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"We are kings and queens"

Introduction

> Our national ideal is the nation of kings, a royal people, every man of us a king, every woman of us a queen. Now a king has his . . . proprietary rights . . . , not for his selfish pleasure but for the good of society. His days . . . are spent for the general welfare.
>
> – Justice Roger Sherman Greene (1886)

> Every man here was born of a woman and man, and every woman here was born of a man and a woman, and we inherit equally from each. . . . [W]e are each . . . co-heirs, we are kings and queens – not kings with a queen-consort walking behind, but fellow sovereigns – Williams and Marys, Ferdinands and Isabellas!
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> – Mary Johnston (1912)[1]

Some years ago, I stumbled across a little-known decision of the Washington Supreme Court in the 1912 case of *Henrietta Somerville* v. *State of Washington*.[2] With her husband, Somerville owned and managed a paper-box factory in Seattle, where Henrietta employed and directly supervised a large number of mostly self-supporting women. With the encouragement of employees, she had filed suit in King County contending, as had male bakers in *Lochner* v. *New York* (1905), that women ought to be able to strike up their own bargains, particularly when the job and workplace were safe and pleasant. At issue was a maximum-hour law that state legislators had adopted a year earlier – the same kind of protective legislation that had been affirmed in the U.S. Supreme Court's better-known *Muller* v. *Oregon* ruling in 1908.[3]

[1] Mary Johnston, "Address," December 1912, in Marjorie Spruill Wheeler, *Votes for Women: The Woman Suffrage Movement* (Knoxville, TN, 1995), p. 160. Johnston was a novelist and suffragist. See also "Judge Greene's Charge, Seattle, August 30," in *SDPI*, August 31, 1886.
[2] *State of Washington* v. *Henrietta Somerville*, 67 Wash Rpts 638 (1912).
[3] *Lochner* v. *New York*, 198 U.S. 45 (1905); *Muller* v. *Oregon*, 208 U.S. 412 (1908).

In Washington, as elsewhere, an augmented state presence in the workplace formed part of a stereotypically Progressive drive to secure the health and welfare of consumers and workers in an age of rapid industrial and urban growth – particularly underage, non-unionized, endangered, or non-voting workers. In coastal cities, women's groups and laborites zealously pursued hour limitations for municipal workers engaged in physically taxing labor, but also for children and women employed by private firms. In *Muller*, the justices approved limitations on workdays for the women employed at Kurt Muller's laundry essentially by permitting an exception in the case of women to the general ban, rooted in Fourteenth-Amendment jurisprudence, on legislative interference with the terms of employment. As with legislation elsewhere, Washington's statute required "mechanized firms" not engaged in seasonal work to send women home after eight hours – a reform that effectively ruled out the possibility that men and women might realize economic parity.[4] But many self-providing women (aided by an odd mixture of social feminists, unions, and entrepreneurs) argued that liberty of contract attached as readily to women as to men. Why not rely on *Lochner* and kindred decisions in which courts had affirmed workers' right to sign contracts and assume workplace risk without public superintendence, especially in non-hazardous settings?

Ordinarily, *Somerville* might have elicited little more than a passing glance. Well before 1908, states routinely enacted sex- and age-specific hour laws; after 1908, and notwithstanding the occasional victory for *laissez-faireism*, federal courts generally followed the rules set out in *Muller* and *Lochner*. Nor was the idea of an hour ceiling foreign to Washingtonians: Into the 1880s, labor organizations, several political societies, and even some businesses had either advocated or adopted a daily limit on work for municipal employees, workers in hazardous industries, and young workers, albeit with provision for overtime pay, often as part of the so-called eight-hour movement. In 1883, one reformer urged the imposition of ten-hour workdays on farms to encourage young boys to continue in agriculture.[5] Because the facts and legal issues in *Muller* and *Somerville* seemed to be analogous and women's inadequacies a matter of what the court called "common knowledge," the box maker lost. Somerville's lawyers had presented ample evidence of factual differences between the two cases, which the state conceded. But, in the end, speaking for a unanimous bench and appropriating portions of *Muller*, Justice Herman Crow pronounced the law a reasonable exception to the rule against state intervention; Washington's interest in protecting vulnerable classes, notably children and other "minors," amply justified regulation. When Somerville's counsel

[4] Session Laws, State of Washington, Ch. 37, 1911, Act to Regulate the Hours of Work in Canneries and Other Mechanical Firms, p. 131.

