Frantz wrote that "[Professor Beale's] daughter wanted a legal education, so Mr. Beale provided it for her for a year but then she got married and, I suppose, lost interest. Anyway, the school was discontinued."<sup>126</sup> As her own language indicated, Frantz was merely speculating as to the reasons for the school's closure. She did not claim to state any personal knowledge of the events surrounding its closure, and the contents of the two letters she wrote to the law student indicated that she did not have personal knowledge. Moreover, the letter included several clear factual inaccuracies. For example, she claimed that her husband taught at CLSW around 1909, which was six years before the school opened.<sup>127</sup> Nevertheless, the letter was relied upon by Professor Ronald Chester of New England Law School in his 1985 book *Unequal Access: Women Lawyers in a Changing America*<sup>128</sup> to support his conclusion that CLSW closed because Elizabeth Beale "lost interest" in the school. Chester's conclusion was then adopted by subsequent writers.<sup>129</sup>

Contrary to this conclusion, Elizabeth Beale appears to have abandoned CLSW when she left in 1917, but not the study of law more

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Interviews with James King Edwards, son of Elizabeth Beale (Mar. 14 and May 3, 2002).

126. Frantz, *supra* note 111.

127. *See id.*

128. *See* CHESTER, *supra* note 1, at 12.

129. Relying in large part on Chester's work, Karen Berger Morello, for example, stated in her book *The Invisible Bar* that the law school "closed when Elizabeth Beale married and lost interest in her legal education." KAREN BERGER MORELLO, *THE INVISIBLE BAR: THE WOMAN LAWYER IN AMERICAN 1638 TO THE PRESENT* 70 (1986). Similarly, Mary Clark treated Chester's analysis as fact in a 1998 article published in the *American University Law Review*. *See* Clark, *supra* note 43, at 149. In her 1998 book *Sisters in Law: Women Lawyers in Modern American History*, Virginia Drachman also accepted the idea that Elizabeth Beale "lost interest" in the law school, although she accurately questioned the view that Professor Beale did likewise. DRACHMAN, *supra* note 52, at 312.

generally. She married in the spring of 1917 and moved with her new husband to West Point, where he was stationed as a judge advocate.<sup>130</sup> However, in the summer of 1919, between the births of her first and second children, she took time to attend George Washington University Law School.<sup>131</sup>

To assume that Elizabeth Beale must have lost interest if she married or did not use her legal education in a formal setting is to ignore the social realities with which she was confronted. Women of Elizabeth Beale's generation who pursued law professionally often found themselves foregoing marriage and motherhood.<sup>132</sup> Indeed, neither of the two CLSW students known to have been practicing lawyers throughout their lives married or had children. Elizabeth Hartshorne, one of the two other CLSW students known to have received a law degree and to have worked professionally, humorously reported her marital troubles to her college classmates, noting that she was "in and out of matrimony, but steady in jobs!"<sup>133</sup>

It is clear, moreover, that Professor Beale's interest in legal education for women did not end with Elizabeth Beale's marriage. Rather, Professor Beale's interest in legal education for women continued, which was demonstrated by the fact that he subsequently re-opened the school as is discussed later. The son of a suffragist,<sup>134</sup> Professor Beale appears to have had a genuine interest in education for women. When he announced the opening of CLSW in 1915, he set forth views about women that were progressive for his time. He acknowledged that opportunities for women in law were limited, but embraced the notion that women should be able to earn a living independent of men.<sup>135</sup> He also praised women's abilities, stating that their judgment and reasoning power were equal to that of men.<sup>136</sup> Professor Beale also appears to have had a deep

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130. *Takes Bride to West Point*, unidentified newspaper, Mar. 31, 1917 (on file with the HUA, Joseph Henry Beale faculty file).

