

Reading Between the Lines:  
Marilla Ricker in the Struggle for Women's Rights

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*An examination of the standard histories of the United States and of the history textbooks in use in our schools raises the pertinent question whether women have ever made any contributions to American national progress that are worthy of record. If the silence of the historians is to mean anything, it would appear that one-half of our population have been negligible factors in our country's history. . . . [A]ny consideration of woman's part in American history must include the protracted struggle of the sex for larger rights and opportunities, a story that is in itself one of the noblest chapters in the history of American democracy.*

Arthur M. Schlesinger, 1922  
*New Viewpoints in American History*

## *Introduction*

Marilla Ricker was the first woman to cast her ballot in a state election prior to the passage of the Nineteenth Amendment in 1871, the first woman appointed Commissioner and Examiner in Chancery in the District of Columbia in 1884, the woman who opened the New Hampshire bar to all other women in 1890, the first woman to apply for a foreign ambassadorship in 1897, and the first woman to announce her candidacy for governor of New Hampshire in 1910. Despite being the “first” in so many aspects of her life, Marilla Ricker’s biography is largely omitted from American history. Historian Arthur Schlesinger’s astute observation regarding the omission of women’s role in American history proved all too true in Marilla Ricker’s case. Regardless of her inarguable status as a pioneer and leader in the struggle for American women’s rights and opportunities, very little information remains about her extraordinary life.<sup>1</sup> While traces of her distinction surface throughout the landscape of American *women’s* history, Marilla Ricker’s biography is all too often hidden in historical footnotes or obscured by the brevity of historical anthologies. Such a fate is truly lamentable considering that her remarkable accomplishments benefited many more than just herself. As such, this paper intends to bring Marilla Ricker’s life into the foreground of American history by reading between the lines, so to speak, and by piecing together as many facets of her dynamic life as still exist and placing her within the broader context of American history where she rightfully belongs.

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<sup>1</sup> ARTHUR SCHLESINGER, *NEW VIEWPOINTS IN AMERICAN HISTORY* 126-27 (1922) (At the end of Chapter VI: The Role of Women in American History, Schlesinger provides an excellent biographical note listing numerous historical sources from the late 1800s up through the time of his book’s publication that deal with women’s role in American history).

### *(Extra)Ordinary Beginnings*

Marilla Ricker was born Marilla Marks Young on March 18, 1840, on the family farm in New Durham, New Hampshire.<sup>2</sup> That she was the second of four children born to Jonathan B. and Hannah Stevens Young was, perhaps, the only ordinary aspect of her beginnings. Hannah was a devout Free Will Baptist, “and went to Church with the brother and sister who liked to attend with her. But Marilla preferred to go with her father, and he would say, ‘it is no matter what you *believe*, as long as you *do* right.’”<sup>3</sup> In fact, Jonathan was “a Whig, early woman-suffragist, and outspoken freethinker, [who] gave [Marilla] a substantial education in politics and philosophy.”<sup>4</sup> Such a combination of progressive liberalism was very unusual among men of the time, and especially rare when extended to the parenting of one’s daughters.

Just thirty years before Ricker’s birth, women’s educational opportunities were dismal and without much hope of progress. Only girls from very wealthy families received extended schooling, which “consisted largely of such pursuits as embroidery, French, singing, and playing the harpsichord.”<sup>5</sup> In essence, these girls received an education in the arts of attracting and pleasing a husband. A prominent male philosopher of the time espoused his belief that,

The whole education of women ought to be relative to men. To please them, to be useful to them, to make themselves loved and honored by them, to educate them when young, to care for them when grown, to counsel them, to console them, and to make life sweet and agreeable to

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<sup>2</sup> Dorothy Thomas, *Ricker, Marilla Marks Young*, in NOTABLE AMERICAN WOMEN: A BIBLIOGRAPHICAL DICTIONARY 154 (Edward T. James et al. eds., 1971) [hereinafter Thomas].

<sup>3</sup> *Marilla M. Ricker*, in 1 THE BUSINESS FOLIO 125, 126 (September, 1895) [hereinafter FOLIO].

<sup>4</sup> Thomas, *supra* note 2, at 154.

<sup>5</sup> ELEANOR FLEXNER, CENTURY OF STRUGGLE: THE WOMAN’S RIGHTS MOVEMENT IN THE UNITED STATES 23 (revised ed. 1975).

them—these are the duties of women at all times, and what should be taught them from their infancy.<sup>6</sup>

Fortunately, by the time Marilla was born in 1840, agitation and initiative by women such as Emma Willard and Frances Wright of New York and Mary Lyon of Massachusetts had distinctly altered the availability and scope of women’s education.<sup>7</sup>

Still, it is important to remember that “it took the better part of the nineteenth century to achieve a nation-wide system of free education for *males*, from primary school through college....By 1860 there were still only some forty-odd high schools worthy of the name in the entire country.”<sup>8</sup> As such, most of the credit for Marilla’s excellent education belongs to her parents. While Hannah taught Marilla to read, Jonathan appears to have taught her to think for herself by encouraging Marilla’s “rebellion against the orthodoxy of the church and [by taking] her to town meetings and sessions of the local courts.”<sup>9</sup> In her own recollection of childhood learning, Marilla recalls that,

I did not play with rag babies like other children, but always ‘played school;’ I do not remember when I did not know my letters. I cut the big ones from the heading of the newspapers and followed my mother about the house asking her what they were—that was before I was three. I could read fairly well at four, in the ‘Young Reader.’<sup>10</sup>

Besides demonstrating a natural intelligence at such young age, Marilla was something of a tomboy: “I ran wild on the farm. I could run faster and climb the trees quicker and make more noise than any other girl or boy in the neighborhood.”<sup>11</sup> Marilla’s parents,

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<sup>6</sup> *Id.*, at 23-24 (quoting the French philosopher Jean Jacques Rousseau from CHARLES AND MARY BEARD, THE RISE OF AMERICAN CIVILIZATION 44 (1930)).

<sup>7</sup> *Id.*, at 25, 27, 32 (Emma Willard opened the Troy Female Seminary—the first endowed women’s educational institution—in 1821; Frances Wright lectured and wrote extensively in her advocacy for equal and free education; Mary Lyon founded Mount Holyoke—generally credited as the oldest women’s college in the United States—in 1837).

<sup>8</sup> *Id.*, at 28 (emphasis added).

<sup>9</sup> Thomas, *supra* note 2, at 154.

<sup>10</sup> FOLIO, *supra* note 3, at 125.

<sup>11</sup> *Id.*

especially her father, indulged her youthful exuberance and appreciated her help with chores around the family's farm: "As she was inclined to assist him about the farm work, [Jonathan] found comfort and companionship in his daughter and paid her many compliments, the one that pleased her most being that she was 'better than a boy' (her brother never liked farm work)."<sup>12</sup>

Marilla's formal education took place first in local New Durham district schools, and culminated in a year of teacher's training at Colby Academy in New London, New Hampshire.<sup>13</sup> As to the former, there were only four months of schooling each year in Marilla's district, and "when there was no school in her own district she would walk two miles, or rather, run, for she was never known to walk in those days, to schools which were in session, preferring study to play or sleep during the long winter evenings."<sup>14</sup>

Marilla "understood early that she must earn her own living and decided to become a 'school-marm."<sup>15</sup> So, in 1855 at the age of fifteen, Marilla entered Colby Academy to receive her teacher's training. There, she tangentially benefited from the pioneering efforts of Emma Willard "in demanding, and providing for, the training of teachers."<sup>16</sup>

Teaching was the first profession opened to women, but due to their lack of formal training and only the most basic of educations, women teachers could not command the same prestige or salaries as their male counterparts who were often college graduates.<sup>17</sup>

In 1837, Willard founded the Association for the Mutual Improvement of Female Teachers as a "sort of alumnae association" designed to attract public attention to the

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<sup>12</sup> *Id.*

<sup>13</sup> Thomas, *supra* note 2, at 154;

<sup>14</sup> FOLIO, *supra* note 3, at 125.

<sup>15</sup> *Id.*

<sup>16</sup> FLEXNER, *supra* note 5, at 29.

<sup>17</sup> *Id.*

need for improved teacher training.<sup>18</sup> Willard’s efforts significantly changed both the number of teachers who received training and the quality of training those teachers received.