[5] See, e.g., "Victoria Carpenters," *TDL*, March 19, 1884 (a new union of public workers seeking nine-hour days). For a firm's decision to adopt a ten-hour rule for men, see "Ten Hour Movement," *SDPI*, November 12, 1886 ("8 of the ten mills" ran ten hours to pre-empt unions and "the red flag"). See also "Ten Hours a Day's Work on Farms," *WWU*, September 21, 1883.

demanded and got a re-hearing – the women, they insisted, were men's political and civil equals and fully capable of assuming workplace risk – they lost again. In the Court's estimation, the *Muller* precedent, while not a perfect fit, bore at least a family resemblance.

Somerville's fascination, then, lies not with state imposition of sex-specific hours legislation, but rather with the court's juvenalization of *enfranchised, propertied* employees. Washington's women had been granted civil, marital, and political equality after 1879; and, while the suffrage had been lost in 1889, women had been re-enfranchised by constitutional amendment in 1910. In what sense were fully enfranchised, propertied adults legal "minors," incapable of assumptions of workplace risk? Even more intriguing, constructions of female laborers in *Somerville* were largely unchanged from those deployed in 1902, when women had not yet been readmitted to polling places. In *State* v. *A. G. Buchanan*, the court had affirmed the constitutionality of Washington's 1901 maximum-hours law, the 1911 statute's antecedent, which forbade companies from employing women for more than ten hours a day.[6]

Had women's enfranchisement and agency within marital estates made no difference? *Somerville* jarred badly against federal judges' willingness to distinguish between enfranchised and non-enfranchised citizens when evaluating the merits of state protection. If ballots were citizens' main weapon against tyrannical or custodial government, as courts regularly claimed, how did limitations happen? And what about economic agency? Some years before *Muller*, counsel for Buchanan had demanded an explanation for legislative meddling with propertied adults; in *Muller*, justices to some extent had permitted state protection of adult women because they lacked constitutional standing sufficient to defend their interests at the polls. Some years later, when federal justices invalidated a sex-specific minimum-wage law in *Adkins* v. *Children's Hospital*, they pointed (if somewhat disingenuously) to the new Nineteenth Amendment as proof that female worker-citizens were capable of self-defense.[7]

The opinions rendered in *Somerville* and, in slightly different ways, in *Buchanan* thus engage modern readers because of the apparent ease with which justices demoted a large segment of the electorate to a bizarre semi-sovereignty. To be sure, wage-earning women throughout the nation had been subjected to hours limitations, and justices' job was to apply relevant doctrine to cases at bar. But Washington's bench had witnessed, and often participated in, a protracted struggle for sex equality immediately before statehood; the women in *Somerville* and *Muller* were not similarly situated.[8] In *Muller* and *Adkins*, actual or prospective enfranchisement arose as a fact that

[6] *State of Washington* v. *Buchanan*, 29 Wash Rpts 602 (1902). See also Chapter 6.
[7] *Adkins* v. *Children's Hospital*, 261 U.S. Rpts 525 (1923).
[8] In this book, sex refers to biological differences; gender refers to the social process[es] by which sex is transmitted or translated into social practice.

could alter outcomes. In territorial Washington, women had claimed co-equality and co-sovereignty within marriage, owned businesses and farms, claimed custody of children at divorce, amassed considerable experience as voters in general elections, had served as jurors, and begun to occupy elective offices. In 1912, women could vote as a matter of constitutional right. Kurt Muller's employees could not claim analogous investitures as members of the constituent power. Yet, despite women's political and economic agency, Justice Crow failed to chart a new course by distinguishing the case from *Muller*.