131. Surveys completed by Elizabeth Beale Edwards (c. 1940 and 1945) (on file with the RA, Elizabeth Beale file).

132. DRACHMAN, *supra* note 52, at 241–248.

133. Classnote (c. 1939) (on file with the Wellesley Archives, Elizabeth Hartshorne file).

134. Telephone Interview with Betsy Weaver, *supra* note 125.

135. *The New York Times Magazine* quoted Professor Beale as saying "I believe that every woman, rich or poor, married or single, should have some way of earning a living in case of need. . . . Teaching is overcrowded and poorly paid; therefore, the professions, which (for women) are newer, are preferable." *First Women's Law School Opens This Fall*, *supra* note 67, at 14. Consistent with this statement, he later encouraged his granddaughter to pursue graduate education in the sciences. Telephone Interview with Betsy Weaver, *supra* note 125.

136. *First Women's Law School Opens This Fall*, *supra* note 67, at 14.

love for legal education in general. Teaching law and starting law schools were not merely a profession for Professor Beale, but also a hobby. In addition to founding CLSW and serving as the founding dean of the University of Chicago Law School, Professor Beale spent the summer of 1937 running a mock law school attended by his teenage granddaughter, grandson, and two other young people at the family's vacation home in Barnstable on Cape Cod, Massachusetts.<sup>137</sup> His granddaughter, Elizabeth "Betsy" Chadwicke Edwards Weaver, reported that they studied from a textbook on criminal law that Harvard Law School was using at the time. At the end of the summer, Professor Beale gave his young students several weeks to prepare a case. The law school concluded with their arguing the case in front of Professor Beale, famed Harvard Law School Professor Samuel Williston, and a number of Professor Beale's current and former law students.<sup>138</sup>

### *B. An Alternative Explanation for CLSW's 1917 Closure*

As Professor Beale asserted in the flyer announcing the reopening of CLSW in 1921, it appears that CLSW's closure was integrally tied to World War I,<sup>139</sup> which would have undermined CLSW's ability to recruit both teachers and students.

The war severely hit the Harvard University faculty. In December 1918, the *Radcliffe Quarterly*, quoting the *Harvard Bulletin*, reported that the Harvard faculty had been "decimated" by the war.<sup>140</sup> The war also decimated the Harvard Law School student body. In 1917, the year that CLSW first closed, Harvard Law School enrollment plummeted due to the war. In the 1916–17 school year, Harvard Law School had 857 students and ten graduate residents; the following fall only 297 students were enrolled and there were only five graduate residents.<sup>141</sup>

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137. Professor Beale's granddaughter reported that the school was held the summer before she left for college. Telephone Interview with Betsy Weaver, *supra* note 125. Surveys completed by her mother, Elizabeth Beale, indicate that this would have been 1937. See Surveys completed by Elizabeth Beale (undated) (on file with the RA, Elizabeth Beale file). Another student at the summer school reported that it was held either in 1937 or 1938. Telephone Interview with Bill Wesselhoeft, Beale family friend and student at the summer school (May 10, 2002).

138. Telephone interview with Betsy Weaver, *supra* note 125.

139. See *What Are You Doing with Your A.B. Degree?*, 1 Portia Law School Scrapbook 33 (undated) (on file with the Portia Archives).

140. 3 RADCLIFFE QUARTERLY 3 (Dec. 1918).

141. See HARVARD LAW SCHOOL, HARVARD LAW SCHOOL REGISTER (1915–19) (on file with the HLA).

These declines would have made it more difficult to recruit qualified faculty for CLSW because CLSW drew its teaching staff from the ranks of Harvard Law School and Professor Beale was having trouble obtaining teachers even before the war reduced the pool of available men. As the previously mentioned correspondence between Hudson and Professor Beale indicates, Professor Beale had to recruit teachers very actively even prior to the outbreak of war. For example, he recruited Hudson with the promise of a scholarship for graduate study at Harvard Law School. In addition, he told Hudson that “I so much desire your help that I should pay you all I could possibly raise for the sake of having you as a teacher . . . .”<sup>142</sup>

