

# COMMEMORATION

## A TRIBUTE TO THE NATION'S FIRST WOMEN LAW STUDENTS

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The academic year 1989-90 marks the 120th anniversary of the admission of Lemma Barkeloo and Phoebe Wilson Couzins to the law department of Washington University, then known as St. Louis Law School. Not only were they the first women admitted to Washington University Law School, they also are believed to be the nation's first women law students.

Lemma Barkeloo and Phoebe Wilson Couzins were women of remarkable vision and conviction. In 1869, neither had known another woman law student or lawyer. Yet, each dreamed of attaining a legal education and entering the legal profession. Lacking role models or mentors, they were driven by an internal sense of entitlement and equality.

Barkeloo became Missouri's first woman lawyer and the first woman in the United States to try a case in court. Couzins was the state's first woman law graduate and the country's first woman U.S. marshal. Each made historic contributions to the advancement of women in the legal profession and in the law.<sup>1</sup>

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1. The information in this Article is drawn from several historical sources, including various Washington University archives and records, and various collections in the Missouri Historical Society, St. Louis, Missouri. Four delightful early accounts of American women lawyers are P. HANAFORD, *DAUGHTERS OF AMERICA OR WOMEN OF THE CENTURY 635-60* (1883); Bittenbender, *Women in Law*, 2 CHI. L.T. 301 (1888); Martin, *Admission of Women to the Bar*, 1 CHI. L.T. 76 (1886); and Robinson, *Women Lawyers in the United States*, 2 GREEN BAG 10 (1890). More recent accounts of American women lawyers are found in C. EPSTEIN, *WOMEN IN THE LAW* (1983); K.

## I. LEMMA BARKELOO: PIONEERING THE LEGAL PROFESSION

[She] entered upon a profession for which very few are qualified morally and intellectually, which very few men dare to approach, and which before her no woman to my knowledge, had ventured to aspire. It must have been a brave soul that could thus face the prejudices of society, depart from the usual employments of her sex, devote for years the energies of her mind to the mastery of a science, the dry intricate details of which present nothing of amusement or attraction, and finally to enter into an arena in which men, oft times rude and ungallant, are the gladiators.<sup>2</sup>

— Judge Wilson A. Primm,  
Address to the St. Louis  
Bar Association, 1870

Karen Berger Morello, in her exhaustive history of women lawyers in America, calls Lemma Barkeloo “the nation’s first woman law student.”<sup>3</sup> Barkeloo arguably shares this title with Phoebe Wilson Couzins, who joined Barkeloo in the 1869 entering class of the Washington University law department.<sup>4</sup> In fact, Couzins’ request for admission to the law school predated Barkeloo’s, paving the way for Barkeloo’s admission.<sup>5</sup>

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MORELLO, *THE INVISIBLE BAR: THE WOMAN LAWYER IN AMERICA, 1638 TO THE PRESENT* (1986); R. STEVENS, *LAW SCHOOL: LEGAL EDUCATION IN AMERICA FROM THE 1850S TO THE 1980S* (1983); *WOMEN AND THE LAW* (D. K. Weisberg ed. 1982); and T. WOODY, *A HISTORY OF WOMEN’S EDUCATION IN THE UNITED STATES* (1966). A detailed source on Phoebe Couzins is Koeting, Phoebe Couzins, in *Four St. Louis Women: Precursors of Reform* (1973) (unpublished dissertation on file with the *Washington University Law Quarterly*). A brief history of several women graduates of Washington University is contained in Kesling, *Trailblazing the Legal Frontier: A History of Women in Law*, *WASH. U.L. SCH. MAG.* 5 (Fall 1983). The best historical accounts of Washington University Law School are found in C. Williams, *A History of the Law Department of Washington University* (June 1943) (unpublished dissertation for Masters of Arts Degree, Washington University History Dep’t, on file with the *Washington University Law Quarterly*) and the St. Louis Law School (now Washington University Law School) Faculty Minutes, 1867-1935 (available at Washington University archives).

2. Address of Judge Wilson A. Primm to the St. Louis Bar Association, *Death and the Bar: The Woman Lawyer* (September 1870) (clipping from the Wilson Primm scrapbook available at Missouri Historical Society) [hereinafter *Death and the Bar*].

3. K. MORELLO, *supra* note 1, at 44. Other sources suggest that Washington University was the first law school to admit women students. See C. EPSTEIN, *supra* note 1, at 49; P. HANAFORD, *supra* note 1, at 639; J. KANE, *MORE FIRST FACTS* 174 (1935); D. THOMAS, *WOMEN LAWYERS IN THE UNITED STATES* vii, viii (1957); Bittenbender, *supra* note 1, at 301; Robinson, *supra* note 1, at 13. See *infra* notes 90-97 and accompanying text regarding other women who may have attended law school in 1869.

4. K. MORELLO, *supra* note 1, at 46.

5. See *infra* notes 38-41 and accompanying text. Couzins’ letter to Dean Henry Hitchcock was dated December 1, 1868. See Williams, *supra* note 1, at 103-06; St. Louis Law School Faculty Minutes, 1867-1935, at 23, 26-27 (available at Washington University archives).