CONTINGENCIES

As with every story worth telling, this one begins with the land and its people. Nowadays, Americans think of the well-populated Seattle-Tacoma metropolis as a cultural and economic magnet. But, in the 1870s, would-be settlers conceived of Washington Territory as remote and empty – a blank cultural slate somewhere to the north of better-known settlements like Portland and San Francisco. As white homesteading advanced, isolation and disorganization powerfully challenged prevailing views of self-rule in republics. What would the community tolerate as citizens began to push the boundaries of civic possibility? What exactly would the rules of the game look like, and who would decide?

Originally part of Oregon Territory, Washington became a separate entity on March 2, 1853, with Congressional adoption of an organic act.[9] Within the geographically complex territory – a patchwork of forests, rugged and heavily glaciated mountains, lush farmland, seacoast, and high tundra – information and people moved slowly, particularly before railroaders breached the Cascades, regularizing and hastening the mails. Few elements of western life mattered more than the fact of partial or postponed rail lines and financial controversies related to railroaders. In 1889, six years after the driving of a golden spike in Montana and coincident with statehood, the Northern Pacific Railroad arrived in Tacoma. Before then, Seattle and Tacoma were outposts along a rail spur leading north from Portland. Spokane Falls and coastal towns communicated sporadically and seasonally. As Susan B. Anthony learned when her train stalled for days behind a broken plow, mountain roadways disrupted the movement of goods and people.[10]

Development included a number of seemingly disparate pieces. Telegrams, ground travel, and ocean-going vessels were expensive and (in the case of the telegraph) maddeningly cryptic – all of which not only limited public information but also drove up consumer prices. Imported nails and tableware

[9] An Act to Establish the Territorial Government of Washington, Statutes at Large, 32nd Congress, 2nd Session, Ch. XC, pp. 172–9, approved March 2, 1853.

[10] "Completion of the Northern Pacific Railroad," *SDPI*, September 9, 1883. On the breaking of a plow, see Susan B. Anthony Diary, January 5, 1872, in Ann Gordon, ed., *Selected Papers of Susan B. Anthony and Elizabeth Cady Stanton*, Vol. 2 (New Brunswick, NJ, 2000), p. 267.

cost more than citizens could afford. Newspaper editors regularly solicited capital investment on behalf of Washington's growing towns, where residents clamored for work and a wider range of commodities – among them, vegetables, books, bread, machinery, matches, dairy products, clothing, and potable beer. As a Seattle writer put it in an 1882 plea for industrial investment, "Railroads will bring people into the country, but if there is nothing for them to do they will go away again."[11]

As in other relatively healthy borderlands, demographic changes shaped development. Between 1880 and 1890 alone, the territory's population grew by about 375 percent, from 75,116 (well beyond the 60,000 required for statehood) to slightly more than 357,000. Urbanization also proceeded apace, from an official zero percent in 1880 to 28.5 percent at statehood. In 1890, Seattle claimed 42,837 residents; Tacoma had 36,066; and Spokane Falls, barely a village in 1880, boasted 19,922. The number of women stubbornly remained stuck between 37 and 38 percent of the total population in 1870, 1880, and 1890; most of them were white.[12] Before 1900, moreover, black populations were modest and largely male. Black residents in Seattle grew from near zero in the late 1850s to 406 in 1900, when populations began to expand and to include a greater number of skilled workers. In 1880, census workers reported about 14,800 Indians; a decade later, the number rose to 20,375, then dropped in 1900 and 1910 to slightly more than 19,000.[13]

Mining or lumbering outposts, when not beset by walkouts and mercenaries, suffered from the kinds of social disarray that afflict heavily male societies without decent roads, jails, families, and religious societies. Roughneck workforces and drunkenness proliferated. Miners and sawyers witnessed hundreds of injuries and deaths each year; employers ignored fines and other, unenforced sanctions.[14] Seacoast residents struggled against underemployment, gambling rings, prostitution, and dank saloons. Chinese settlers – probably no more at any time than 1 percent of urban populations – provided inexpensive labor in occupations that white men eschewed, but also triggered violence. The Chinese Exclusion Act, after all, did not address settled Asian communities. In

[11] "Factories Needed," *SDPI*, August 24, 1882.