In addition to reducing the pool of available teachers, the war reduced the pool of potential students. To the extent that the women attending CLSW were motivated to attend law school to pursue social and charitable causes, the war provided an alternative outlet for young women with such interests. During the war, urgent social work opportunities for women arose, and similarly motivated women might well have pursued them instead of a legal education. Anecdotal evidence of such a shift can be found in the *Radcliffe News*, the student newspaper for Radcliffe College. In the 1914–15 school year, the year in which the women petitioned for admittance to Harvard Law School, the “hot issue” on campus appears to have been women’s rights, with emphasis placed on women becoming professionals. In the 1916–17 school year, the year in which women would have applied for admission to enter as CLSW’s third class had the school remained open, the paper was filled with articles and letters debating the war, as well as stories praising women who were engaged in war-related charitable work.<sup>143</sup>

The effects of World War I were likely the final blow to CLSW, which already faced administrative problems as well as difficulty attracting students, as will be discussed shortly. The school appears to have been administered entirely by Professor Beale. He personally negotiated the classroom and library space, recruited and compensated faculty, and recruited and admitted students. This would have been an enormous time burden for anyone, but it would have been particularly burdensome for Professor Beale because of his other extensive time commitments. In addition to teaching at Harvard Law School, he was writing textbooks and actively involved in community organizations. In 1916, for example, he was president of the Cambridge Club, a prestigious

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142. Letter from Beale to Hudson, *supra* note 109.

143. See RADCLIFFE NEWS Vol. 1–6, esp. Vol. 2 (on file with the RA).

social club for area men.<sup>144</sup> The notion that administering CLSW was burdensome is further supported by the fact that when Professor Beale attempted to reopen the school, he delegated at least certain responsibilities relating to the recruitment of students to a young woman who would later become one of its students. The notion is also supported by a retrospective newspaper article published by the *Boston American Herald* in 1981 which cited an unnamed former CLSW student as speculating that Elizabeth Beale's decision to leave CLSW relieved her father of some of the pressure.<sup>145</sup>

In terms of the difficulty of attracting students, there were several problems. First, it appears that CLSW was not broadly advertised. Unlike other law schools for women, CLSW did not advertise in the *Women Lawyers' Journal*.<sup>146</sup> Second, the school admitted only a select group of women. Unlike other women's law schools of the day, such as Boston's Portia Law School and the Washington College of Law, CLSW required an undergraduate degree or equivalent experience. Third, as Professor Beale acknowledged in 1914, many of the women who would be qualified to attend his school did not want to attend a women-only school, especially one that did not offer a degree. As previously noted, in explaining why Professor Beale's original proposal to create a Radcliffe-affiliated law school failed, Radcliffe College President LeBaron Russell Briggs wrote to Harvard Law School Dean Ezra Thayer:

Beale told me yesterday that a good many of the girls would not care to come without the prospect of a degree and that, whereas some would not care to be actually in the Harvard Law School, others would not care to be in a school of their own, since, as I understand it, they want the Harvard Law School or nothing here.<sup>147</sup>

It appears that as a result of the combined effects of limited advertising, inability to confer a degree, women-only status, and, arguably, selective admission requirements, CLSW faced difficulty attracting students. Professor Beale acknowledged this difficulty when trying to reopen the school. The flyer advertising the new school cautioned that the school would only reopen if a "sufficient" number of women were

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144. See Cambridge Club, *supra* note 97.

145. *Law Gave Women a Hard Time*, BOSTON HERALD AMERICAN, Sept. 20, 1981.

146. See generally, WOMEN LAWYERS' JOURNAL, 1914-1925.

147. Letter from Briggs to Thayer, *supra* note 9.

interested.<sup>148</sup> As is discussed in more depth later, it remains an open question whether CLSW would have had trouble attracting students if it had engaged in more robust advertising, conferred a degree, or otherwise offered a greater assurance of permanence.

