

Legal and Constitutional Rights of Women

By Marilla M. Ricker

Every well-regulated magazine should begin the year with an article on Equal Suffrage, consequently I am anxious that the GRANITE MONTHLY and the state of New Hampshire should go down in history in a proper manner, that is, on the side of Woman Suffrage. Last January my article brought many of the suffrage "girls" to the front, but there are still many in the rear that are well worth talking about. Notable among them is Lillie Devereux Blake of New York City. I met her at the Woman Suffrage Convention in Washington, D. C., in 1870. She impressed me as being a very brilliant woman and seemed deeply interested in the movement to which she has since so largely devoted her life. In addition to contributing to *Harper's*, *The Atlantic*, *Frank Leslie's*, *The North American Review*, *The Forum* and many other leading periodicals, Mrs. Blake has published several novels, of which the best known is "Fettered for Life," a story designed to illustrate the subject condition of women. In 1883 she delivered a series of lectures in reply to the Lenten discourses on women by the Rev. Morgan Dix, D. D. These lectures were the sensation of the day; printed under the title of "Woman's Place Today," they have had a large sale. I read very carefully the voluminous lectures of the Rev. Morgan and Mrs. Blake's replies, and if Lillie didn't get the better of Morgan then have I read Webster's Unabridged Dictionary in vain! She has conducted many legislative campaigns and secured the enactment of many statutes of benefit to women. She was influential in the passage of the school suffrage act, the police matron act, and many other beneficial

laws. Elizabeth Cady Stanton told me the last time I saw her that Mrs. Blake had done more for the women in the state of New York than any other woman. What higher compliment could be paid her? Mrs. Blake has just returned from England, where she was the recipient of much attention in high places. Mrs. Blake wrote many helpful letters during our suffrage campaign of 1903 and paid our state many compliments. New Hampshire is a great state. Mrs. Blake said: "From the dawn of her history she has loved freedom." The stirring part which her brave sons took in the Revolution proves that. I have often said that if our hills were rolled out we should be as big as Texas, but we do not want them "rolled out"; they attract the summer boarder!

It is conceded that the right of self-government in the United States is a natural right. You may select any one of the numerous constitutions that have been prepared and promulgated with solemnity, and you will find that there is not one that has assumed to create and confer this right of self-government; they all declare expressly or impliedly that the right to govern is inherent in the people. Now if women are a portion of the people, this right resides in them, for if the right of self-government is a natural right, then it pertains to every human being alike. Such is the recognized theory of every constitution and such is its practice. Take a step further and you find that, starting with a recognition of this pre-existing right of government, constitution-makers have simply provided the machinery by which it may work itself out. The only means

placed in the hands of the citizen by which he may accomplish his portion of this great task is the ballot. A young woman asked me "Why do you say *his* portion?" I immediately read to her chapter first, section first of the revised statutes of the United States, which says: "Be it enacted by the senate and house of representatives of the United States of America in congress assembled: In determining the meaning of the revised statutes or of any act or resolution of congress passed subsequent to February 25, 1871, words importing the singular number may extend and be applied to several persons or things; words importing the plural number may include the singular; words importing the masculine gender may be applied to females; the words insane person and lunatic shall include every idiot, non compos, lunatic and insane person; the word person may extend and be applied to partnerships and corporations, and the reference to any officer shall include any person authorized by law to perform the duties of such office, unless the context shows that such words were intended to be used in a more limited sense; and a requirement of an oath shall be deemed complied with by making affirmation in judicial form." As a more striking and frequent occurrence of the masculine form, I refer to the criminal code of the United States, and some of the many curious uses of the words "he, him and his."

The very first section limits the punishment of treason exclusively to males, unless *he* can be construed to mean *she* (section 552, Revised Statutes, page 1041) and a woman who commits perjury cannot be punished unless *he* means *she*, for the statute declares that *he* shall be punished and says nothing about *her*. I have heard many women sentenced to the penitentiary for perjury. No woman was ever known to escape a criminal statute because its language ignored her

sex. It is a matter of history that women have and still do fill the various classes of post-offices in the republic, but how can she unless *he* means *she*? No woman could be hanged for murder unless *he* means *she*, but Mary Rogers was hanged in Vermont December 8, 1905. *He* certainly meant *her* that time. Nor can a woman, with all her invention, rob the mail in contemplation of law (section 5472); but if she does she will be sent to the penitentiary under the next section, because *he* means *she* when punishment is concerned. In the old dark days, the shadow of which is on them yet, women often suffered death because they were women, under the cruel fiction that a woman could not be a clerk, while the guilty male escaped solely because he was not a woman.

Every student of English law knows that statutes imposing penalties are to be strictly construed so as to *exclude* every body and thing not within their letter. Statutes creating privileges, conferring benefits are to be liberally construed so as to *include* every person within the reach of their spirit. I think we have reached a period when women are to have the benefit of both these rules, to co-relate each other. Shall there be more than one rule for the construction of all our statutes on this important point? Shall the word *he* include woman in one set of laws and exclude her in another, or shall they all be expounded by one rule? So where there is nothing but the pronoun *he*, *his*, or *him* to indicate sex, it shall be taken to refer to males and females alike for fate or favor. All honest people should contend for the one rule for all. I say without fear of successful contradiction that if *he* means *she* with force enough to hang a woman and make her a postmaster, it certainly is powerful enough to allow her to exercise the elective franchise.