[12] Thomas W. Riddle, *The Old Radicalism: John R. Rogers and the Populist Movement in Washington* (New York, 1991), esp. pp. 74–6; United States Census, 1870, 1880, 1890. Undercounting is likely with Chinese and Indians, transient miners or lumbermen, fisherman, and waterfront roughnecks.

[13] Quintard Taylor, *The Forging of a Black Community: Seattle's Central District from 1870 through the Civil Rights Era* (Seattle, WA, 1994), p. ix; U.S. Census, 1880, Indian Census by State and Territory. See also Carlos Arnaldo Schwantes, *The Pacific Northwest: An Interpretive History* (Lincoln, NE, 1996, rev. ed.), p. 229. It is unclear whether the 1880 number (from the census) includes the 6,239 Indians that Schwantes reports as Indians not living on reservations. These numbers are unreliable, given the poor quality of territorial censuses. See also "Population of the Territory," *WS*, October 21, 1887. Numbers for Kanakas, half-breeds, blacks, mulattoes, and the Chinese appear separately, and, with whites added (137,800), do not total 144,009; 59,328 were said to be female.

[14] Washington State, *Annual Report of the Labor Department* (Olympia, WA, 1904), p. 13.

the mid-1880s, when Washington probably contained no more than 2,575 Asians, anti-Chinese rioting in Seattle and Tacoma stained the territory's reputation and fueled skepticism in Congress and elsewhere about its readiness for statehood.[15]

Social and political organization came slowly. The Women's Christian Temperance Union, the Knights of Labor, the People's Party, and other instruments of civic mobilization languished until the early 1880s. In 1882, a journalist could say accurately that "party lines have not been closely drawn . . . , and voters have been influenced by their friendships or enmities." The Democratic and Republican parties were major forces by the late 1880s, but even at mid-decade, organizations touting the words "people" or "independent" attracted many voters. The Knights peaked in about 1886, though influence persisted.[16] Republicanism finally emerged as the dominant party into the 1920s; the occasional Democratic victory often reflected sympathy with Populism and a diffuse anti-monopolism.

Within party circles, moreover, wealth production and statehood trumped almost everything. In 1878, just as delegates concluded work on a proposed state constitution, Democrats and Republicans held pre-election conventions, responding in unison to concerns about labor unrest in mining and lumbering, the Chinese question, Indian-white tensions, and chronic delays in railroad completion. Neither party addressed suffrage. Both denounced attempts to pit labor against capital, demanded an end to Indian reservations and "evil" Chinese migrants, and castigated railroaders' flagrant abuse of the public trust.[17]

While gradual formalization also characterized women's societies, informal mobilization of women and their male allies often turned political or legal tides. Women periodically massed in courtrooms and legislative hallways in support of female lawyers, women accused of crime by all-male juries, and men prepared to defend women's interests. The women's club movement finally crystallized in the mid-1880s, coincident with territorial adoption of equal suffrage; in Tacoma, women met to discuss "great questions" affecting "society and the world."[18] Mixed-sex reformism similarly achieved critical mass only by 1883–85. Men and women alike opposed endemic drunkenness; firm links between women and anti-saloonism had not yet crystallized. In 1883, only in part to attract female voters, the Republican physician-governor William Newell condemned the pandemic use of a substance "with no redeeming or compensating influences for good" and pledged support for temperance legislation.[19]