#### V. CAMBRIDGE LAW SCHOOL FOR WOMEN 1920–1921: REBIRTH AND REORGANIZATION

In approximately 1920 or 1921, a flyer was circulated entitled “What Are You Doing With Your A.B. Degree?” The flyer asked women, “[w]ould you like to study law in a high grade law school for women” and explained that Professor Beale had “been interested for a long time in opening the law to women” and was interested in reopening CLSW if a sufficient number of women were interested.<sup>149</sup> The reopened school was to mirror the original school. The flyer indicated that it would be taught at Radcliffe, would cover the same courses as Harvard Law School, and would be taught by Harvard-affiliated professors and instructors. The flyer emphasized the quality of the school, noting that Professor Beale’s school—presumably in contrast to Portia Law School, the Boston area’s other law school exclusively for women—was not designed as a money-making enterprise.<sup>150</sup> The one way the new school appeared to differ from the earlier one is that Professor Beale was not the sole administrator. Whereas women interested in the original school had been instructed to contact Professor Beale directly,<sup>151</sup> the flyer asked interested women to contact “Mrs. Alfred Gardner” of Cambridge.<sup>152</sup>

In 1921, the school reopened. The reopened school appears to have had only three students, including the previously mentioned Mrs. Alfred Gardner. Mrs. Alfred Gardner was Rena Holmes Harris Gardner, a 1919

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148. See *What Are You Doing with Your A.B. Degree?*, *supra* note 139.

149. *Id.*

150. *Id.*

151. Announcement and course catalog, *supra* note 78, at 7.

152. *What Are You Doing with Your A.B. Degree?*, *supra* note 139.

graduate of Wellesley College.<sup>153</sup> In 1921, she had already received a master's degree from Radcliffe.<sup>154</sup>

Most of what we know about the reopened school comes from Rena's first-hand descriptions. Writing to her Wellesley classmates in 1921, she explained:

I captured an A.M. at Radcliffe last year. . . . And this year I really am working, studying law. Two other girls—not Wellesley-ites—take it with me. Professor Magruder and Mr. McCurdy of the Harvard Law School are giving us the regular Harvard Law School first year course. Needless to say—or perhaps needful to say—it is very interesting.<sup>155</sup>

Rena also noted that “I have a special interest because my husband is to be a lawyer. This is his last year at the [Harvard] Law School.”<sup>156</sup>

Professor Calvert Magruder, a 1918 graduate of Harvard Law School, later became Chief Judge of the United States Court of Appeals for the First Circuit.<sup>157</sup> In 1921, he was in his second year as a member of the Harvard Law School faculty, where he taught courses in Partnership and Insurance.<sup>158</sup> William McCurdy also subsequently achieved a certain degree of fame, serving as Acting Director of the United States Zone of Occupied Germany shortly following World War II, and as a member of the Harvard Law School faculty where he specialized in commercial law and domestic relations.<sup>159</sup> In 1921, however, he was still a graduate student working toward his S.J.D. degree, and serving as Harvard Law School's Ezra Thayer Teaching Fellow.<sup>160</sup>

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153. Announcement, HARVARD BULLETIN, May 29, 1919 (on file with the HUA, Alfred Gardner faculty file); Engagement announcement, BOSTON HERALD, May 18, 1919 (on file with the HUA, Alfred Gardner faculty file); Marriage announcement, WELLESLEY ALUMNAE QUARTERLY, Jan. 1920, 152 (on file with the Wellesley College Archives); Telephone Interview with Arielle Dewart, daughter of Rena Holmes Harris (Oct. 2, 2003).

154. The Nineteenth Whole, Record of the Class of 1919 for the Year 1921, 13 (on file with the Wellesley Archives).

155. *Id.* at 13–14.

156. *Id.*

157. *Calvert Magruder of the U.S. Court, Appeals Judge in Boston, Dies*, N.Y. TIMES, May 24, 1968.

158. *Id.*; see also *20 Years on Appeals Bench Here, Calvert Magruder, U.S. Court Chief*, BOSTON HERALD, May 23, 1968.

159. *Dr. William McCurdy of Harvard Law*, 72, BOSTON GLOBE, July 3, 1967 (on file with the HUA, William Edward McCurdy faculty file). Obituary, William Edward McCurdy, N.Y. TIMES, July 6, 1967.

160. *Dr. William McCurdy of Harvard Law*, *supra* note 159.