Barkeloo, born into a wealthy and distinguished Dutch family in Brooklyn, New York on March 26, 1840, was a talented musician<sup>6</sup> who could sing beautifully in French, Spanish, Italian, and German.<sup>7</sup> After graduating with honors from Moravian Seminary in Pennsylvania, Barkeloo studied with one of New York's most recognized musicians, Madame de Tasson.<sup>8</sup> Though apparently destined for a career in music, Barkeloo inherited a large sum of money and unexpectedly turned her interest to a career in law.<sup>9</sup> As Morello points out, "No woman in the United States had yet been admitted to a law school or to a state bar, so this was no ordinary undertaking."<sup>10</sup>

Barkeloo applied to Harvard and Columbia law schools in the fall of 1868, but they refused her admission.<sup>11</sup> She then sought acceptance from schools in the "West." She petitioned Dean Henry Hitchcock and the faculty of Washington University's law department, and received permission to join the 1869 entering class.<sup>12</sup>

In October 1869, Barkeloo, "a very large heavily built, cheerful looking woman of twenty or thereabouts,"<sup>13</sup> arrived in St. Louis to commence her legal studies.<sup>14</sup> Although criticized by one of her law teachers, Professor William Napton, for "enjoy[ing] the embarrassment of the young men,"<sup>15</sup> Barkeloo was described by another, Honorable Albert Todd, as a "modest . . . pleasant and agreeable" student who had "equanimity and true moral courage."<sup>16</sup> One of her fellow students said, "All her classmates admired her talents and resolution. There were none but would admire her energy and studiousness."<sup>17</sup>

Barkeloo was proficient at the study of law, but she chose not to complete law school. Her petition for an early degree was denied in February

6. *Death and the Bar*, *supra* note 2. Barkeloo's maternal ancestors were among New York's earliest settlers, dating back to the 1630s. *Id.*

7. *Id.*

8. *Id.*

9. *Id.*

10. K. MORELLO, *supra* note 1, at 44.

11. Robinson, *supra* note 1, at 13; *Death and the Bar*, *supra* note 2. See also C. EPSTEIN, *supra* note 1, at 49; K. MORELLO, *supra* note 1, at 44.

12. K. MORELLO, *supra* note 1, at 44; *Death and the Bar*, *supra* note 2.

13. William I. Napton Diary (Entry of May 5, 1870) (available at Missouri Historical Society).

14. *Death and the Bar*, *supra* note 2.

15. K. MORELLO, *supra* note 1, at 45. Napton was known for his critical remarks of his students. *Id.*

16. *Death of Miss Lemma Barkeloo*, 2 CHI. LEGAL NEWS 409 (1870). Hon. Albert Todd, Barkeloo's former professor, presided at the memorial service held by the St. Louis Bar. *Id.*

17. *Id.*

1870, consistent with the school's policy disfavoring such requests.<sup>18</sup> Not to be deterred, Barkeloo took and passed the Missouri bar examination in March 1870,<sup>19</sup> becoming Missouri's first, and the country's second, woman lawyer. Barkeloo was preceded in her landmark accomplishment by Arabella "Belle" Mansfield, who was admitted to the Iowa bar in June 1869.<sup>20</sup> As was typical of that era, Mansfield had not attended law school prior to her admittance to the bar.

Barkeloo was counseled that as a single woman she would need the support of family and friends in the male-dominated practice of law.<sup>21</sup> She considered returning to the east coast to set up her law practice, but decided to remain in St. Louis, convinced that "the western people were generous and liberal in their sentiments and she would be better sustained here than in the East."<sup>22</sup>

At the request of a mutual friend, Barkeloo entered the practice of law in the offices of St. Louis attorney Lucien Eaton.<sup>23</sup> According to Eaton, he "had never known a student more assiduous in his [sic] studies." He considered Barkeloo to be "gifted with a fine intellect and a good judgment."<sup>24</sup> In her first few months of practice, Barkeloo became the first woman lawyer in the United States to try a case in court.<sup>25</sup>

18. St. Louis Law School Faculty Minutes, 1867-1935, at 31 (available at Washington University archives). See also Williams, *supra* note 1, at 104-05.

19. Barkeloo was admitted to the Missouri bar on March 25, 1870. See *Death of Miss Lemma Barkeloo*, *supra* note 16, at 409.

20. Arabella Mansfield was admitted to the Iowa bar in June 1869, almost a year prior to Barkeloo. K. MORELLO, *supra* note 1, at 11-12; Robinson, *supra* note 1, at 21. Despite the apparent restriction of the Iowa statute that limited admission to "any white male person," IOWA CODE § 1610 (1851), Mansfield was permitted to examine for the bar and passed quite successfully. Her admission was upheld by Justice Francis Springer, a progressive jurist who "liberally" construed the Iowa law to allow women admission to the bar. K. MORELLO, *supra* note 1, at 12. According to one source, the first woman to graduate from law school in Iowa, Mary B. Hickey, did so in 1873. *Id.* at 52. According to another source, the first woman admitted to the Iowa College of Law was a member of the class of 1874. Hansen, *Early History of the College of Law, State University of Iowa: 1865-1884*, 30 IOWA L. REV. 31, 60 (1944).

21. She sought advice on this issue from Hon. Albert Todd, her former teacher. *Death of Miss Lemma Barkeloo*, *supra* note 16, at 409; Weisberg, *Barred from the Bar: Women and Legal Education in the United States, 1870-1890*, 28 J. LEGAL EDUC. 485, 497 (1977).

22. *Death of Miss Lemma Barkeloo*, *supra* note 16, at 409; Weisberg, *supra* note 21, at 498; Personal, Irving Union, April 1870 (on file with the *Washington University Law Quarterly*).

23. The mutual friend was Mrs. R.N. Hazard. 4 W. HYDE & H. CONRAD, *ENCYCLOPEDIA OF THE HISTORY OF ST. LOUIS 2530* (1899).

24. *Death of Miss Lemma Barkeloo*, *supra* note 16, at 409.

25. K. MORELLO, *supra* note 1, at 44; Kesling, *supra* note 1, at 5; Robinson, *supra* note 1, at 13.

Unfortunately, soon after beginning the practice of law, Barkeloo fell ill with typhoid fever.<sup>26</sup> One authority disparagingly referred to her illness as “over-mental exertion.”<sup>27</sup> