

*FROM BALLOT BOX TO JURY BOX, WOMEN AND THE RIGHTS AND
OBLIGATIONS OF CITIZENSHIP*

THE VERMONT JUDICIAL HISTORY SOCIETY
ADDISON COUNTY COURTHOUSE, MIDDLEBURY, VT
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JUNE 23, 2000

*[This paper could not have been done without the able and
enthusiastic assistance of Ginger Scott, a summer intern at
the Secretary of State's Office].*

Our social values were under attack; an attack that threatened the traditional family. An organized minority was attempting to assert a right where none had existed; if they succeeded a long held constitutional right would be expanded in ways never contemplated by the founders of either State or nation.

This novel assertion of rights had been on the group's national agenda for years. Vermont was just the latest battleground.

Hundreds of people attended public hearings at the State House. Yet, should the General Assembly alone decide the merits of this group's arguments? Or should representative democracy defer to a direct expression of the people's will? There was, after all, some evidence that not all legislators were in touch with the wishes of their constituents.

But is a popular majority an adequate and sound measure of minority rights? And besides, the Vermont

Constitution restricted the enactment of legislation to the General Assembly. How could the popular will be given effective expression?

I am, of course, referring to the debate over Vermont women serving on juries; a right and obligation which, since Vermont's founding, had been reserved to men. The threat to the family was removing women from their traditional roles as wives and mothers; a threat exacerbated by the possibility that women would be exposed, as jurors, to the seamier side of life. The national agenda was that of the League of Women Voters, which had made jury service a priority following passage of the 19th Amendment. And, in Vermont (as elsewhere), legal recognition of women jurors was repeatedly linked to demands for a statewide referendum.

The nature of representation was but one of the larger issues embedded within the debate. How do we balance the rights of majorities and minorities? What constitutes an "impartial" jury of "peers"?ⁱ

And, at its heart, the debate touched on the very nature of citizenship; can one be "shielded" from the obligations of citizenship and still lay claim to all its privileges? Conversely, if one fulfills the obligations--

jury duty, paying taxes, or military service, for example-- can privileges be denied?

The right to a trial by jury traces back to the traditions of British law; indeed, violation of that right figured prominently in the list of grievances that gave birth to American independence. It was a right incorporated into each state's bill of rights following the Declaration of Independence, including Vermont's. Delaware's declaration of rights, adopted in September 1776, called trial by jury "one of the greatest Securities of the Lives, Liberties and Estates of the People."ⁱⁱ

Proponents of adding a bill of rights to the Federal Constitution attached greater importance to a guarantee of trial by jury for civil and criminal cases, than to religious freedom.ⁱⁱⁱ

Thomas Jefferson called juries the "school by which [the] people learn the exercise of civic duties as well as rights." James Wilson of Philadelphia, a signer of the federal Constitution, believed that voters "come to know, to shape, and thus admire the law...through their participation on juries."^{iv}

Women could not attend these schools of civic duty. According to William Blackstone's *Commentaries*, women were ineligible for jury service because of a "defect of sex."^v

The flaws with exclusion did not go unnoted. In 1797 Judith Sargent Murray wrote a friend: "I have sometimes thought that we Women are hardly dealt by since strictly speaking, we cannot legally be tried by our Peers, for men are not our Peers, and yet upon their breath our guilt or innocence depends--thus our privileges in this [is], as in many other respects, tyrannically abridged.... I object to a male decision upon a female question."^{vi}

Thus early on the debate's contours were set. You had the *right* to be judged by your peers; but, if you, as a class, were excluded from jury service, who would be your your peers? You had an *obligation* for jury service; yet exclusion defined your civic duties differently from those of other citizens. Well into the late 20th Century, depriving women of civic obligations was justified by the special sensibilities and privileges assigned them by others.^{vii}

For some Vermont women these were not abstract concepts. In the early 1880s Emeline Meaker was tried and convicted of murder by an all-male jury. She was executed in 1883, the first, and only one of two, Vermont women to be executed.