In 1856, at the age of sixteen, Marilla began teaching in the local New Durham district schools, and “quickly earned a reputation as a good disciplinarian and a ‘born teacher.’”<sup>19</sup> Described as “tall and strong,” Marilla earned “the reputation of a ‘fighter’ provided the big boys were unruly.”<sup>20</sup> In her own words, though, “she seldom had to fight, her reputation in that direction doing the service.”<sup>21</sup> By some accounts, Marilla was an unorthodox teacher. In her district, it was common practice to have school-children read aloud from the Bible, but Marilla—a freethinker even at such an early age—made her students read from other, non-religious texts. A concerned school committee approached Marilla about her peculiar habit, and informed her that she must have her students read from the Bible. The next morning, Marilla wryly announced to her class, “‘We will now read the startling and truthful account of Jonah whilst he was a sojourner in the sub-marine hotel.’”<sup>22</sup> Despite her methodological and theological differences, Marilla taught successfully in New Hampshire schools until 1863.

On April 12, 1861, the Civil War began with the Confederate attack on Fort Sumter in Charleston, South Carolina. Marilla’s older brother, Joseph D. Young, promptly enlisted in the Third New Hampshire Regiment.<sup>23</sup> Although very little information exists regarding Marilla’s siblings, especially her sisters, she was apparently

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<sup>18</sup> *Id.*

<sup>19</sup> Thomas, *supra* note 2, at 154.

<sup>20</sup> FOLIO, *supra* note 3, at 125.

<sup>21</sup> *Id.*

<sup>22</sup> Carole Gray, *Children of Freethought*, in 37 THE AMERICAN ATHEIST (Winter 1998-99) <<http://www.americanatheist.org/win98-99/T1/gray.html>>.

<sup>23</sup> FOLIO, *supra* note 3, at 125; BIOGRAPHICAL REVIEW (this source provides her brother’s actual name, but I do not know the date or author of the source).

quite close to her only brother. All that is known about Marilla's younger sister, Helen Frances Young, is that she married Samuel G. Jones of New Durham, and died in 1870. And all that is known about her youngest sister, Adelaide Young, is that she settled in Connecticut and became a professional nurse.<sup>24</sup> Upon Joseph's enlistment, Marilla herself "attempted to join the Union cause as a nurse, [but] she failed to meet the requirements of maturity and experience with the sick and hence continued as a teacher."<sup>25</sup> Marilla took this rejection to heart, and seriously considered disguising herself as a man and enlisting with the actual Union troops. However, "being obliged to earn her living she commenced to teach again, sending all her spare money to soldiers, knitting stockings, and writing patriotic letters."<sup>26</sup> Joseph D. Young was killed on Edisto Island, South Carolina in 1862.<sup>27</sup> Her brother's death was described as Marilla's "first real sorrow; it did more towards checking her exuberant spirits than all else, in fact she says the world has always seemed a little different ever since."<sup>28</sup>

### *An Independent Woman*

On May 19, 1863, at the age of twenty-three, Marilla Marks Young married John Ricker of Madbury, New Hampshire.<sup>29</sup> The circumstances of the two met and the details of their courtship are unknown. At twenty-three, Marilla was a "spinster," since most women married at a much younger age. The newlyweds settled in Dover, New

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<sup>24</sup> Again, this family information is from the BIOGRAPHICAL REVIEW source. I also have a photocopy of Marilla's handwritten will that leaves some money to her youngest sister who, apparently, never married and survived Marilla. New Durham Public Library's librarian sent copies of both of these sources to me, and I am currently attempting to obtain proper citation information.

<sup>25</sup> Thomas, *supra* note 2, at 154.

<sup>26</sup> FOLIO, *supra* note 3, at 125.

<sup>27</sup> BIOGRAPHICAL REVIEW *supra* note 23, 24.

<sup>28</sup> FOLIO, *supra* note 3, 125.

<sup>29</sup> Thomas, *supra* note 2, at 154; METCALF, HENRY HARRISON, NEW HAMPSHIRE WOMEN 81 (1895).



Hampshire, where John Ricker ran a large real estate business. Very little is known about Marilla's marriage to John Ricker, who was described as "an intelligent and wealthy farmer who, like her father, believed in equality regardless of sex."<sup>30</sup> And, just as Marilla was fortunate to have a progressive and liberal-minded father, her new husband was also far ahead of the average American male in his belief in equality of the sexes. The couple never had children, but it is unclear whether this was because of conscious choice or circumstance. John Ricker was fifty-six when he married Marilla, a thirty-three year age difference between the two, and just five years later he died leaving her a wealthy widow.<sup>31</sup> Virtually none of the information available about Marilla Ricker's life pertains to her short-lived marriage to John Ricker.

Already of independent spirit, Marilla Ricker became a woman of independent means to match at the age of twenty-eight. Whether Ricker had any other suitors after her husband's death is a mystery, as are her feelings upon the subject. Upon her marriage to John Ricker, she suffered the same fate as all married women—"civil death,' having no right to property and no legal entity or existence apart from their husbands."<sup>32</sup> Indeed, under the English common law adopted by many American colonies,

Man and wife are one person, but understand in what manner. When a small brooke or little river incorporateth with Rhodanus, Humber, or the Thames, the poor rivulet looseth its name, it is carried and recarried with the new associate, it beareth no sway, it possesseth nothing during coverture. A woman as soon as she is married, is called *covert*, in Latin, *nupta*, that is *veiled*, as it were, clouded and over-shadowed, she hath lost her streame....To a married woman, her new self is superior, her companion, her master.<sup>33</sup>

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<sup>30</sup> Thomas, at 154.

<sup>31</sup> *Id.*

<sup>32</sup> FLEXNER, *supra* note 5, at 7.

<sup>33</sup> *Id.*, at 7-8 (quoting THE LAWES [sic] RESOLUTIONS OF WOMENS [sic] RIGHTS; OR THE LAWES [sic] PROVISION FOR WOMEN 124-25 (London, 1632)).

With *widowhood*, however, came a civil resurrection for Ricker in terms of the ability to hold title to property and to enter contracts. Not only would remarriage mean the loss of such legal independence, but would also likely result in the loss of her inheritance to her new husband. While Ricker’s exact calculus in remaining a widow is unknown, her writings often remarked “on the legal advantages of a widow’s position in contrast to a wife’s, and the value of financial independence.”<sup>34</sup>

In 1872, Ricker traveled to Europe and spent four years in Germany becoming fluent in German and “absorbing the doctrines of European freethinkers.”<sup>35</sup> She paid particular attention to the teachings of Annie Besant and Charles Bradlaugh—both prominent freethinkers—and to “others expounding free thought, birth control, and political equality.”<sup>36</sup> The American freethought movement dated back to 1634, with the arrival of Anne Hutchinson amidst Boston’s Puritan theocratic community. Hutchinson “believed in the individual’s direct communion with God, and in His existence in every human being....”<sup>37</sup> In short, she encouraged men and women to think for themselves about religion and the basis for their religious beliefs, which, at the time, amounted to heresy. Nearly two hundred years later, Hutchinson’s footsteps were followed by Frances Wright, Angelina and Sarah Grimké, and Elizabeth Cady Stanton—interestingly, all advocates for women’s rights and suffrage which Ricker would also become.<sup>38</sup>

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<sup>34</sup> Barbara A. White, *Marilla M. Ricker*, in 3 AMERICAN WOMEN WRITERS: A CRITICAL REFERENCE GUIDE FROM COLONIAL TIMES TO THE PRESENT 473 (Lina Mainiero, ed., 1981) [hereinafter White].

<sup>35</sup> FOLIO, *supra* note 3, at 126; Bennie L. DeWhitt, *A Wider Sphere of Usefulness: Marilla Ricker’s Quest for a Diplomatic Post*, in 5 PROLOGUE: THE JOURNAL OF NATIONAL ARCHIVES 203 (Winter 1973) [hereinafter DeWhitt].

<sup>36</sup> Thomas, *supra* note 2, at 154.

<sup>37</sup> ANNIE LAURIE GAYLOR, ED., WOMEN WITHOUT SUPERSTITION “NO GODS—NO MASTERS”: THE COLLECTED WRITINGS OF WOMEN FREETHINKERS OF THE NINETEENTH & TWENTIETH CENTURIES 4 (1997) [hereinafter GAYLOR].

<sup>38</sup> *Id.*, at 5-7.

Ricker's intense interest in the freethought movement probably stemmed in part from her father's belief in the movement's teachings. However, why Ricker chose to adopt her father's ideologies as her own, as opposed to the more religious ones of her mother, is unknown. It is possible that the "think-for-yourself" attitude of freethinkers appealed to Ricker because she was always the type of woman to think for herself. Her exposure to the freethought movement and belief in its teachings would remain important to Ricker throughout the rest of her life. In fact, the last ten years of her life were almost exclusively devoted to writing and publishing books on freethought.<sup>39</sup>

### *A Woman Lawyer*

Upon her return from Europe, Ricker, "having decided upon the law as her tool to help the weak and unfetter the oppressed...settled in Washington, D.C., and began to read law..." in 1876.<sup>40</sup> A short biography of Ricker reveals that she "was always interested in politics, and eagerly went for the weekly papers which arrived every Saturday afternoon at the post office two miles away," and that "she was always interested in law, and attended court every opportunity she could get."<sup>41</sup> However, precisely where Ricker's interest in the law originated is unknown. By at least one account, Ricker came from "a long line of ancestors who were members of the legal profession," but other biographical accounts fail to either substantiate or elaborate upon

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<sup>39</sup> Thomas, *supra* note 2, at 155; Ricker wrote and published one book, *Four Gospels* in 1911, that contrasted her freethought heroes, Robert Ingersoll and Thomas Paine, with Jonathan Edwards and John Calvin, and two volumes of short essays, *I Don't Know, Do You?* in 1916 and *I Am Not Afraid, Are You?* in 1917.

<sup>40</sup> *Id.*, at 154.

<sup>41</sup> FOLIO, *supra* note 3, 125.

this claim.<sup>42</sup>

To be sure, law was *not* a profession generally open to women when Ricker set her mind to becoming a lawyer. Personal accounts of early women lawyers' experiences vary broadly, but the following description given by New York attorney Nellie Robinson is illuminating:

It is...a hard life. The nervous strain of court practice is wearing even to men, and women are much less able to endure it. I would certainly advise girls to study law as part of a valuable practical education, but I would discourage them from attempting court practice unless it is necessary. It is useless to deny that there is prejudice against women lawyers. I mean among men in the profession. When I first began to practice I had the feminine idea of the social courtesy extended by men to women, and I thought everything was going to be perfectly lovely; but I found out my mistake. If I wanted to win, I had to fight tooth and nail. I did it, but it isn't every woman who would be physically able to endure the strain.<sup>43</sup>

While not every woman lawyer of the time felt the same strain or encountered similar animosity from male colleagues, Nellie Robinson's account of the hardships associated with being an early woman lawyer was by no means unusual or exaggerated.

When Ricker settled down to study law, the legal profession was still in the process of becoming a true profession with established standards for bar admission.<sup>44</sup> The common method of becoming a lawyer involved apprenticing oneself to a law office for a few years, and then presenting oneself before a state court for questioning about the law.<sup>45</sup> This practice lasted until the late 1800s, when it was slowly overtaken by formal legal education.<sup>46</sup> By several accounts, state court examinations of prospective lawyers were often informal and shallow affairs: "Bar admission, for example, was rumored to be

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<sup>42</sup> BIOGRAPHICAL REVIEW *supra* note 23, 24.

<sup>43</sup> FRANCES ELIZABETH WILLARD, OCCUPATIONS FOR WOMEN 374-375 (1897) [hereinafter OCCUPATIONS].

<sup>44</sup> DAWN BRADLEY BERRY, THE FIFTY MOST INFLUENTIAL WOMEN IN AMERICAN LAW 19 (1996).

<sup>45</sup> *Id.* (Ricker became a licensed attorney in this manner).

<sup>46</sup> *Id.*

available to any Indiana man who could tell two funny stories (one for men only), one lie, and drink two glasses of whiskey.”<sup>47</sup> Another male lawyer’s account of gaining bar admission was equally lax: “On December 20, 1854, he appeared at the courthouse in Mount Vernon bearing a certificate of good character, answered a few elementary questions of law, according to custom stood his examiners to a round of drinks at a tavern, and became a member of the Illinois bar.”<sup>48</sup> Not surprisingly, the few women seeking entrance to the legal profession at that time did not experience the same informal ease of bar admission as their male contemporaries.

As such, early American women lawyers owe a measure of their own hard-won success to the pioneering efforts of Belva Ann Lockwood—teacher, single mother, suffragist, first woman law school graduate, and first woman admitted to practice before the United States Supreme Court.<sup>49</sup> After struggling first to gain admission to law school, then enduring the male-dominated and unsupportive educational atmosphere, and then having to relentlessly petition President Ulysses S. Grant for the diploma that rightfully belonged to her in the first place, Lockwood finally graduated from National University Law School in 1873.<sup>50</sup> Although Lockwood had no problem gaining admission to the District of Columbia’s bar, which changed its rules in 1871 to admit women, she was not allowed to even apply for admission to the United States Supreme Court bar “based on the English tradition of only males becoming barristers.”<sup>51</sup> To circumvent this tradition, Lockwood turned to the legislature and campaigned for five long years to change the law. In 1878, Congress enacted and President Rutherford B. Hayes signed the “Lockwood

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<sup>47</sup> *Id.*

<sup>48</sup> FRANK SMITH, ROBERT G. INGERSOLL: A LIFE 24 (1990) [hereinafter SMITH].

<sup>49</sup> BERRY, *supra* note 44 at 19-22.

<sup>50</sup> *Id.*, at 21-22.

<sup>51</sup> *Id.*, at 22.

bill” giving female lawyers the right to practice before federal courts. Finally, in March of 1879, Lockwood became the first woman admitted to the United States Supreme Court Bar.<sup>52</sup>

Lockwood’s struggles to become a full member of the legal profession had more than just a general bearing on Ricker’s. Rather, Lockwood created what one legal historian refers to as an “‘old girls network’ of women attorneys who supported each other’s progress in the legal profession.”<sup>53</sup> This support group played an integral role in Ricker’s own efforts to become a full member of the legal profession. Legal historian Mary Clark described the close working and social relationships among early women lawyers:

These early female Supreme Court bar members were well known to one another. They worked together in the woman suffrage movement, were active in the same professional and voluntary associations, and corresponded with one another about personal and professional issues. In time, they began to move each other’s admissions to the Supreme Court bar.<sup>54</sup>

In what exact manner Ricker came to the attention of Lockwood’s group of “‘sisters in law,’” is unknown. It is possible that Ricker met Lockwood through their woman suffrage activities, perhaps while attending the first National Woman Suffrage Association convention held in Washington, D.C. in 1869.

When she settled in Washington, D.C. to read law, Ricker apprenticed in the law office of Albert Gallatin Riddle.<sup>55</sup> Riddle was yet another man in Ricker’s life who was extremely progressive and liberal for his time. Originally from Ohio, Riddle represented the state in the House of Representatives during the 1860s, and was among the first

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<sup>52</sup> *Id.*

<sup>53</sup> Mary Clark, *The First Women Members of the Supreme Court Bar, 1879-1900*, 36 SAN DIEGO L. REV. 87, 126 (1999).

<sup>54</sup> *Id.*, at 88.

<sup>55</sup> Thomas, *supra* note 2, at 154.

advocates of abolishing slavery in the District of Columbia.<sup>56</sup> In addition to having a respected D.C. legal practice, Riddle was among the first white lawyers recruited to the faculty of Howard University’s law school in 1868.<sup>57</sup> Riddle and his colleagues were described as “respected and learned men who were anxious to be among the first professors to educate former slaves in the law.”<sup>58</sup> In just the year 1871, professor Riddle moved for the admission of nine black Howard University law school graduates to the local supreme court of the District of Columbia. And, when two of the applicants were denied additional admission to the Louisiana Supreme Court on the grounds that admission to the D.C. bar did not constitute a ‘state bar’ recognizable in Louisiana, an incensed Riddle moved the local D.C. court “not to recognize the admission of members of the Louisiana bar to the bar of the District of Columbia, a motion that was granted....”<sup>59</sup>

Perhaps Riddle’s reputation in D.C. preceded him, and Ricker sought him out on her own for an apprenticeship. More likely, however, is the possibility that Lockwood introduced Ricker to Riddle upon her arrival in D.C., since it was Riddle who successfully moved for Lockwood’s admission to the Supreme Court bar in 1879, and he “had presented Lockwood to the Court at the time that her first application for membership was denied.”<sup>60</sup> After four years of study, Ricker was admitted to practice before the District of Columbia bar on May 12, 1882, with the *highest* score on the bar

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<sup>56</sup> JOHN CLAY SMITH, EMANCIPATION: THE MAKING OF THE BLACK LAWYER 45 (1993) [hereinafter J.C. SMITH].

<sup>57</sup> *Id.*, at 42-43.

<sup>58</sup> *Id.*, at 43.

<sup>59</sup> *Id.*, at 76 n.122.

<sup>60</sup> Clark, *supra* note 53, at 92 (Riddle also moved for the admission of Laura DeForce Gordon and Carrie Burnham Kilgore to the Supreme Court bar).

exam among her co-applicants who, incidentally, were all men.<sup>61</sup> Two days after her examination, the *New York Daily Tribune* reported:

On Friday last Mrs. M. M. Ricker was admitted to the bar of the District of Columbia, and she passed, says a United States Senator, “the best examination among seventeen applicants, all men but herself. She was found to be particularly well versed in the law of real property, a branch supposed to be beyond the reach of the female intellect.”<sup>62</sup>

Marilla Ricker was forty-two years old when she finally became a lady lawyer.

Unfortunately, almost no substantive or primary information exists regarding Ricker’s D.C. legal practice. Since Ricker specialized in criminal law and mostly represented the poorest criminals, it is not surprising that her name or her cases fail to appear in appellate case law reporters.<sup>63</sup> Still, it is known that “she made her first courtroom appearance as an assistant counsel to her fellow free thinker Col. Robert G. Ingersoll in the Star Route mail fraud cases....”<sup>64</sup> How Ricker came to be Ingersoll’s legal associate is unknown. It is possible they became acquainted through freethought activities, as Ingersoll—a prominent political speaker and politician, advocate for black and woman suffrage, and brilliant criminal defense lawyer—was an outspoken freethinker.<sup>65</sup> Ultimately, Ingersoll became one of Ricker’s “heroes,” and she “offered to buy the full twelve- volume Dresden edition of the *Works of Ingersoll* for any library in New Hampshire that would accept them.”<sup>66</sup>

The Star Route mail fraud cases involved the government’s much publicized prosecution of fraud in connection with subcontracts to deliver mail on the remote Star

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<sup>61</sup> Thomas, *supra* note 2, at 154; METCALF, *supra* note 29, at 81.

<sup>62</sup> N.Y. DAILY TRIB., May 14, 1882, Personal Section, at 6.

<sup>63</sup> *Marilla M. Ricker, Washington, D.C.*, 1 THE LAW STUDENT’S HELPER 304 (1893) [hereinafter HELPER].

<sup>64</sup> Thomas, *supra* note 2, at 154.

<sup>65</sup> SMITH, *supra* note 48, at 163-179.

<sup>66</sup> Thomas, *supra* note 2, at 155; GAYLOR, *supra* note 37, at 264.



Routes between Second Assistant Postmaster General Thomas J. Brady’s office and the Dorsey group (consisting of the defendant brothers Stephen W. and John W. Dorsey represented by Ingersoll). The government charged the Dorsey group with defrauding the public of at least \$60,000 in its management of the Star Routes before the contracts were finally cancelled in 1881.<sup>67</sup> The government was certain that it would prevail, and in order to ensure certain victory, appointed three special prosecutors consisting of the best and brightest of the New York and Philadelphia bars.<sup>68</sup> The government was so certain of ultimate victory, that it set about “recording and publishing the trial proceedings, amassing a phenomenal compilation of 3,286 pages on the first trial (3 volumes), and 6,003 on the second (4 volumes).”<sup>69</sup> Instead of victory, however, the government “was completely routed. What was to be a monument to Republican virtue stands as a memorial to one of the greatest fiascoes in the history of federal prosecutions.”<sup>70</sup> Ricker’s exact role in Ingersoll’s defense of the Dorsey brothers is unknown, but was probably limited to investigative research as opposed to supplying active courtroom counsel.<sup>71</sup> In the first three volume record of the Star Route trial, Ricker’s name is not among those listed as defense counsel.<sup>72</sup>

Ricker also practiced for a short time in Lockwood’s D.C. law office. Another woman, Lavinia Dundore, joined the practice, and the trio became known as the “Three Graces.” Again, detailed descriptions of Ricker’s cases and practice are lacking. While

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<sup>67</sup> SMITH, *supra* note 48 at 200-201.

<sup>68</sup> *Id.*, at 200.

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*, at 200-201.

<sup>71</sup> Accounts of Ricker’s role in the Star Route trial vary broadly. Some refer to her as Ingersoll’s “assistant counsel” (*see* Thomas, *supra* note 2, at 154); others say she “represented Dorsey, one of the defendants” (*see* HELPER, *supra* note 62, at 304); and still others say she “achieved national prominence through her work as an investigating attorney” (*see* Susan Martel, *Suffragist Marilla Ricker*, PREMIER 38 (May 1995)).

<sup>72</sup> *See* JOHN W. DORSEY, 1-3 RECORD OF THE STAR ROUTE TRIALS (1882).

information about the trio such as, “[They] often raised the eyebrows of Washington’s elite. One spring day they held a footrace through the suburban streets of the capital,” survives in the history books and biographies, the same cannot be said for serious information regarding the trio’s *legal practice*.<sup>73</sup> As for Ricker’s criminal practice, she “was long known as the ‘Prisoner’s Friend,’ from her constant habit of visiting jails and prisons, applying for releases and pardons, and supplying prisoners with reading matter, writing material and other comforts.”<sup>74</sup> At first, it might seem likely that Ricker specialized in criminal law and worked on behalf of society’s poorest criminals because, as a woman lawyer, the only clients she could find were those that could not afford the services of a male lawyer. However, it would be a mistake to characterize Ricker’s practice in such a manner. By all accounts, she was truly a friend to poor prisoners as evidenced by the fact that she often paid for their defense counsel when she was unable to take their cases herself, and by the extraordinary claim that “during her entire career she never accepted a retainer or fee.”<sup>75</sup>

Ricker did not limit her aid to criminals and prisoners to those she encountered in her D.C. practice. In 1879, Ricker sought a hearing before New Hampshire’s governor to protest conditions endured by prisoners in the state prison. She also instigated new legislation so that prisoners could send sealed letters (presumably of protest about the prison’s conditions) to the governor without being first intercepted and opened by the warden.<sup>76</sup> Then, in 1882 when President Arthur appointed Ricker as a notary public in the District of Columbia, she put the rare privilege of being a woman notary “to effective

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<sup>73</sup> BERRY, *supra* note 44 at 23.

<sup>74</sup> FOLIO, *supra* note 3, at 126.

<sup>75</sup> *Id.*; HELPER, *supra* note 62, at 304.

<sup>76</sup> Thomas, *supra* note 2, at 155.

use by enabling prisoners to make their depositions before her rather than before other city notaries whom they could not afford to pay.”<sup>77</sup> And, in 1884, Ricker became the first woman appointed Commissioner and Examiner in Chancery by judges from the supreme court of the District of Columbia.<sup>78</sup> The office required Ricker to act in a quasi-judicial capacity, and once again she used her position for the benefit of prisoners and criminals. First, she challenged D.C.’s

‘poor convict’s act,’ . . . under which several court judges, and especially the judge of the police court, had been in the habit of sentencing petty offenders to a short term in jail, and supplementing it with a fine, which, of course, a pauper criminal could not pay, and was therefore held in jail for an indefinite length of time.<sup>79</sup>

Not only did Ricker secure a judgment from D.C.’s supreme court declaring the additional fine illegal, but she also used her position as commissioner in chancery to set “many a poor convict at liberty, and finally broke up the custom altogether.”<sup>80</sup>

Like all lawyers, Ricker had her share of losing cases. One of her more prominent losses recounted in several biographical accounts was a test case of D.C.’s old Sunday law requiring shops to close in observance of the Sabbath. Ricker’s client was a “prominent colored barber,” and she argued that “shaving was necessary work, and that her client had been employed to shave President Arthur.”<sup>81</sup> While the biographical accounts fail to elaborate on Ricker’s motivation for taking the case, it’s likely that her distaste for religion, and especially for mixing religion with political and legal matters,

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<sup>77</sup> *Id.*, at 154-155.

<sup>78</sup> *Id.*, at 155.

<sup>79</sup> FRANCES ELIZABETH WILLARD, *A WOMAN OF THE CENTURY: FOURTEEN HUNDRED-SEVENTY BIOGRAPHICAL SKETCHES ACCOMPANIED BY PORTRAITS OF LEADING AMERICAN WOMEN IN ALL WALKS OF LIFE 608-609* (1893) [hereinafter WILLARD].