There is strong evidence that Greta Coleman also taught at the reopened CLSW. In the booklets published for the Radcliffe Class of 1915's tenth and twenty-fifth reunions, Greta Coleman reported that she had taught at "the law school for women then conducted by Prof. Beale (Ebie's father)."<sup>161</sup> A short, unpublished biography of Greta included in the Women's Rights Collection of Harvard's Schlesinger Library also reported that Greta "was on the faculty of Professor Beale's law school for women."<sup>162</sup> It would have been impossible for Greta to have taught in either of the two original years in which the school existed. In 1915–16 she was a student at the school with no known legal training.<sup>163</sup> In the 1916–17 school year, she was enrolled in the University of Chicago Law School, hundreds of miles away.<sup>164</sup>

It is unclear where the reopened school held classes, although circumstantial evidence points to the Epsworth Methodist Church, located adjacent to the Harvard Law School campus, as a possible location.<sup>165</sup> It is also unclear how long the reopened school remained open. The new school existed for at least two years, as Rena reported studying law for two years.<sup>166</sup> While the evidence indicates that Rena ended her legal studies after two years,<sup>167</sup> it is possible that other women continued on or subsequently joined the school.

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161. See Radcliffe Alumnae Association, Radcliffe Class of 1915 in 1940, at 14 (1940) (on file with the RA).

162. Greta C. Coleman file, *supra* note 4.

163. Announcement and course catalog, *supra* note 78, at 7.

164. See Radcliffe Alumnae Association, Radcliffe Class of 1915 in 1925, 6 (1925) (on file with the RA). See generally Greta C. Coleman file, *supra* note 4.

165. Several members of the current Harvard Law School faculty and staff, as well as the head of the Epsworth Methodist Church, are of the belief that Professor Beale held law classes for women at the Church. See, e.g., Daniel Coquille, untitled speech (Nov. 14, 1998) (on file with the author). It is fairly certain that the original school (1915–17) did not hold classes at the Church. Correspondence about the original school, the 1916–17 announcement for the school, newspaper accounts of the original school, and reports by the students of the original school all clearly indicate that classes were held at Radcliffe. See, e.g., Paper entitled "Information for the 1961 Alumnae Directory," *supra* note 94. Accordingly, if classes were ever held at the Epsworth Methodist Church, as some recollect being told they were, it seems likely that classes were held at the Church after the school reopened in 1921.

166. In 1922, Rena reported that she was "still studying law." The Nineteenth Whole, Record of the Class of 1919 for the Year 1922, 16 (1922) (on file with the Wellesley Archives). Writing to her college classmates in 1923, Rena explained that "[l]ast winter was crowded with my second year of law and preparations for the arrival of our daughter . . . who was born in July. This winter I shall spend vigorously doing nothing . . ." The Nineteenth Whole, Record of the Class of 1919 for the Year 1923, 17 (1923) (on file with the Wellesley Archives).

167. *Id.*

## VI. MAKING THEIR WAY: THE LIVES OF THE STUDENTS

Some understanding of CLSW's impact on its students can be inferred from the lives of the eight CLSW students whose biographies the author has been able to uncover. Of the eight, half pursued professional work following their time at CLSW, and half did not. Only two, however, had long-term careers in the law.

Eleanor Clarke (Mrs. Henry Bowser) and Elizabeth Beale (Mrs. Basil Edwards) pursued traditional private lives, engaging primarily in family affairs and local activities. Grace Calhoun appeared to be on a similar path when she died only a few years after her time at CLSW. At the time of her death, she was a recently married former history teacher living with her new husband in Houston, where he served in the army.<sup>168</sup> Similarly, Anne Taylor (Mrs. John C. Case), never pursued professional employment, although she was heavily involved in volunteer work throughout her life. She participated in the League of Women Voters, war relief efforts, and a visiting nurse association. In addition, she was a trustee of two colleges (one of them in Istanbul where her husband worked) and helped found another school.<sup>169</sup>

Two of the women pursued professional work outside of the law. Although Elizabeth Hartshorne became a lawyer, receiving a J.D. from New York University in 1918, she soon became disenchanted with the law. She left legal work after a year to take up a variety of occupations before finally settling on journalism and publicity.<sup>170</sup> Similarly, Rena Gardner worked for several years as a reporter for the *Boston Herald*.<sup>171</sup>

The remaining two women became prominent Boston lawyers. After one year at CLSW, Greta Coleman transferred to University of Chicago Law School, graduating in 1918 with a J.D. *cum laude*. She then joined the Boston law firm of Dunbar, Nutter, and McClennen where she stayed for four years,<sup>172</sup> participating in several cases that went to trial.<sup>173</sup> In 1922, she opened her own general practice in downtown

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168. *Ottumwa Girl Dies in Texas*, *supra* note 86.