[15] For rare praise of the Chinese, see "A Chinese Junk Village," *PSWC*, October 6, 1882.
[16] "The Election," *PSWC*, November 10, 1882.
[17] "Democratic Platform," *SDPI*, September 11, 1878; "Republican Platform," ibid., October 25, 1878.
[18] "Tacoma Woman's Club," *TDL*, March 20, 1884.
[19] Address of Governor William Newell (1883), in Charles M. Gates, ed., *Messages of the Governors of the Territory of Washington to the Legislative Assembly, 1854–1889* (Seattle, WA, 1940), pp. 242–3. Speeches were widely circulated; e.g., "Governor's Message," *SDPI*, October 4, 1883.

Nevertheless, by the late 1880s, isolation and disorganization yielded with speed and finality to many of the sweeping transformations associated with the nineteenth century. In the east and Midwest, finance capitalism, industrialization, urbanization, galloping state paternalism, and a mass democracy all had emerged in modern dress well before the twentieth century. Gilded-Age Americans witnessed the re-nationalization of political parties and partisan realignment by 1896, global marketing, advances in transportation and communication, agrarian radicalism, unionism, and glimmerings of Progressive reform. In places like Kentucky or Michigan, balanced sex ratios and economic self-sufficiency appeared before the Civil War; decades before Seattle and Tacoma opened post offices, the transportation revolution had lowered production costs and altered perceptions of time and space. In the New Northwest, settlers labored to cut roads through mountains with brute force, attract workers, and supply midwives, doctors, and seamstresses with sewing needles; elsewhere, Americans erected sprawling factories, worried about frontier *closings*, and mounted a World's Fair to celebrate technological prowess.

Washingtonians thus witnessed the convergence of multiple developmental processes that other regions had been able to absorb gradually. As a result, the territory's economy and society were fractured, imperfectly modern, and inherently unstable. Allison Parker and Stephanie Cole point to "key moments in American history when the state was being defined and redefined"; Benedict Anderson once identified a tangled "skein of journeys" that state- and nation-building entail.[20] However characterized, Washington's pre-statehood circumstances generated social strain and numerous examples of carts before horses. Rapid population growth, first-generation farming, and helplessness in the face of avalanches, fires, and earthquakes co-existed with industrialization, labor unrest, and trans-Pacific as well as regional commerce. In November, 1883, journalists decried the loss by fire of a new brewery, malthouse, and county building in Seattle; the city had modern fire equipment but lacked water, the "first essential," and adequate water pressure.[21] Six years later, a wave of fires in several mostly wooden cities revealed an appalling lack of attention to public safety in frantic building campaigns. Rude lumbering camps bore scant resemblance to elegant hotels and opera houses, yet they were only a few miles apart.

Into the 1880s, as capitalists elsewhere orchestrated merger movements, bubbles, and union-busting on an unprecedented scale, Washingtonians labored to construct factories and canneries, the main engines of a modernizing society. In 1879, a Seattle editor boasted that the number of people employed in western factories had tripled since 1870. Average income

[20] Allison Parker and Stephanie Cole, eds., *Women and the Unstable State in Nineteenth-Century America* (College Station, TX, 2000), p. ix; Benedict Anderson, *Imagined Communities* (Brooklyn, NY, 2006), p. 115.
[21] Editorial, *WS*, November 16, 1883.

for a laborer was $913, as compared to $787 in New England; annual savings in Washington and New England were $117 and $231, respectively. This supposedly gave "indisputable evidence of the adaptation of the West" for industry. Yet, at the same moment, settlers complained of Indian raids and sought help with land clearance. Crooks mingled with and sometimes dogged upstanding citizens: In December, 1879, a lawyer with a thriving city practice offered land for sale, sternly admonishing "land grabbers" to stay away.[22]