I get many letters from various

parts of the country inquiring about Belva Lockwood, and in reply will say that she secured the passage of a bill through Congress admitting women to practise law in the United States Supreme Court and was the first woman admitted under it. This bill virtually admits women to all the federal courts in the country. She was admitted in March, 1879. In 1896 she was one of a committee appointed by the Federation of Women's Clubs of the District of Columbia to draft and urge through Congress an act to amend the laws of the District of Columbia as to the legal status of married women, and to make both parents the natural guardians of their children. This bill passed June 1, 1896. She has been connected with the Universal Peace Union for more than twenty years and has held many offices. She was asked when in Berlin, Germany, if women had written law books. She replied: "They have not, although they have caused the enactment of many needed laws." Four million and seven hundred thousand dollars were awarded the Cherokee Indians by the court of claims on March 20, 1905. This claim was one of long standing and dated back to the treaty of 1835. Belva Lockwood was one of the attorneys of record. She worked on the case for nearly thirty years; visited the Cherokees in their homes and was conversant with their claims in all particulars. There were eight lawyers in the case, but it was generally conceded that "she was it." She was complimented by the court for her knowledge of the case. She received a fee of \$50,000. *She* was equal to a *he* that time!

Many of the suffrage "girls" in other states are inclined to think I brag about New Hampshire too much. I think I simply tell the truth about the state. But I was chagrined when I received many letters from various suffrage clubs in New York, Illinois, Oregon and California, asking what

this meant, and "this" was a clipping which reads thus: "The Supreme Court in New Hampshire today answered in the negative a query from the governor and council asking if a woman is qualified to fill the office of notary public in this state. Half a dozen women now hold such office and the effect of the decision will be to cancel their commissions." I made a few comments at the time concerning that decision and I think they hold good today. Chapter 18 of the Public Statutes of New Hampshire, pertaining to notaries public says: "Notaries public shall be appointed by the governor with advice of the council and shall be commissioned for five years. Whenever a notary public shall remove from the state, resigns, or from any cause ceases to act in that capacity, he shall, within six months thereafter, deposit all his notarial records and all papers filed in his office in the office of the secretary of state." The magical words, *he*, *his* and *him* appear and not *she* and *her*. Neither do they appear in chapter 275 of the Public Statutes of New Hampshire, which says, "If any person shall commit any larceny from the person of another *he* shall be imprisoned not exceeding seven years. If any person shall steal, take and carry away any horse, mule, cattle, sheep, swine, the property of another, *he* shall be imprisoned not exceeding seven years." Chapter 227 says: "If any person shall wilfully and maliciously burn a dwelling house or an outbuilding adjoining thereto, or any building whereby a dwelling shall be burned, *he* shall be imprisoned not exceeding thirty years;" but not a word about *her*.

I have heard many women sentenced to imprisonment for larceny and arson, and no lawyer materialized to argue that *he* didn't mean *she*, and no one will take issue with me when I assert that no judge in New Hampshire ever refused to sentence a woman who had been proven guilty

of a crime because the statute declared that *he* should be punished and said nothing about *her*.

The 14th amendment to the constitution of the United States says: "All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any state deprive any person of life, liberty or property, without due process of law nor deny to any person within its jurisdiction the equal protection of the laws." 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 or immunities as a citizen? Most assuredly it does. A few years ago, I was assisting in settling an estate in a small town here in New Hampshire; there was no notary public within eighteen miles, and I asked to be appointed notary public, but was refused, simply because I was a woman. Is it nothing to be denied to be appointed a notary public? What privileges and immunities have I differing from those of the subjects of the most absolute monarch? They are subject to such laws as he sees fit to impose. Am I subject to any laws other than are imposed on me? I can have what they will give. Could any slave have less? Therefore government permits the state of New Hampshire, in the face of the 14th amendment, to en-

force 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 any organized government.

I know of but one woman who takes part in town meetings in New England; that is Miss Floretta Vining of Hull, Mass. She is the only woman that owns and controls a whole syndicate of newspapers. She runs a big hotel and supports twenty-eight men, and they have the sense to consult her concerning the taxes of the town and many other things. She certainly ought to go to Congress from her district, and I trust in the near future she will.

No honest man, doing a legitimate business, need be afraid of a woman's vote; but some men scare easily. It is stated on good authority that when it was first proposed to admit women to the high school of Boston, the trustees were thrown into a panic. One old minister was so alarmed that he said if girls were educated the time would come when the wife sitting at one end of the table pouring coffee would be able to answer all the arguments of her husband sitting at the other end carving the steak. This he feared would disrupt the home, abolish the theological universities and perhaps destroy the Democratic party. The descendants of that man are not all dead. It is pleasant to think how shocked they must be when they read about Jennie B. Powers of Keene and Jennie Kendall of Nashua, N. H., both deputy sheriffs.

Blessings

By Dana Smith Temple.

Our sweetest blessings seen through hidden tears,
 Reach us like echoes from the far away
 That oft dispel the gloom and calm our fears,
 And give us strength to face the wildest fray.