169. *See generally* Anne Taylor file, Wellesley Archives.

170. Wellesley Class of 1914 Record 1918–1922 (1922) (on file with the Wellesley Archives).

171. Telephone Interview with Arielle Dewart, *supra* note 153.

172. Greta Coleman file, *supra* note 4. Notably, Dunbar, Nutter, and McClennen was the firm with which Louis Brandeis had been associated. As previously noted, his daughter, Susan Brandeis, joined Greta as one of the original petitioners.

173. *See, e.g.*, *Shea v. Carter*, 226 N.E. 47 (Mass. 1920); *America House Hotel Co. v. Hemenway*, 129 N.E. 371 (Mass. 1921); *International Trust Co. v. Myers*, 135 N.E. 697 (Mass. 1922); *In re. Binney's Will*, 135 N.E. 168 (Mass. 1922).

Boston.<sup>174</sup> While a solo practitioner, she taught law to both men and women. In addition to reportedly teaching at the reopened CLSW, Greta was on the faculty of Portia Law School in both the 1922–23 and 1923–24 school years.<sup>175</sup> At least during the 1923–24 year, she taught bankruptcy, a field in which female lawyers traditionally were not involved.

While in private practice, Greta was also on the staff of the Boston Legal Aid Society, which at one point ironically had her supervising eighteen Harvard Law School students. Throughout her career, Greta was involved in professional associations, becoming the first female member of the Council of the Boston Bar Association. Additionally, she was active in the League of Women Voters, for which she chaired a committee on the legal status of women and on whose behalf she prepared an amicus brief to the Supreme Judicial Court of Massachusetts on the issue of women serving on juries. Perhaps most notably, she was appointed by the Massachusetts Governor in 1941 to study and report to the legislature on negligence standards in cases involving young children.<sup>176</sup>

Like Greta, Marjorie Hurd also obtained prominence in the Boston legal community. In the years following the closure of CLSW, she served as a law clerk at two major Boston law firms, including the one with which Greta Coleman was associated, and was in charge of Legal Aid for the W.E.I.U.<sup>177</sup> In 1920, she took a job as Professor Beale's secretary, a position in which she ghost-wrote portions of his work on conflict of laws.<sup>178</sup> She was also the first female lawyer to practice at Boston Legal

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174. Announcement of the opening of Greta Coleman's law office (Nov. 1, 1922) (on file with the RA, Greta Coleman file). Interestingly, the building in which Greta opened her office was already home to the law practice of Marion Cottle Weston, the head of the Massachusetts Association of Women Lawyers.

175. Portia Law School, Twelfth Annual Commencement Exercises (June 1, 1923) (on file with the Portia Archives); and, Portia Law School, Thirteenth Annual Commencement Exercises (June 4, 1924) (on file with the Portia Archives).

176. See Greta C. Coleman file, *supra* note 4.

177. Paper labeled "Some Sources and Information on Activities of Miss. Marjorie Hurd," *supra* note 89.

178. See Board of Vocational Information, Questionnaire completed by Marjorie Hurd, Study of the Vocational Application of Legal Training for Women (April 9, 1920) (on file with the Schleisinger Library, Harvard University, Cambridge, Massachusetts, Board of Vocational Information Archives, folder 152). Hurd reported that she was "helping Prof. J.H. Beale with his book on Conflict of Laws, looking up cases, writing the simpler chapters, revising re." In the preface to Professor Beale's 1935 treatise on conflict of laws, he stated that "the author was assisted by pupil, Miss Marjorie Hurd of the Boston Bar" in one section of the Fourth Chapter. See JOSEPH HENRY BEALE, A TREATISE ON CONFLICT OF LAWS viii (1935).