Isolation encouraged legal hybridization – that is, the intermingling and merger of common-law rules of practice, continental doctrines (particularly in domestic-relations and property law), and evolving social and gender practices – some inherited, others a response to new circumstances. By the late 1870s, these accumulated legalities had softened, complicated, or replaced doctrines prevailing in older communities; as Pierre Bourdieu reminds us, with time and popular acquiescence, a people's "history becomes nature."[23] The republic's *ancien regime* – including surviving elements of the law of coverture, itself substantially weakened and hybridized over the course of the century – no longer mirrored the self-constructions of Washingtonians accustomed to mutuality, if only to survive in ramshackle hamlets and camps where the only certainty was perpetual uncertainty.

It is here, not in Progressive America, that we encounter the underpinnings of Hattie Somerville's lawsuit and her attorneys' oddly futile defense. Settlers first organized campaigns for sex equality, aided occasionally by prominent suffragists from Oregon and elsewhere, in 1871–73. Territorial legislators refused to universalize the suffrage, but augmented married women's economic freedom steadily until, in 1879, they abruptly passed a comprehensive, sex-neutral community-property statute and remarkable civil-rights law. By 1880, women claimed autonomy in the marketplace and within marriage, including equal rights to custody of children, with the important exception of husbands' exclusive right to sexual services and their ability to act alone as administrators in many community-related transactions. Lawmakers had granted women and men co-equal investiture in property – associations that Americans had long associated with constitutional sovereignty. Experiences of freedom broadened: In 1883, largely in response to the unanswerable fact of co-sovereignty, assemblymen enfranchised loyal adult white women. Ancillary rights and duties traditionally bundled with the ballot attached automatically to new voters, no less than they had attached to white men without property at the moment of their investiture in Jacksonian

[22] "Western Manufactures," *SDPI*, November 22, 1879; untitled advertisement, ibid., December 27, 1880 (for land sale).

[23] Pierre Bourdieu, *Outline of a Theory of Practice* (Cambridge, UK, 1977, 2005 ed.), p. 78. As used here, the term "legalities" refers to a contingent bundle of informal and formal rules of conduct that members of a community take to be binding and limiting. See also Christopher Tomlins and Bruce Mann, eds., *The Many Legalities of Colonial America* (Chapel Hill, NC, 2000), esp. pp. 1–24, 272–92.

America, or to black men during Reconstruction, when nobody yet realized how thoroughly new federal amendments would be ransacked. Among them were the jury-service obligation as well as rights to hold public office, claim a nationality, and practice law. In Washington, clerks selected jurors from tax censuses or poll books; co-tenancy of marital estates qualified women for jury duty whether they had voted or not. To sit on petit juries, women had to be resident, tax-paying citizens; legislators added a "householder" requirement for grand juries.[24] Again west of the Cascades, courtrooms boasted large numbers of female jurors and bailiffs. By about 1885, it was newsworthy but not horrifying for women to hold minor public offices. Excluded were military service, roadwork obligations, and wives' right to claim separate nationalities and domiciles. But Washingtonians could not imagine, much less abide, women in militias; mixed-sex juries and county commissions were sufficiently heart-stopping.

Only by 1886–88 did Washingtonians confront the extent to which their legalities departed from practices elsewhere; amid social unrest on all sides, women who had voted and complied with hand-delivered calls to jury duty stood accused of gender betrayal. Critics increasingly complained that they behaved in polling places, and even more certainly in courtrooms, as sexualized, subjective *women* rather than as objective, representative *citizens*. Because they had invaded masculine citadels *as women*, they sabotaged neighborhood justice, subjected private knowledge to public scrutiny, and imperiled statehood. Opponents seized on women's ambivalence about (and periodic denunciations of) jury service, dalliances with "cranks," and participation in anti-vice campaigns to condemn equal suffrage. These disputes, in turn, triggered pitched warfare. Boundaries around a white male electorate hardened, as did cultural and psychological barriers around courthouses. Women (and men unable to perform white manhood) stood accused of destabilizing the polity, discouraging investment, and delaying or sabotaging statehood.