"Under ordinary circumstances," argued *The Vermont Watchman and State Journal*, "her sex might have been her shield" from conviction and execution.^{viii}

The "shield" normally accorded women did not, however, always extend to those who failed to meet societal ideals. "Mrs. Meaker," reported the *Burlington Free Press*, "is a most repulsive looking woman." News reports repeatedly focussed on her appearance. "[P]hysically she is strong and muscular;" "her appearance indicates capacity for the cruelty practiced." She was, the drumbeat continued, "a wretched woman," an "unnatural mother," who had "for years sustained a reputation as a virago [a large, domineering woman]."^{ix}

The defense attorney attempted to extend the special shield of womanhood over Mrs. Meaker, making an "impassioned appeal to the jury to remember the sex of the respondent, and give her a fair and impartial consideration." This was at best confusing, asking simultaneously for special consideration on the basis of gender, while also seeking impartiality.

The state's attorney knocked aside the shield: "If [Mrs. Meaker] has had any of the woman in her nature, wouldn't she at least have shown some emotion of affection and pity when the dead body was brought back to the house?"^x

Jury selection was subsequently challenged, but on the grounds of pre-trial publicity, not gender exclusion.

Judge Timothy Redfield dismissed the appeal: "...in this age of newspapers, any man who reads at all can hardly help forming some opinion from what he reads. [This]...does not necessarily prevent him from discharging his duties."^{xi}

There is little doubt what opinions jurors might have been drawn from reading the newspapers.

Though the composition of Mrs. Meaker's jury was not challenged, the impartiality of juries was beginning to be linked to jury selection. In 1879 the U.S. Supreme Court, in *Strauder v. West Virginia*, found that statutory exclusion of blacks from the jury pool violated the Fourteenth Amendment. The decision was limited to the use of race to restrict citizens from the jury pool (not from jury selection). Though the Court found the composition of juries "a very essential" protection, it also affirmed that a state could "prescribe the qualifications of its jurors, and in so doing make discrimination. It may confine the selection to males, to freeholders, to citizens, to persons within certain ages, or to persons having educational qualifications. We do not believe the Fourteenth Amendment was ever intended to prohibit this.... Its aim was against discrimination because of race or color." As Linda Kerber

notes, of those thus discriminated against, only women could not change their condition.^{xii}

Gradually states enacted some degree of jury service for women, though most made service voluntary. Utah (1898), Washington (1911), Kansas (1913), California and New Jersey (1917), and Michigan (1918) opened the possibility of jury service.^{xiii} In other states the Nineteenth Amendment opened the jury box as well as the ballot box. Oregon (1921) even required that women make up fifty percent of juries in all cases involving minors.^{xiv}

In the early 1920s the League of Women Voters and the National Woman's Party made equal obligation for jury service a key agenda item.^{xv} By 1923 eighteen states and Alaska provided for women jurors, though most included voluntary exemptions and, as noted, eligibility did not always translate into actual selection. Other states, such as Vermont, New York, and Massachusetts, continued to exclude women from jury selection.

In 1923 a bill to provide for women jurors was introduced in the Vermont House. The sponsor was Rep. Harvey Kingsley of Rutland City, a Republican. Kingsley, a lawyer, had served as Secretary of Civil and Military Affairs, president pro tem of the senate, and as Rutland City grand juror. He explained his "measure is intended to

do what the [previous] general assembly tried to do for women, namely give them equal rights and privileges with men" and "did not compel judges to place women on the panel and gives wide discretion in excusing them."^{xvi}

After being approved by the House, the bill was reconsidered and, on February 1st, killed on a 110 to 95 vote. Most reported debate came during reconsideration.

Rep. Norman Williams of Woodstock, a Republican farmer, led the drive for reconsideration "on the grounds that many women did not care for it and this bill would make it compulsory if they were called." To support his claim he turned to Mrs. Leoline Meech, Representative from Monkton. Mrs. Meech allowed that "some women would like to serve on the jury and probably their judgment would be as good as that of the men, but as for her, she did not want to serve." Mrs. Jessie Dol Dow, Democratic Representative from Topsham, also opposed the bill.^{xvii}

Rep. Eugene Bates of Highgate, a Republican, thought jury service was an issue of "political rights and...ought to be granted." Rep. John Roy, an Independent-Democrat from Barnet, observed that "many men did not want to do jury duty but they have to do it, and he thought women should be obliged to also." Daniel Sargent of Starksboro, a Republican Quaker, "thought the House should not

vacillate but should continue in the vote of yesterday in favor of the bill."