<sup>80</sup> *Id.*, at 609.

<sup>81</sup> *Id.*

prompted her to take the case.<sup>82</sup> Regardless, Ricker lost at both the trial and appeals levels.<sup>83</sup> Only one description of Ricker’s courtroom demeanor exists, and if accurate, is very surprising: “Apparently bold and always progressive, she is in reality very timid and always addresses the court with much shyness and trepidation, as if doubting her own judgment.”<sup>84</sup>

Returning to Ricker’s ties to Lockwood’s “old girls network,” Ricker became the ninth woman member of the United States Supreme Court bar on May 1, 1891.<sup>85</sup> Emma M. Gillett, the seventh woman member of the Supreme Court bar, moved for Ricker’s admission.<sup>86</sup> Apparently, Ricker never filed any briefs or argued any cases before the United States Supreme Court.<sup>87</sup> While it is possible that none of her cases ever made it that far in the appeals process, it is also possible that Ricker sought admission to the highest court in the land for purely symbolic reasons—that is, the legal and professional advancement of women. As will be discussed later, Ricker may have made a habit of putting her name on various lists and ballots to generate attention and support for women’s causes.

Just one year prior to becoming the ninth member of the Supreme Court bar, Ricker succeeded in opening the New Hampshire bar to all women in 1890.<sup>88</sup> Once again, Ricker’s efforts and success were aided by her membership in Lockwood’s “old

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<sup>82</sup> See e.g., *The Persistency of Mrs. Ricker*, THE SUNDAY HERALD—BOSTON, Sept. 9, 1906, at magazine section (“‘Why,’ she demanded, ‘should I, who do not believe in the interference of religion with the government, be compelled to pay taxes for the maintenance of prison chaplains? I have no voice in giving them their positions. I am not consulted. I have no opportunity to express formally my opposition to their services for hire. But I have to pay taxes just the same. And that is one reason I file my protest with the assessors. That is the only course of objection open to me.’”) [hereinafter *Persistency*].

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

<sup>85</sup> Clark, *supra* note 53 at 126, 88; GAYLOR, *supra* note 37, at 264.

<sup>86</sup> Clark, *supra* note 53 at 88 (Gillett’s bar admission was moved by Ada M. Bittenbender, the third woman member of the Supreme Court bar, in 1890).

<sup>87</sup> *Id.*, at 119.

<sup>88</sup> See *In re Ricker*, 66 N.H. 207 (1890).

girls network.”<sup>89</sup> Although Ricker had been a licensed attorney in D.C. since 1882, bar admission for women still varied greatly from state to state. Subsequently, Ricker and her cohorts were still battling the conception of separate spheres under which deemed women unfit for the profession of law.<sup>90</sup> In 1881, Lelia Robinson—an integral member of the old girls network—challenged the jurisprudence of separate spheres in Massachusetts, but was unsuccessful when the state court ruled that women were unable to become lawyers because they were unable to hold public office.<sup>91</sup> The court’s decision “explicitly tied the volatile political issue of suffrage to women’s common-law rights to practice law....[I]n Massachusetts an attorney was ‘almost’ a public officer. To permit women to practice law implicitly granted them the right to vote.”<sup>92</sup>

While Robinson’s case provided the test of Massachusetts law, she only sought admission to the Massachusetts supreme court bar upon graduating from Boston University Law School with “impeccable credentials,” yet unable to find a job!<sup>93</sup> Although she lost her case, Robinson was able to secure legislation allowing her to practice law in Massachusetts in 1882.<sup>94</sup> And, in 1889, Robinson joined forces with Ricker in the latter’s petition for admission to the New Hampshire bar.<sup>95</sup> With Robinson’s counsel, Ricker prepared her own brief to New Hampshire’s supreme court

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<sup>89</sup> Clark, *supra* note 53 at 126.

<sup>90</sup> VIRGINIA G. DRACHMAN, *SISTERS IN LAW: WOMEN LAWYERS IN MODERN AMERICAN HISTORY 18-19* (1998) [hereinafter DRACHMAN].

<sup>91</sup> *Id.*, at 27; *See* Lelia J. Robinson’s Case, 131 Mass. 376 (1881); For more on Lelia Robinson *see* Lelia J. Robinson, *Women Lawyers in the United States*, 2 GREEN BAG 10 (1890); Barbara Allen Babcock, *Making History*, 2 GREEN BAG 65 (1998).

<sup>92</sup> *Id.*

<sup>93</sup> *Id.*

<sup>94</sup> *Id.*, at 30.

<sup>95</sup> *Id.*, at 33.

“citing both cases and statutes providing for the admission of women.”<sup>96</sup> Chief Justice Doe’s stunning forty-eight page opinion in Ricker’s case “turned the decision in *Robinson* on its head, concluding that the attorney ‘is not generally regarded as a public officer.’”<sup>97</sup> Doe held that gaining admission to the New Hampshire bar was not the same as gaining admission to a public office, and that women were not prevented from being attorneys at common law.<sup>98</sup> Only if state law specifically defined the attorney’s office as requiring “electoral and official power,” would women be prohibited from acting as that type of attorney.<sup>99</sup> Doe’s opinion was carefully drafted and extremely thorough in its review of case law and statutes, and thus carried significant weight as binding precedent within the legal community.<sup>100</sup> Interestingly, while Ricker is often credited as the first woman lawyer in New Hampshire, Chief Justice Doe’s opinion did not grant her admission to the state’s bar. Rather, the opinion concludes, “When the petitioner furnishes the evidence required by the rules, the question of her admission to examination (or admission to practice without examination, as a person who has been admitted and has practiced in another state) will be considered.”<sup>101</sup> As such, no record of Ricker’s formal admission to the New Hampshire bar exists, although she did gain admission by motion for individual cases when necessary.<sup>102</sup>

### *A Pioneer for Woman Suffrage*

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<sup>96</sup> *Id.*, at 34 (Drachman cites Ricker’s brief, and Robinson’s supplemental brief, as 66 N.H. 207, but that citation only yields Chief Justice Doe’s published opinion in the case).

<sup>97</sup> *Id.*

<sup>98</sup> *Id.*

<sup>99</sup> *Id.*

<sup>100</sup> *Id.*

<sup>101</sup> 66 N.H. 207.

<sup>102</sup> Thomas, *supra* note 2, at 155; Unfortunately, no record or information relating to Ricker’s New Hampshire legal activities was recovered in the research for this paper.

One legal historian has pointed out that many of the early women members of the Supreme Court bar were active in the woman suffrage movement—Marilla Ricker was no exception. While both her father and husband had been proponents of woman suffrage in their lifetimes, Ricker only began to truly identify with the movement after she attended the first National Woman’s Suffrage Association (NWSA) convention in 1869.<sup>103</sup> The NWSA was organized by Elizabeth Cady Stanton and Susan B. Anthony as a women-only offshoot of the Equal Rights Association.<sup>104</sup> Later that same year, the American Woman Suffrage Association (AWSA) was organized under the direction of Lucy Stone and a confederation of delegates from “recognized” suffrage associations.<sup>105</sup> The two suffrage organizations differed in their approach to the same objective, and as a result of that difference remained largely separate and unsupportive of one another:

Except for one or two abortive attempts at reconciliation, the two suffrage associations continued to operate independently of one another for twenty years. While some authorities have pleaded mystification as to the reason for the split between women once so closely united and with the same basic aims, the reason seems simple enough. It lay in deeply opposing social viewpoints—the conservative [AWSA] and the radical [NWSA]—which clashed, not on whether women should vote, but *how* that goal could be won.<sup>106</sup>

In short, the AWSA sought to cultivate support from America’s established society by adopting a conservative view of women’s rights, and the NWSA sought to cultivate support wherever they could by adopting a more radical notion of women’s rights.

By some accounts, Ricker was so moved by the 1869 NWSA convention that “she ‘hurried home’ to New Hampshire and tried to vote.”<sup>107</sup> Ricker’s first attempt to vote in

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<sup>103</sup> White, *supra* note 34, at 473.

<sup>104</sup> FLEXNER, *supra* note 5, at 154-155.

<sup>105</sup> *Id.*, at 155.

<sup>106</sup> *Id.*, at 156.