By 1888–89, women had been driven from sites of public judgment. Resurgent common-law doctrines and related social practices, the latter functioning as a customary constitution, had prevailed. No longer did co-equality and co-sovereignty protect women from charges of sex-driven incapacity, subjectivity, and weak-mindedness. Washington achieved statehood with a white-male electorate. A few women practiced law; many others farmed or owned businesses and jointly occupied marital estates. Only in 1910, after years of decorous lobbying and parading, did legislators re-institute universal suffrage by constitutional amendment.[25] By then, however, women's

[24] E.g., An Act in Relation to Qualification of Grand and Petit Jurors, Laws of Washington Territory, 1862, Section 1, p. 33. Clerks of court selected grand jurors from county lists of "all qualified electors and householders" and petit jurors from county lists of "all qualified electors."

[25] For a brief discussion, see Rebecca Edwards, "Pioneers at the Polls," in Jean Baker, ed., *Votes for Women: The Struggle for Suffrage Revisited* (New York, 2002), esp. pp. 98–9.

equal membership in the constituent power had been compromised, common-law rules of practice had reappeared in domestic-relations litigation, and the traditional bundle of rights and obligations associated with political equality had unraveled. In 1911, women were relieved automatically of jury duty "by reason of sex" unless they asked to serve – an exemption that many women welcomed. In effect, Washingtonians had constitutionalized the home vote.

The fully constituted, wholly self-governing citizen who survived these trials was manly and white, but, within important limits, willing to share space with well-deported, capable women, whose sovereignty in a formal legal sense had been partitioned, in keeping with social theory. Such men typically did not object to woman suffrage; only women could defend home interests. They did intend, however, to prevent "gender chaos" and to control courtrooms, statehouses, and the terms of labor contracts; in Kevin Murphy's words, they were "red bloods," not "mollycoddles." By 1912, women claimed civil rights, custodial rights, an eroded but still robust claim to marital equality, and the right to vote. But the clouding of women's equal title to constitutional sovereignty – a cloud affirmed by judicial decision – placed access to citizens' obligations out of reach for much of the twentieth century.[26]

PROBLEMATICS

How and why, as Washingtonians moved from the tumultuous 1880s to 1912, did hierarchical, gender-laden views of citizenship supplant egalitarian views and practices? Did uneasy women object to the equality principle itself or to specific experiences during the performance of obligations? To what extent had the statehood ritual and economic modernization shaped these judgments? More broadly, what do these developments tell us about the nature of resistance to equal suffrage and the decision in most jurisdictions to disallow mixed jury service or permit it only on request? What can New Northwestern conversations and choices reveal about Americans' evolving conceptions of citizenship and ongoing eastern resistance to equal suffrage? And why do the losses of legal and constitutional ground that women experienced in Gilded-Age Washington so closely resemble the trajectories that Cornelia Dayton and Laura Edwards identified, respectively, in early Connecticut and in the antebellum south?[27]

Responses form a chapter not only in accounts of the Northwest's developing legal-cultural fabric, but also in understandings of public life

[26] Kevin Murphy, *Political Manhood: Red Bloods, Mollycoddles, and the Politics of Progressive Era Reform* (New York, 2010). For gender chaos, see Carol Pateman, *The Disorder of Women: Democracy, Feminism, and Political Theory* (Stanford, CA, 1990), and Lori Ginsburg's use of the concept, "Pernicious Heresies . . . ," in Parker and Cole, *Women and the Unstable State in Nineteenth-Century America*, op cit., pp. 139–61.

[27] *Women Before the Bar: Gender, Law, and Society in Connecticut, 1639–1789* (Chapel Hill, NC, 1995); Laura F. Edwards, *The People and Their Peace: Legal Culture and the Transformation of Inequality in the Post-Revolutionary South* (Chapel Hill, NC, 2010).