

CLARA'S "FOOLISH PURSUIT"

By Ann S. Manheimer

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CLARA SHORTRIDGE FOLTZ stared at the fancy writing on the fine white envelope. She had been waiting for this letter for days, and finally it rested in her hands. Clara tore it open and read:

My Dear Young Friend:

Excuse my delay in answering your letter asking permission to enter my law office as a student. My high regard for your parents, and for you, who seem to have no right understanding of what you say you want to undertake, forbid encouraging you in so foolish a pursuit—wherein you would invite nothing but ridicule, if not contempt.

A woman's place is at home, unless it is as a teacher. If you would like a position in our public schools I will be glad to recommend you, for I think you are well qualified.

Very respectfully,

Francis Spencer

Until the letter came, Clara had felt certain he would say yes, even though she knew no other women lawyers. It was 1876, and Clara was twenty-seven years old and a mother of five children. She had grown up in Mount Pleasant, Iowa, where she lived with her parents and four brothers. Her father was an attorney as well as a druggist and a minister, and he once told Clara, "It is too bad, daughter, that you are a girl, for if you were a boy I would educate you for the law—you would make a great lawyer."

His words made Clara bristle. She liked being a girl.

Her mother put an end to the discussion. "You should not tell that girl that she could become a great lawyer, for some of these days she will take it into her head to study law, and if she does, nobody on earth can stop her." And nobody on earth could.

Clara went to school for only three years, but while she was there she was at the top of her class—she loved reading and studying. At fifteen she fell in love with a

handsome Union soldier named Jeremiah Foltz, and they eloped. By nineteen Clara had three children and a farm to take care of. When Jeremiah moved West she followed him, crossing the Rocky Mountains during winter with her children, the youngest a nine-week-old infant. Not long after, Clara's parents and brothers came west, too.

They settled in San Jose, California, where Jeremiah proved unable to provide for his wife and children. Eventually he abandoned his family, leaving Clara to support their children on her own. Clara passionately believed that women deserved the right to vote, and so she earned some money by delivering lectures in favor of female suffrage. Audiences loved her. But she could not sustain a household only by giving speeches. She kept remembering her father's words and the encouragement of an attorney friend who had given her a set of law books to study. She would make a good lawyer—she could earn a living doing work she knew she would love.

If Francis Spencer would not accept her in his prestigious offices, Clara knew another attorney with a more modest practice who would. A short time later she was studying with C. C. Stephens, a law associate of her father's, who also believed that women should be able to practice law. In those days, people wanting to become attorneys did not usually attend law school. A lawyer needed only to have the necessary "learning and ability," be at least twenty-one years old, and be a white male citizen of good moral character. Clara was old enough, she had the moral character and the ability, and she could get the learning. But she needed to do something about the white male part.

Since she could not change her gender, she decided to change the law. She removed the words "white male" and wrote "person" in their place. Her state senator agreed to introduce her version of the statute in the California legislature. It became known as the Woman Lawyer's Bill.

Clara spent the next six months working for the bill. Leaving her children in San Jose, she traveled to Sacramento, California's capital as one magazine described, "in the caboose of a cattle train, without a dollar in her pocket and a little bag of biscuits and boiled eggs for her refreshment." She stayed in Sacramento, "living on next to nothing ... cooking her food on a tiny alcohol lamp" so she could lobby for her bill.

There were several arguments against it. Many said practicing law would make women unfit for their “ordained domestic sphere.” Others argued that “impressionable male jurors” would be unduly influenced by female attorneys. Some believed women shouldn’t become lawyers because then they would want to become jurors and judges next. Still others said women could not conduct cross-examinations on “indelicate” topics.

Clara countered all of these arguments. “I almost went down on my knees before them,” she later wrote. They made laws against vagrancy ... they complained loudly of prevalent idleness, and yet I had to beg—not for a living, but to be allowed to earn a living.”

To become law in California, a bill must pass the legislature and the governor must sign it. After extensive debate, the Woman Lawyer’s Bill passed on Friday, 29 March 1878, the last day of the legislative session. Governor Irwin had to sign it by midnight the following Monday. If he did not, the bill would die and Clara could not become a lawyer.

There is more than one account of the events of that Monday evening, but Clara’s is certainly the most exciting, embellished as it may be with her dramatic flair. As she described it, near midnight she stood in the midst of a crowd of men in the corridor outside the governor’s chambers. Her bill had not yet been reported signed. As she waited, she overheard a politician who just emerged from the office say, “That Woman Lawyer’s Bill is dead and buried.”

Clara’s future hung in the balance. She knew she had to act. She shoved her way to the doors of the governor’s chamber. A guard stopped her, saying his orders were to admit no one. Unable to convince him otherwise, Clara ducked under his arm and slid through the partly open door into a reception room. Hat awry and hair disheveled, she rushed to the guard at the next door and argued with him to let her in. He refused. Fortunately another intruder distracted him, and in an instant Clara had pushed her way into the governor’s office.

She stood at the side of a large table in the middle of the room. Governor Irwin sat there, surrounded by prominent men. “The chandeliers shone fiercely,” she wrote later, “the oil paintings on the walls seemed to frown upon me, and for a moment—though it seemed an age—no one spoke to me nor in fact took any notice of me.”

Clara spoke up. “Governor, won’t you please sign the Woman Lawyer’s Bill?”

The men around Governor Irwin exchanged glances while a clerk helped him find the bill in the huge stack of papers on his desk. He read the paper, reached for his pen, and said, “This bill to entitle women to practice law is wise and just. I take great pleasure in signing it.” He placed his signature on the paper as the clock struck twelve.

Soon after, Clara became the first female attorney on the West Coast. The passage of the Woman Lawyer’s Bill was just one part of her lifelong commitment to gender equality. With her friend Laura deForce Gordon, Clara wrote and helped enact the first constitutional amendments guaranteeing equal rights for women in the public arena. She also continued to be active in the suffrage movement and led the fight to open California’s law schools to women. As an attorney, her biggest accomplishment was the creation of a public defender system, still in use today, that guarantees a poor person accused of a crime competent legal representation.

Yet just because a law allowed women lawyers to practice didn’t mean male attorneys welcomed them into the courtroom. Clara faced sexism almost daily in her new career. But she was never one to let other people’s intolerance stop her—sometimes she even seemed to enjoy confronting her peers’ prejudice. Once when she was appointed to represent a poor Italian immigrant accused of arson, the district attorney argued in his summation: “She is a WOMAN, she cannot be expected to reason; God Almighty decreed her limitations ... this young woman ... will lead you by her sympathetic presentation of this case ... to violate your oaths and let a guilty man go free.”

Clara answered, “Counsel opened his argument with the astounding revelation that I am a woman.... And yet, after this magnificent burst of blazing genius, the sun does not appear to be darkened nor the moon paled.... I confess I do not clearly see the relevancy of the statement to this case. The logic is I am a woman; therefore, you should find this defendant guilty.... I resent for you, gentlemen, ... the implication that you are small enough ... to bring prejudice into the jury box....”

“Counsel intimates with a curl on his lip that I am called the lady lawyer. I am sorry that I cannot return the compliment.... I have never heard anybody call him any kind of lawyer at all.”

The members of the jury didn't even have to leave their box to decide the case—the verdict was not guilty.