<sup>107</sup> White, *supra* note 34, at 473; *Persistency*, *supra* note 82, at magazine section.

a local New Hampshire election occurred in 1870, and was unsuccessful. When paying her taxes that year, Ricker “demanded the right to vote as an ‘elector’ under the terms of the Fourteenth Amendment.”<sup>108</sup> In support of her position, Ricker wrote a letter to the Dover, New Hampshire selectmen setting forth the constitutional basis for her right to vote in the local election:

I am a person, one of the sovereign people, a citizen of the United States and of the State of New Hampshire. Does the State of New Hampshire enforce any law which abridges my privileges and immunities as a citizen? Is it nothing to be denied the right to vote?...[G]overnment permits the State of New Hampshire in the face of the 14<sup>th</sup> amendment to enforce laws which abridge my privileges and immunities as well as those of every other woman who resides therein, who is responsible, taxed, and who contributes to the maintenance of an organized government.<sup>109</sup>

Whether Ricker came up with this argument by herself, or was exposed to it at the 1869 NWSA convention is unknown. To be sure, Ricker was not the only woman to use this argument in an effort to secure legal rights for her sex. The following year, Myra Bradwell of Illinois would point to the privileges and immunities clause of the Fourteenth Amendment as support in her unsuccessful attempt to open the Illinois bar to women.<sup>110</sup> Regardless of where the Fourteenth Amendment argument originated, Ricker’s first attempt to vote on its basis was unsuccessful. Ricker persevered, however, and the following year “she did vote in 1871—presumably the first woman in the United States to have done so upon [the Fourteenth Amendment] basis—and until national woman

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<sup>108</sup> Thomas, *supra* note 2, at 155; SCHLESINGER, *supra* note 1, at 147 (“The protagonists of woman rights now sought to turn defeat into victory claiming that the fourteenth amendment in declaring that all persons born or naturalized in the United States were citizens, and thereby really enfranchised all women. Acting upon this interpretation women actually attempted to vote in several states and in some cases were succeeded; and it was not until a Supreme Court decision was rendered upon the point in 1875 that women were convinced that the right of citizenship did not carry with it the right to vote.”); *See* Minor v. Happersett, 83 U.S. 162 (1874).

<sup>109</sup> FOLIO, *supra* note 3, at 127.

<sup>110</sup> FLEXNER, *supra* note 5, at 122-123.



suffrage was gained she continued to lodge a protest each time she paid her taxes.”<sup>111</sup>

Ricker was first a member of the NWSA, and then of the National American Woman Suffrage Association when the NWSA and the AWSA finally merged in 1890.<sup>112</sup> Ricker was also active in state suffrage associations, and for several years served as the New Hampshire Woman Suffrage Association’s delegate to national conventions. She was described as “a well-known and witty lecturer, and as a generous contributor of funds.”<sup>113</sup> It is important to note that the campaign for woman suffrage took place on two distinct levels—state and federal. As such, there was a near constant tension over which level of work was more important in winning the vote for women.

After the merger of the AWSA and the NWSA into the NAWSA, a motion was made, and in 1893 approved, “to hold the annual convention in Washington only in alternate years.”<sup>114</sup> National suffrage leaders such as Stanton and Anthony were greatly disturbed by this change, since the annual national convention provided the NAWSA with its greatest opportunity to apply direct pressure to Congress for the adoption of a national suffrage amendment. In Anthony’s opinion,

The sole object, it seems to me, of this organization, is to bring the combined influence of all the States upon Congress to secure national legislation. The very moment you change the purpose of this great body from National to State work you have defeated its object. It is the business of the States to do the district work; to create public sentiment; to make a national organization possible; and then to bring their united power to the capital and focus it on Congress....I shall feel it a grave mistake if you vote for a movable convention. It will lessen our influence and our power.<sup>115</sup>

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<sup>111</sup> Thomas, *supra* note 2, at 155; FLEXNER, *supra* note 5, at 168; *See also* ELIZABETH CADY STANTON, ED., 2 THE HISTORY OF WOMAN SUFFRAGE 586 (1881).

<sup>112</sup> Thomas, *supra* note 2, at 155; FLEXNER, *supra* note 5, at 226.

<sup>113</sup> Thomas, *supra* note 2, at 155.

<sup>114</sup> FLEXNER, *supra* note 5, at 227.

<sup>115</sup> *Id.*

Although Ricker was first a member of the NWSA, and second a member of NAWSA, it is possible that she favored the shift in focus to state level suffrage work. In a rare expression of criticism for national woman suffrage movement, Ricker complained,

Now, [the woman suffrage leaders] come to New Hampshire, for example, and take control of the campaigns right out of the hands of the local people.... That method...is ineffective. The women of each state should run their own campaigns, with the big leaders from the outside as their assistants, with everybody understanding just what the situation is and getting no false ideas about it.<sup>116</sup>

Unfortunately, whatever advances Ricker and other pro-state suffragists like her intended to hasten by shifting the NAWSA's focus to state campaigns never fully materialized. In fact, not only were a mere two out of 480 campaigns for referenda in thirty-three states successful in securing the vote for women, but for "all intents and purposes, the federal woman suffrage amendment vanished as a political issue until 1913."<sup>117</sup>

Looking back after the passage of the Nineteenth Amendment, Carrie Chapman Catt—a leading speaker and organizer within the suffrage movement—reflected on the massive grassroots effort of women everywhere:

To get the word 'male' in effect out of the Constitution cost the women of the country fifty-two years of pauseless campaign....During that time they were forced to conduct fifty-six campaigns of referenda to male voters; 480 campaigns to get Legislatures to submit suffrage amendments to voters; 47 campaigns to get State constitutional conventions to write

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<sup>116</sup> *Persistency*, *supra* note 82, at magazine section (Ricker's only other critique of the woman suffrage movement centered on the religious element of prayer common at suffrage meetings, but this was probably more a criticism of religion than of the suffrage movement. "I wish the ministers would keep out of the woman suffrage movement. They do more harm than good. Why, things have come to this pass, that at every meeting of women in behalf of suffrage some minister opens the meeting with prayer; in the middle of discussion there is another prayer; and then at the close of deliberations you hear a third prayer. No wonder the men laugh and call the meetings of women suffragists prayer meetings. That is almost what they have come to be. More practical politics would help the cause far better.").

<sup>117</sup> FLEXNER, *supra* note 5, at 227-228 ("Only two referenda were successful, those in Colorado and Idaho, both sparsely populated states where victory had little significance as far as winning the rest of the country was concerned; the other two additions to what came to be known as 'the suffrage column' were through the admission of new states, Wyoming in 1890 and Utah in 1896."); *See generally* BERTHA REMBAUGH, *THE POLITICAL STATUS OF WOMEN IN THE UNITED STATES: A DIGEST OF THE LAWS CONCERNING WOMEN IN THE VARIOUS STATES AND TERRITORIES* (1911).

woman suffrage into state constitutions; 277 campaigns to get State party conventions to include woman suffrage planks; 30 campaigns to get presidential party conventions to adopt woman suffrage planks in party platforms, and 19 campaigns with 19 successive Congresses.<sup>118</sup>

Ricker was involved in one way or another through every step of the march towards national woman suffrage. In addition to helping out with local New Hampshire suffrage campaigns, speaking at national suffrage conventions across the country, and donating funds in support of the cause, Ricker also initiated several high publicity political maneuvers that brought national attention to women's rights issues.

In February 1897, Ricker became the first woman in America history to apply for a foreign ambassadorship.<sup>119</sup> She submitted an application to President William McKinley for the post of envoy extraordinary and minister plenipotentiary to Columbia bluntly stated that, "I assisted in rescuing the country from Democratic and Populistic mismanagement and misrule, and now I want and ask for a 'wider sphere of usefulness.'"<sup>120</sup> The assistance Ricker was referring to was most likely her life-long support of the Republican party which involved campaigning nationally for the party, writing and speaking extensively in support of the party, organizing the first women's Republican club in Iowa in 1892, and donating money to the party.<sup>121</sup> Ricker's reference to "a wider sphere of usefulness," was a pointed reminder to McKinley of the Republican party's platform adopted at the National Republican Convention in St. Louis in 1869, which asserted,

The Republican party is mindful of the rights and interests of women.

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<sup>118</sup> FLEXNER, *supra* note 5, at 244, 176.

<sup>119</sup> *Id.*, at 123-124.

<sup>120</sup> DeWhitt, *supra* note 35, at 205 (providing the most detailed account of Ricker's application for the Columbian post).

<sup>121</sup> *Id.*, at 204; FOLIO, *supra* note 3, at 126.