Aid Society, where she served as a staff attorney from 1920 to 1954.<sup>179</sup> Like Greta, Marjorie was actively involved in professional activities including the Massachusetts Association of Women Lawyers.<sup>180</sup>

While both Greta Coleman and Marjorie Hurd were in some ways pioneers in their community, their career paths followed common patterns. Both were able to break into prominent law firms during World War I, but left for less prestigious positions shortly after the war ended. During World War I (and subsequently World War II), women lawyers found more legal opportunities available to them than were available either immediately before or immediately after.<sup>181</sup> Like Marjorie, women lawyers tended to gravitate toward serving the poor and underprivileged.<sup>182</sup> Perhaps most notably, neither married.

While only three of these eight women pursued legal careers, to regard this number as a indicator of CLSW's success or failure would be to judge it according to modern standards as opposed to those standards suggested by the original petitioners. If, as the petitioners contended, a legal education enhanced women's social utility in the womanly spheres of civic activity and family, perhaps matriculation at CLSW advanced the "careers" of all eight.

## VII. THE LEGACY OF CAMBRIDGE LAW SCHOOL FOR WOMEN

The few scholars who have considered the fate of CLSW have mostly concluded that CLSW was destined to fail because there simply was not sufficient interest to sustain an elite women's law school. In an article characteristic of this view, Shannon Ball, writing in the *Notre Dame Journal of Law, Politics and Public Policy*, concluded that "Cambridge's collapse provides the lesson that when founding an all-female school, there must first be a pool of future students who are both qualified and willing to attend. Otherwise, the effort is wasted."<sup>183</sup> It is more likely, however, that CLSW's failure to grow and establish itself was a

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179. See 1 Portia Law School Scrapbook 15 (on file with the Portia Archives).

180. Paper labeled "Some Sources and Information on Activities of Miss. Marjorie Hurd," *supra* note 89.

181. CYNTHIA FUCHS EPSTEIN, *WOMEN IN LAW* 93 (1993).

182. According to Cynthia Fuchs Epstein, "[r]epresenting the poor and disadvantaged is one of the major areas of 'women's work' in the law. It is a realm in which women have found work in the past and in which they still tend to cluster." *Id.* at 120.

183. See Shannon N. Ball, *Separate but Equal is Unequal: The Argument Against an All-Women's Law School*, 15 NOTRE DAME J. L. ETHICS & PUB. POL'Y 171, 174 (2001).

result of poor execution and unfavorable circumstances, and not the result of a conceptual flaw.

CLSW never had the resources and sense of permanence that one would expect of a law school. It was administered by an over-extended professor as one of his many community activities, had no permanent teaching staff, lacked its own facilities, appears not to have engaged in standard forms of advertising, and, perhaps most importantly, never offered its students a degree or even the guarantee of three years of classes.

Nevertheless, the school was able to attract top students, including several with advanced degrees in the humanities and one student who had already graduated from a different law school. That it was able to do so despite its fundamental structural problems and a lack of any promise of permanence or of a degree, speaks to its significant conceptual appeal. Indeed, Rena Gardner, who presumably had no need of employment given her socio-economic position, was even willing to help administer the school in order make it a reality.

CLSW's conceptual appeal is easily understandable. First, like other law schools available to women, the school offered its students an opportunity to forge a new role for themselves in society consistent with the new roles for women envisioned by the women's suffrage movement. CLSW students joined the growing ranks of female law school students and lawyers. Between 1910 and 1920, the number of women lawyers in the United States more than tripled, growing from approximately 550 to approximately 1700.<sup>184</sup> In part, this growth reflected the sentiments and rationales of the women's suffrage movement, and thus the fact that CLSW's birth was integrally tied to the aspirations of a young suffragist and the language of the women's suffrage movement is no coincidence. As Mary L. Clark has noted, the rhetoric of the women's suffrage movement "strengthened the push for women's access to higher education . . . ."<sup>185</sup>

Second, unlike other law schools available to women, CLSW offered its students a unique opportunity to participate—as nearly as they could—in the most prestigious form of legal education then available. At the time of CLSW's formation, an "elite" law school education was becoming increasingly important within the broader legal community. Harvard Law School, upon which CLSW was modeled, epitomized elite legal education. The last decade of the nineteenth century and the first decade of the twentieth century saw pedagogical approaches pioneered at Harvard adopted by many state-run and university-affiliated law

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184. EPSTEIN, *supra* note 181, at 4.