The opponents primarily argued that women opposed jury service. Rep. Frank Thompson of Barton, however, took a different tack. The lawyer, former state's attorney and municipal judge, and reporter of Vermont Supreme Court decisions "raised the question to whether the constitution did not forbid jury duty for women and thought that cases in which women served on the jury might be carried to the supreme court on that ground and cause more litigation."^{xviii} Thompson thought "the matter ought to be left until it was settled elsewhere."^{xix}

Women's groups were conspicuous by their absence from the debate. Their attention was directed against a proposal to end Vermont's seven year old direct primary, a move they saw as weakening their newly acquired suffrage. They believed a return to the caucus system advantaged men in candidate selection since party apparatus was still firmly in male hands. The *Free Press* characterized the proposal as "An Act to Disenfranchise Women" which, if enacted, should be sub-titled, "And Overthrow the Republican Party in Vermont." Testifying against the measure were the Vermont Federation of Women's Clubs, The Women's Christian Temperance Union, the Young Women's

Christian Association, the Vermont League of Women Voters, the Colonial Dames, and the Parent-Teacher Association.^{xx}

Vermont author Dorothy Canfield Fisher took a leading role in mobilizing public opinion.

Proponents of ending the primary cited low voter turnout and the high costs of primaries. Women's groups demanded that the bill be put to a popular referendum. The bill (H. 42), however, was defeated on a 45 to 182 vote.^{xxi}

The 1923 bill appears to be the last major legislative effort to include women in Vermont jury pools until 1939. In that year a senate bill (S. 3) was introduced by Sen. Walter Hard to "make men and women equally eligible for jury service." On January 24th about forty people attended a public hearing, many of whom, according to news reports, were from the Vermont League of Women Voters. No one spoke in opposition.^{xxii}

The *Brattleboro Reformer* editorialized that the bill "is the product of an increasing civic responsibility on the part of Vermont women and an increasing enlightenment on the part of men." It noted that "no one has advanced a cogent argument against" the bill. Rebutting the bill's critics, Sen. Hard asserted that "the best female minds would raise the quality of jury service" since "the best male minds are often excused from duty."^{xxiii}

The Senate passed the bill by a 25 to 4 vote. Sen. Clarence Cleveland of Windsor voted against the bill since it lacked easy exemptions for women. He was joined by senators from Lamoille, Addison and Washington Counties.

On February 14th the House Judiciary Committee held public hearings attended by "about 200 people." Several men and women spoke against the bill "arguing that women in Vermont do not have time, inclination, or qualifications to serve on juries."^{xxiv}

Mrs. Nat Divoll of Bellows Falls countered that there was wide support for the bill, as evidenced by newspaper comments; she felt that defeating the bill would "only postpon[e] the inevitable." Mrs. Margaret Hard compared the effort to the civil rights activities of Lucretia Mott on behalf of fugitive slaves. She wrote that jury service was "not only a duty but a privilege."^{xxv}

Dr. Estelle Foote of Middlebury testified that women accused of crimes "ought to be brought before a jury on which there were women." James Burke, former mayor of Burlington, argued that women were "more" conscientious than men and should be permitted to serve.^{xxvi}

Proponents, however, faced several hurdles in the House, notably the opposition of F. Ray Keyser, chair of the House Judiciary Committee. Rep. Keyser, arguing that a

majority of women opposed the bill, offered an amendment to require a referendum on the bill.

Over the years, for a variety of reasons, the General Assembly resorted to the direct voter expression on measures. They did so either through advisory referenda to gauge popular support or, as with Keyser's amendment, through a referendum between two enactment dates for a bill. If the voters choose the earlier enactment date, the bill would go into effect on that date. If they choose the later date it was understood that the bill would be repealed prior to its effective date. This mechanism allowed the legislature to meet the constitutional restriction of law making to the General Assembly.^{xxvii} The Keyser amendment offered February 1, 1941 or February 1, 1943 as the bill's effective dates.

Mrs. Dorothy Allen, Representative from Ferrisburgh, attacked Keyser's amendment. She told the representatives to either pass the bill without the referendum or kill it until a "better informed and more courageous Legislature" could be elected. She reminded legislators of Vermont's hesitancy over ratifying the 19th Amendment; a hesitancy she saw echoed by the "timidity" of the current body. She responded to Keyser's concern that only a minority of women supported the bill with:

I don't believe in squawking
It doesn't bring you peace.
But the wheel that does the squeaking
Is the one that gets the grease.^{xxviii}

Quickly demonstrating the split among women, Mrs. May Emery, Representative of Eden, replied that only a minority of women supported the bill and that women "have civic duties enough already."^{xxix}

The House testimony of the bill's supporters closely followed the earlier Senate debate. In a March 13th open letter, Dorothy Canfield Fisher hoped

"that women will serve as jurors in Vermont--not as a right but as part of their duty as citizens....There is no reason why women citizens should be exempt from a duty recognized as valid by all Americans. The idea that they should be "protected" from knowing about the seamy side of human life is absurdly incongruous with their responsible positions as voting citizens...A good many competent authorities are of the opinion that the constitutional amendment which made women voting citizens, gives them as a matter of course all the rights and duties of citizenship, includ[ing] among others the right and duty of jury service. Certainly recent decisions of the [U.S.] Supreme Court about the rights of Negroes to have members of their own race on the juries which try them, implies the right of women to have members of their own sex on juries which try them."^{xxx}

Fisher went on to dismiss the arguments of those "who claim that women's place is in the home" and concluded with the "ardent hope," a hope shared by "all...responsible conscientious women citizens...that your committee report

favorably on the bill to give to Vermont women the right and duty of jury service."^{xxxix}

That ardent hope came to naught when on March 22nd the House rejected the bill, with the referendum amendment, by a 101 to 124 vote. Of the thirteen women in the House ten voted for the bill. The 124 legislators who voted no represented 39,863 of the State's 186,757 registered voters (21%).^{xxxix}

A newspaper summary of the debate attributed the defeat to "suspicion" about the bill's origins and "because the women in the Legislature were divided about it; because it was cumbered by a referendum; because the men really don't want women in the jury rooms." The suspicious origins stemmed from the belief that "the movement for the bill...came from a so-called militant political organization of women..." That is, the League of Women Voters.

Having made those observations, the story went on to say, "the claim that women are not fit for jury duty has no basis. Vermont representatives are opposed to it because, with a rather novel persistence of old ideas of sheltering women from the cold winds and protecting them from disagreeable things, they think women should not be asked

to do the "dirty work" of the courts. The idea has not reasonable foundation."^{xxxiii}

Encouraged by editorial support, the debate was renewed when the new legislature convened in January 1941. Introduced by Rep. Thomas McTigue of Barre Town, House Bill 38 was debated by a cast of characters largely intact from the previous session. One notable exception was that Asa Bloomer of Rutland now chaired House Judiciary, F. Ray Keyser having become clerk of the Orange County Court. Bloomer, however, also supported attaching a referendum to the bill.

A February 5th public hearing again centered on whether a majority of women supported the measure; whether jury service should be optional; and whether there should be a referendum. Again the League of Women Voter's took the lead in support, joined by Sen. Walter Hard and Municipal Judge H.W. Scott of Barre Town.

Judge Scott noted the U.S. Supreme Court's reversal of cases in the South when African-Americans were barred from the jury pool; he wondered whether barring women might also prove unconstitutional. He noted that "mixed juries," as juries including women were called, were working well in California. Judge Scott's national comparisons were bolstered by Dr. Estelle Foote who noted that the League of

Women Voters had surveyed judges in states with "mixed juries" and seventy responded that women made good jurors.

Describing himself as a "hard boiled male, who feels that women are shirking a responsibility," Sen. Hard asserted that "the right of citizenship imposes certain duties and responsibilities, among them, to serve on juries."

Mrs. Marie Womack questioned the need for a referendum. According to committee minutes she "inquired if every question should be submitted to referendum, commenting people have more confidence in Reprs. than they have in themselves."^{xxxiv}

The opponents also followed long established positions. Mr. Keyser testified that "the home has long been the basis of our institutions," and that "I, for one, would not like to see my wife serving on a jury. There are things at home to be taken of."

Mrs. Benjamin Wales of Weybridge supported a referendum since "every woman in the state should have the right to say whether they shall serve." She felt the referendum should be restricted to women voters.^{xxxv}

On February 13th the Judiciary Committee added a referendum clause giving voters a choice between February 1943 or 1947 as the effective date. On February 21st the

bill passed by a 170 to 60 vote. All seventeen women representatives voted for passage. This time the negative House votes were from towns holding 26% of the State's 191,273 registered voters (this was not a small town-big town split, with the representatives from Burlington, Barre City, Brattleboro, and St. Johnsbury being among the no votes).^{xxxvi}

In the Senate a last attempt was made to make jury service voluntary for women. Sen. Paul Douglass of Rutland County offered an amendment to add women to the existing exemptions for doctors, ministers, lawyers, state officers and National Guard members. His amendment was defeated 8 to 20 and the bill passed.^{xxxvii}

The referendum was held November 3, 1942. The United State's entry into WWII may have provided some larger context for the vote. A November 2, 1941 *Burlington Free Press* editorial expressed concern that "most people have been so busy with war problems this year that they have not given as much time as usual to purely political issues." The editorial urged people, however, to vote for women jurors. "[J]ury service is so closely allied to citizenship that the two must go together. Now that women have been admitted to citizenship on an equal basis with

men, it is absurd to deny them jury service; and it is probably unconstitutional..."^{xxxviii}

The same issue of the *Free Press* contained a letter from Florence Beebe of Swanton who wrote that a yes vote "will eliminate class discrimination...and provide equal protection for all persons under the law..." She noted that "equality and justice...is the principle for which we are waging this war..." A yes vote would assure that "our talk of equal rights and freedom may not be simply an empty boast."^{xxxix}

Vermonters voted for the early enactment date, and thus women jurors, by a 35,388 to 20,306 vote. Seventy-two towns voted differently than their representative had on the 1941 House roll call. Twenty-one towns voted against the proposal though their representative had supported the bill (12%); fifty-one of the sixty towns whose representative had opposed the bill, voted for it (85%).^{xl}

Ratification did not end the debate. In 1948, for example, the Vermont Supreme Court rejected a challenge to the selection of a woman as a juror whose husband was called as a talesman.^{xli} As previously noted, eligibility was not the same as service. In 1953 a bill was introduced, and quickly withdrawn, that would have required equal representation of the sexes on juries.^{xlii} Vermont statutes

and case law continue to address jury selection, clarifying "peers" to embrace a cross section of the community.^{xliii}

Nor should one lose sight of the debate as it was carried on in other states and in federal courts. Full obligation for jury duty was neither quick nor certain. Massachusetts, for example, finally adopted a jury service law after a statewide referendum in 1946. In 1961 the U.S. Supreme Court upheld Florida's law allowing voluntary jury service for women (one argument made by the State of Florida was, if men and women were equal, why would the gender of the jury make a difference). It was not until 1975 that the Court confirmed a defendant's right to a jury selected from a pool of men and women. And it was not until 1994 that the Court ruled against peremptory challenges to screen jurors on the basis of gender.^{xliv}

The women who fought for jury service clearly knew that attaining the obligations of citizenship steadied the arguments for the rights. As our current public dialogues affirm, linking civic duty and civil rights remains a vital topic.^{xlv} Each generation of Vermonters has had to address that balance. Now it is our turn. Our answers will continue to define not just what we mean by citizenship, but who we are as citizens.

ⁱ Art. 10th, Chapter I of the Vermont Constitution calls for an "impartial jury of the country" as well as the "judgment of one's peers." Sec. 38 of Chapter II provides that "great care ought to be taken to prevent the corruption or partiality in the choice and return, or appointment of Juries." 4 V.S.A. §952 requires that jury lists "shall be representative of the citizens of its county in terms of age, sex, occupation, economic status, and geographical distribution." The section derives from Act No. 284 of the 1967 adjourned session. See also *State v. Pelican* (1990) 154 Vt. 496 and *State v. Jenne* (1991) 156 Vt. 283.

ⁱⁱ As quoted in Willi Paul Adams, The First American Constitutions, Republican Ideology and the Making of the State Constitutions in the Revolutionary Era (Chapel Hill: University of North Carolina Press, 1980), p. 157.

ⁱⁱⁱ See Jackson Turner Main, The Anti-Federalists, Critics of the Constitution, 1781-1788 (New York: W.W. Norton & Company, 1961), pp. 159-60.

^{iv} As quoted in Linda Kerber, No Constitutional Right To Be Ladies (New York: Hill and Wang, 1998), p. 129. Dr. Kerber's book was a great source for providing context to the Vermont struggle for jury eligibility and for outlining the tensions between the rights and obligations of citizenship. See also Deborah Markowitz, "In Pursuit of Equality: One Woman's Work to Change the Law," *Women's Rights Law Reporter* Rutgers Law School Publication, summer 1989, Volume 11, No. 2. The article focuses on the work of Ruth Bader Ginsberg. Wilson's comment on "shaping" laws reflected the practice of early juries commenting on law as well as fact. For a Vermont debate over this practice see *State v. Croteau* (1849), 23 Vt. 14 and Paul S. Gillies, "The Legal Mind of Hiland Hall: Vermont's Lawyer/Historian," unpublished paper.

^v As quoted in Kerber, Ladies, p. 130.

^{vi} As quoted in Kerber, Ladies, p. 131.

^{vii} The obligation to protect the rights of citizen's is another example. Opponents of women suffrage in 1869-70 sought to ridicule the proposal by linking it with the obligation to serve in the state militia; see Paul S. Gillies and D. Gregory Sanford, Records of the Council of Censors of the State of Vermont (Montpelier: Office of the Secretary of State, 1991), pp. 680-81.

^{viii} *Vermont Watchman and State Journal*, December 22, 1880.

^{ix} *Burlington Free Press*, March 30-31, 1883 and October 30, 1882; *Vermont Watchman and State Journal*, April 28, 1880. Much of the information for this section is drawn from Christina Perry, "Deviant Women: Murder, Justice, and Womanhood in Early Vermont History," unpublished paper. Middlebury College, 1996.

^x Perry, "Deviant Women," pp. 109-112; *Argus & Patriot*, December 1, 1880;

^{xi} *Ibid.* p. 109. *State v. Meaker* (1882) 54 Vt. 112. It is interesting to note that while the Meaker trial progressed, without challenge to all male juries, Vermont women began to expand their political and legal rights. Act 103 of 1880, for example, extended women the vote in school elections; Act 104 made women eligible for election to the offices of town clerk and the school superintendent; Act 105 allowed married women "carrying on business in her own name" to sue and be sued.

^{xii} *Strauder v. West Virginia*, 100 U.S. 303 (1880) as quoted in Kerber, Ladies, p. 132.