Protection of American Industries includes equal pay for equal work, and protection to the home. We favor the admission of women to wider spheres of influence, and welcome their co-operation in preserving the country from Democratic and Populistic mismanagement and misrule.<sup>122</sup>

In a newspaper interview announcing Ricker's application for the Colombian post, she contended that, "either this meant something or it did not," and her application would provide the test case.<sup>123</sup>

To be sure, Ricker was serious in her application for the Colombian post, and not just attempting to generate publicity for the woman suffrage cause. Besides being a "good Republican," Ricker's other qualifications for the post included a natural aptitude for languages, familiarity with living abroad, a trained legal background, and a lifetime of political speaking, writing, and organizing.<sup>124</sup> Even her choice of *which* post revealed Ricker's seriousness, as the Colombian post was "customarily a New Hampshire plum."<sup>125</sup> Indeed, when Ricker applied for the post it was currently held by Luther McKinney of Manchester, New Hampshire.<sup>126</sup> However, it is possible that Ricker overestimated the strength of the New Hampshire connection to the Colombian post. In turning down her application, McKinley appointed West Virginia newspaperman Charles Burdette Hart to the post instead of another New Hampshire citizen.<sup>127</sup>

While Ricker admitted that her primary motive in applying for the post was to "open the foreign service to women, for 'there is no gender in brain, and it is time do

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<sup>122</sup> *A Remarkable Woman: Mrs. Marilla M. Ricker, of Dover, N.H., Who Asks To Be Appointed Minister to Colombia*, N.Y. DAILY TRIB., March 16, 1897, at 5 [hereinafter *A Remarkable Woman*].

<sup>123</sup> *Id.*

<sup>124</sup> DeWhitt, *supra* note 35, at 205 (recall that Ricker spent four years abroad in Germany after her husband's death, and reasoned that "she could learn Spanish as quickly as she had German, Italian, and French").

<sup>125</sup> *Id.*, at 204.

<sup>126</sup> *A Remarkable Woman*, *supra* note 121, at 5.

<sup>127</sup> DeWhitt, *supra* note 35, at 203

away with the silly notion there is,”<sup>128</sup> there are several other indications that she sought to generate publicity for women’s suffrage, rights, and opportunities. First, nearly all of the endorsements for Ricker’s application came from individuals with long-standing ties to the woman suffrage movement. Ricker’s strongest *male* endorser was none other than Henry W. Blair, former New Hampshire Senator and lawyer in the District of Columbia, whose “strong humanitarian convictions and fervent belief in women’s suffrage nurtured his support for Ricker.”<sup>129</sup> While still a Senator, Blair took to the Senate floor at a December 8, 1886 Senate Select Committee on Woman Suffrage to discuss the so-called “Anthony Amendment,” the national woman suffrage amendment that the NWSA annually reintroduced to Congress at the Washington convention.<sup>130</sup> Taking the Senate floor to argue on behalf of woman suffrage everywhere, Senator Blair of New Hampshire declared that “the right to vote is the great primitive right in which all freedom originates and culminates. It is the right from which all others spring....”<sup>131</sup>

Blair also penned several letters to the President in support of Ricker’s appointment, and met personally with McKinley on one occasion to discuss her application.<sup>132</sup> In one of his letters of support, Blair directly addressed the feminist goal behind opening the foreign service to women:

In short, Mr. President, unless women are to be forever excluded from the

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<sup>128</sup> *Id.*, at 204.

<sup>129</sup> *Id.*, at 205.

<sup>130</sup> FLEXNER, *supra* note 5, at 176-177 (“Early in 1878 Sen. A.A. Sargent of California, a close friend of Susan Anthony’s, introduced a woman suffrage measure, usually referred to as the “Anthony Amendment,” which, without any change in wording, was to be used until it was finally passed by Congress more than forty years later. “The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of sex.””).

<sup>131</sup> *Id.*, at 177 (Blair “dealt exhaustively with all the serious objections raised by anti-suffragists: that voting must be based on military service (but this restriction does not apply to men who do not perform military service); that women’s intellectual capacity is inferior (men’s intellect is not questioned); lack of time due to maternal and housewifely duties (why not leave this problem to the individual female as to the individual male voter?), and so on, down the line.”).

<sup>132</sup> DeWhitt, *supra* note 35, at 205.

diplomatic service, there can never be a more fortunate opportunity than this to take the advance step, too long neglected, and by this graceful, adequate, and dignified recognition of the womanhood of the country, establish the great truth that the soul and not the sex of the applicant is the true test of qualification for public service.<sup>133</sup>

Adding to Blair’s endorsement of Ricker’s application were “fifty-two women of Washington,” including prominent suffragists Belva Lockwood, Matilda Joslyn Gage, and Lillie Devereaux Blake, then the president of the New York City Woman Suffrage League and the New York State Woman Suffrage Association.<sup>134</sup> A newspaper article reported that, “[Ricker] is well known to women’s clubs throughout the country, and they have sent big petitions urging her appointment.”<sup>135</sup> Although none of the materials relating to Ricker’s application for the Colombian post suggested a nation-wide suffragist campaign in support of her appointment, it seems unlikely that so many members of the woman suffrage movement were just coincidentally in support of Ricker’s application.

The final reason why Ricker’s application for the Colombian post may have symbolized more than her desire to relocate to a warmer climate, is that nearly every account detailing Ricker’s application commented on the sheer unlikelihood of her success because she was a *woman*. While a *New York Times* article described Ricker as a “daring innovator,” it then pointed out that, “nobody goes quite so far as to say that she will probably get the place, but it is asserted that she has the support of both the New Hampshire Senators, and that her candidacy will be warmly advocated by woman suffrage clubs and similar organizations all over the country.”<sup>136</sup> Another newspaper

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<sup>133</sup> *Id.*, at 205-206.

<sup>134</sup> *Id.*, at 206.

<sup>135</sup> *Mrs. Ricker and Colombian Mission: Her Application for Appointment Not Likely To Be Successful*, N.Y. DAILY TRIB., May 6, 1897, at 14 (making the only mention of how the Colombian government would be unlikely to welcome a woman foreign minister).

<sup>136</sup> N.Y. TIMES, Feb. 9, 1897, Personal Section, at 6.

article put the problem faced by Ricker’s application more bluntly: “If Mrs. Ricker were only a man now the New Hampshire delegation, indeed all the Senators and Congressmen of New-England...would not be likely to withhold the recognition that she seeks. In everything, save her sex, she would admittedly be a good representative of the United States abroad.”<sup>137</sup> What, then, did Ricker have to gain by submitting her name for a position that no one believed McKinley would grant to a woman? The likely reason was to bring greater public attention to the need for a change in women’s traditional place in society. By filing her application for the Colombian post, Ricker was making a very public statement about the unfair limitations imposed on her sex and urging people to think of women in theretofore unlikely positions: “She may not obtain the position for which she has now applied, but she claims that it will be demonstrated that the coming woman can be appointed to high places. Her application for recognition at the hands of the general Government will mark an era.”<sup>138</sup>

Ricker’s application for the Colombian post was not her only attempt to “mark an era.” From a woman who paid her taxes under protest for half a century because of her inability to vote in national elections, it is hardly surprising that Ricker would keep trying to change the public’s perception of women.<sup>139</sup> Still, her second attempt greatly exceeded the first in terms of the prestige of the position she sought—the governorship of New Hampshire! In 1910, Marilla Ricker became the first woman in New Hampshire to announce her candidacy for governor.<sup>140</sup> It would be incorrect to say that Ricker *ran* for

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<sup>137</sup> *A Remarkable Woman*, *supra* note 121, at 5.

<sup>138</sup> *Id.*; *See generally* DeWhitt, *supra* note 35, for reasons why President McKinley declined to appoint Ricker to the Colombian post.

<sup>139</sup> FELICE BELMAN AND MIKE PRIDE, EDS., *THE NEW HAMPSHIRE CENTURY: CONCORD MONITOR PROFILES OF ONE HUNDRED PEOPLE WHO SHAPED IT* 31 (2001) [hereinafter BELMAN].