185. Clark, *supra* note 43, at 643.

schools, resulting in a “Harvardization”<sup>186</sup> of American law schools, and a recognition—right or wrong—that a Harvard legal education was the premier legal education.

The appeal of an “elite” legal education was a powerful draw. As the legal profession became increasingly attractive to women and the number of women lawyers grew, it was to be expected that women would no longer be satisfied with just “any” legal education, but rather would demand legal education of the type, quality, and prestige available to their male counterparts. CLSW would have been attractive in this regard not only because it was a replica of Harvard Law School, but also because it was the first women’s law school designed to be a graduate school, as opposed to a trade school or undergraduate school. Women at CLSW could be assured that their classmates would have already obtained a college degree, or have had equivalent experience.

Recognizing this distinction, scholar Karen Morello has described CLSW as an example of the “elitist strain which can be discerned throughout the history of women’s legal education in the northeast. When upper-class women found themselves having to mingle with lower-class women or men of other races in order to get a professional degree they often sought to establish new law schools rather than to adjust to established ones.”<sup>187</sup> While perhaps some CLSW students did not wish to “mingle” with the less well-off (a theory somewhat undermined by Marjorie Hurd’s life-long work with the poor through the W.E.I.U. and Legal Aid, and Greta Coleman’s grassroots campaigning for women’s suffrage), such a description fails to appreciate the fact that CLSW did not offer merely a more socio-economically elite school but also a chance to study at a graduate level with academics in the forefront of their fields, as opposed to studying at an undergraduate or trade school level with less well-established professors and practitioners.

In short, two historical events—the women’s suffrage movement and the growing entrenchment of the elite model of legal education—converged in CLSW. Had CLSW had the basic infrastructure generally expected of a law school, or even a professional administrator or full-time faculty member, perhaps it would still be in existence today.<sup>188</sup> That

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186. Cf. SELIGMAN, *supra* note 32, at 42 (referring to the “Harvardization” of American law schools”).

187. MORELLO, *supra* note 129, at 69–70.

188. It is thus inappropriate to use CLSW’s closure to caution against the formation of a modern law school for women. *But see* Sara Osborne, *These Are Not Out Rules: A Public Interest and Woman Oriented Law School to Improve the Lives of Women Both Within and Outside the Legal Profession*, 46 *How. L. J.* 549, 574 (2003) (noting that

we will never know. What we do know is that for a fleeting moment in the history of legal education, a small group of motivated and intelligent young women were able to experience the “golden days” of Harvard Law School as they learned from some of the most prominent legal scholars of their time, using the same methods of instruction as were used at what was seen as the most prestigious law school of their day. In the view of pioneering attorney and CLSW student Marjorie Hurd, CLSW was “as much like Harvard Law School as possible. No better training would be possible.”<sup>189</sup>

### VIII. CONCLUSION

The history of CLSW reveals the tremendous appeal of its unique form of legal education. Although many other law schools would have welcomed them, a talented group of women instead chose to attend CLSW even though it was untested, offered no guarantee of classes, and provided no degree. Unfortunately, misconceptions and faulty assumptions about the events surrounding CLSW’s closure have led some to mistakenly conclude that its demise was due to its lack of appeal or the frivolity of the female sex. This is sad irony for a school that so profoundly grew out of the suffragist movement and the advocacy of two young Radcliffe suffragists. It is hoped that this Article will redress that unfortunate wrong. Had historical circumstances been different, perhaps today Cambridge Law School for Women would be a model for other law schools, and not merely a footnote in the history of legal education. ❀

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the critics of all-female law schools use the “failure” of CLSW to “cast doubt on the success of an exclusively female law school today”); *Cf.* Ball, *supra* note 183, at 174.

189. Board of Vocational Information, Questionnaire completed by Marjorie Hurd, *supra* note 178.