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- ^{xiii} Women gained the right to jury service in Wyoming in 1889, but the law was repealed.
- ^{xiv} Such a requirement, as well as the easy opt out clauses, showed the persistence of assigning a "women's sphere" embracing issues of the hearth, either by mandating participation when cases involved children or offering jury exemptions to prevent disruption of traditional family units and tasks.
- ^{xv} Kerber, Ladies, 139.
- ^{xvi} Barre Daily Times, February 1, 1923.
- ^{xvii} There were four women serving in the 1923 House.
- ^{xviii} The newspaper did not detail the specific constitutional issue raised by Thompson. A possibility is suggested by a 1925 Illinois Supreme Court case which decided that since only men were voters in 1874 when the State's jury selection law was enacted, it only applied to men. Illinois did not provide for women jurors until 1939.
- ^{xix} Ibid. Some context for the debate can be drawn from other items in the newspaper. The January 25, 1923 Free Press, for example carried an ad for the current issue of Good Housekeeping which asked "Are feminine morals changing? Are morals on a lower scale than ever before? Are women looking less upon marriage as a career? Is divorce spreading? Are women actually carrying out their threat to 'live their own lives'?"
- ^{xx} Burlington Free Press, January 26, 1923 and February 6, 1923.
- ^{xxi} Journal of the House of the State of Vermont, 1923 (Montpelier: Capital City Press, 1923), P. 375. Both Representatives Meech and Dow, who spoke against the jury service bill, voted against H. 42. The 1923 legislature was characterized as supporting a "back to the town" movement and included efforts to decentralize public health and education, suggesting that more than gender politics were involved. The primary had significantly eroded town control of the candidate selection system.
- ^{xxii} Representative Edith Sanford Records, Scrapbook, 1938-39, Vermont State Archives. Undated or identified clipping.
- ^{xxiii} As quoted in Burlington Free Press January 30, 1939.
- ^{xxiv} Sanford Scrapbook.
- ^{xxv} Ibid. Mrs. Hard's comments were in a letter to the Rutland Herald.
- ^{xxvi} Ibid. The comments of Mayor Burke and Sen. Hard showed that even supporters ascribed special qualities to women, rather than gender equality. That newspaper reporters followed suit is clear from another Scrapbook clipping in which Dorothy Canfield Fisher's presence during testimony is prefaced by the observation that she was "attractive in a soft blue felt hat which just matched the blue of her eyes." The bill was described as "her pet piece of legislation."
- ^{xxvii} For Keyser's amendment see Journal of the House of the State of Vermont, Biennial Session, 1939 (Montpelier: Capital City, Press, 1939), pp. 690-91. See also Burlington Free Press, March 23, 1939. The Vermont Supreme Court repeatedly upheld this practice as constitutional. For an overview see John Young, "Referendum," An Address to the Vermont Bar Association (Montpelier: Argus and Patriot, 1902).
- ^{xxviii} Burlington Free Press, March 23, 1939. In 1919 Vermont Governor Percival Clement refused to call a special session to ratify the 19th Amendment; the ratification vote finally came Feb 21, 1921, after the amendment was ratified (August 26, 1920).
- ^{xxix} Ibid.

^{xxx} *Burlington Free Press*, March 30, 1939. The debates of 1939 and 1941 frequently referred to U.S. Supreme Court cases involving African-American jurors. Examples include *Norris v. State of Alabama* (1935); *Hollins v. State of Oklahoma* (1935); *Hale v. Commonwealth of Kentucky* (1938); *Pierre v. State of Louisiana* (1939); and *Smith v. State of Texas* (1940).

^{xxxii} *Ibid.*

^{xxxiii} *House Journal*, 1939, pp. 752-53. Figures for registered voters were drawn from 1940 Legislative Directory and State Manual.

^{xxxiiii} Unidentified clipping, *Sanford Scrapbook*

^{xxxiv} *House Judiciary Committee Minutes*, February 5, 1941, Vermont State Archives; *Burlington Free Press*, February 6, 1941. In terms of the use of the referendum, Senator Dunklee offered the opinion that referenda were only used for "special legislation," a threshold H. 38 did not meet in his eyes.

^{xxxv} *House Judiciary Minutes*, Feb. 5, 1941; *Free Press*, Feb. 6, 1941.

^{xxxvi} *Journal of the House, 1941*, pp. 186-87; figures for registered voters are from the *Vermont Legislative Directory and State Manual, 1941*.

^{xxxvii} *Journal of the Vermont Senate, 1941*, pp. 182-83.

^{xxxviii} *Burlington Free Press*, November 2, 1942.

^{xxxix} *Ibid.* Another factor that may have effected the vote was the diminishing number of men available for jury service in light of military service and emigration to the war industries of southern New England.

^{xl} 1942 Referendum, Election Records, Vermont State Archives.

Comparison of legislative and town voted compiled by Ginger Scott, who also did the analysis of the 1939 House votes.

^{xli} *State v. Wilkin*, 115 Vt. 269.

^{xlii} H. 303 of 1953 introduced by Margaret Hammond of Baltimore.

^{xliiii} 4 V.S.A. §952 requires that jury lists "shall be representative of the citizens of its county in terms of age, sex, occupation, economic status, and geographical distribution." The section derives from Act No. 284 of the 1967 adjourned session. See also *State v. Pelican* (1990) 154 Vt. 496 and *State v. Jenne* (1991) 156 Vt. 283.

^{xliv} *Hoyt v. Florida*, 368 U.S.57 (1961); Kerber, *Ladies*, p. 136.

^{xlv} Numerous commentators have remarked on the strong support for civil unions among women legislators. This could perhaps be explained, in part, by the fact that much of our history has been marked by women seeking to attain both the rights and obligations of citizenship.