<sup>140</sup> Thomas, *supra* note 2, at 155.

governor in 1910 because, as a woman, she was not allowed to *run*. She did, however, submit both her name and the \$100 application fee to New Hampshire’s secretary of state, with a handwritten “request that [her] name be printed on the official ballot of the Republican Party as a candidate (for governor).”<sup>141</sup> Ricker easily satisfied the “seven years of residency” requirement having lived in New Hampshire off and on her entire life, as well as the “at least thirty years of age” requirement by forty years—she was seventy in 1910.<sup>142</sup> Nevertheless, New Hampshire’s secretary of state, Edward Pearson, returned her application fee and refused to even put her name on the ballot claiming that “without the right to vote she could not run for office.”<sup>143</sup>

Ricker had at least two reasons for trying to run for the governorship of New Hampshire in 1910. The first stemmed from her life-long involvement with and support of the New Hampshire Republican Party. A self-described “stalwart” Republican, Ricker detested the Progressive wing of the party led on the national level by former President Theodore Roosevelt and on the state level in New Hampshire by Robert Bass.<sup>144</sup> Ricker reasoned that Bass’s candidacy “did not speak for her and other ‘stalwart’ Republicans,” and so she stepped forward to place her name on the ballot.<sup>145</sup> As for Roosevelt, Ricker disliked him both for serving two terms as a progressive Republican President—and doubtless she would dislike his attempt to run again in 1912 as part of the newly formed National Progressive Party—and for refusing to support woman suffrage in his annual

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<sup>141</sup> Gertrude Stevenson, *Sayings of Marilla Ricker, Who Would Be A Real Governor*, THE BOSTON HERALD, August, 13, 1913, at 2 [hereinafter Stevenson]; BELMAN, *supra* note 138, at 33.

<sup>142</sup> BELMAN, *supra* note 138, at 33.

<sup>143</sup> *Id.*, at 34; Stevenson, *supra* note 140, at 2; Thomas, *supra* note 2, at 155.

<sup>144</sup> See JAMES WRIGHT, THE PROGRESSIVE YANKEES: REPUBLICAN REFORMERS IN NEW HAMPSHIRE, 1906-1916 (1987) (providing an in-depth look at progressivism in the Granite state).

<sup>145</sup> BELMAN, *supra* note 138, at 33; Thomas, *supra* note 2, at 155.



message to Congress in 1908.<sup>146</sup> Thus, putting her name on the ballot for governor of New Hampshire provided Ricker with an outlet for her frustration with the progressive wing of the Republican Party, and the voters with an alternative since Bass's nomination was otherwise uncontested.<sup>147</sup>

Ricker offered this frank explanation of her *other* reason for attempting to put her name on the ballot for governor of New Hampshire: "I'm running for Governor in order to get people into the habit of thinking of women as Governors....People have to think about a thing for several centuries before they can get acclimated to the idea. I want to start the ball a-rolling."<sup>148</sup> Not surprisingly, Ricker also claimed that if allowed to run, woman suffrage would provide one of the planks in her platform.<sup>149</sup> And, therein lies the real reason behind Ricker's attempt to get her name on the ballot—the hope that publicity would generate greater public support and the advancement of woman suffrage. Besides Ricker's own belief in her candidacy's ability to change public opinion of women, one biographical source revealed that many of Ricker's friends also "believed her candidacy would help the cause of woman suffrage...."<sup>150</sup> While Ricker's attempt was ultimately unsuccessful, and New Hampshire would have to wait until 1996 to have its first woman governor, she refused to give up on woman suffrage.<sup>151</sup> Unlike some suffragists who grew embittered and hopeless by years of near-constant struggle and the seeming impossibility of ever getting a national suffrage amendment passed, Ricker never gave up:

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<sup>146</sup> FLEXNER, *supra* note 5, at 257.

<sup>147</sup> BELMAN, *supra* note 138, at 33; Thomas, *supra* note 2, at 155.

<sup>148</sup> Stevenson, *supra* note 140, at 2.

<sup>149</sup> *Id.*

<sup>150</sup> 17 THE NATIONAL CYCLOPÆDIA OF AMERICAN BIOGRAPHY 19 (1921).

<sup>151</sup> BELMAN, *supra* note 138, at 150 (Democrat Jeanne Shaheen); In 1920, the same year the women won the right to vote, New Hampshire elected the first *two* women to the House of Representatives. Republican Jessie Doe and Democrat Mary Louise Rolfe Farnum waged successful write in campaigns for the seats.

...I still believe in [woman suffrage] thoroughly, just as I have believed in it all my life. And I shall always believe in it. Is there today any more reason than there was years ago why women should be hanged and sent to the penitentiaries and in part recognized as citizens, without being recognized in full as citizens. Should they be regarded as citizens only when there are pains to be inflicted, and not be recognized as citizens when there are benefits. No, indeed.<sup>152</sup>

And for her perseverance and dedication to the woman suffrage movement, Ricker was rewarded with the greatest victory of all when she lived to see the Nineteenth Amendment ratified just three months before her death in 1920.<sup>153</sup>

### *Conclusion*

At the age of 80, Marilla Ricker suffered a stroke, and died on November 12, 1920.<sup>154</sup> In her lifetime, Ricker not only lived to see the coming of a new age for women's political rights and professional opportunities, she *made* that new age possible. Whether working on her own, or in concert with her contemporaries in the "old girls network," Ricker sought to challenge public perception of women in politics and professions, and she succeeded in two distinct ways.<sup>155</sup> First, by gaining entrance for herself and *other* women to the legal profession, and second, by pushing the proverbial envelope with her high-publicity attempts to become the first woman to hold the position of ambassador and the office of governor.

As such, it is exceedingly unfortunate and frustrating to realize that Marilla Ricker has been all but omitted from American history. Even the most in-depth

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<sup>152</sup> *Persistency*, *supra* note 82, at Magazine Section.

<sup>153</sup> The Nineteenth Amendment was ratified on August 18, 1920. For an excellent account of the bitter struggle to ratify the Nineteenth Amendment, see FLEXNER, *supra* note 5, at 319-337.

<sup>154</sup> Thomas, *supra* note 2, at 155; N.Y. TIMES, Nov. 13, 1920, at 11 (Ricker's obituary aptly describes her as a "pioneer woman suffragist and one of the first woman lawyers in New England").

<sup>155</sup> Clark, *supra* note 53, at 126.

biographical sketches devoted to Ricker's life span a mere three pages, and the few articles devoted entirely to some aspect of her life are only a few pages longer. To be sure, Ricker's name crops up occasionally in anthologies about American women's history, as well as in freethought literature. However, the challenge in looking at Ricker's life is to gather up the all of the footnotes and snippets of history and biography, and assemble them within the larger context of American history. Only then will it be possible to recognize Marilla Ricker's great and lasting contribution to the struggle for women's equal rights.

### *Suggestions for Future Research*

The research for this biography was collected through an exhaustive search of Stanford University's various library collections, and internet resources gathered from Google's on-line search engine (www.google.com). Stanford Law School research librarians, Sonia Moss and Erika Wayne, provided invaluable assistance in searching both Stanford's extensive on-line database collection as well as databases contained in other libraries. The librarian at the New Durham Public Library, Rozalind Benoit, was also very helpful in sending me photocopies of the articles and newspaper clippings from the library's collection on Ricker. As such, most of the purely biographical research available on Marilla Ricker is included in this paper.

Bennie DeWhitt's article on Ricker's application for the Colombian post refers to a file on Marilla Ricker titled, "Applications and Recommendations for Office, 1897-1901," that is held in the General Records of the Department of State (Record Group 59) at the National Archives Building in Washington, D.C. This file is unavailable in either the Stanford University's library collection, the Library of Congress database, and—interestingly—does not come up in an on-line search of the National Archives' collection. A trip to Washington, D.C. to poke around the National Archives in person might be able to turn up the file. The file could provide the basis for a more substantial paper on Ricker's quest for the ambassadorship, as well as the relationship between her application and the women's suffrage movement.

A trip to Washington, D.C.'s criminal courthouses might uncover historical court records containing Marilla Ricker's cases. Such research would be extremely time intensive, and ultimately frustrating if the records have been scantily maintained or

altogether destroyed. Likewise, a visit to the New Hampshire Historical Society in Concord, New Hampshire would doubtless turn up some sources on Ricker. Dorothy Thomas's biographical sketch indicates that Ricker made frequent contributions to the *Dover Tribune*, which may be available at either the Historical Society or the Dover Public Library.

Finally, Marilla Ricker is more well known for her contribution to the freethought movement than to the women's movement. As such, it's likely that an entire paper's worth of research is available on her involvement in that movement. The best place to start such a paper, however, would be with Ricker's own major freethought expositions: *The Four Gospels* (1911), *I Don't Know, Do You?* (1916), and *I Am Not Afraid, Are You?* (1917).

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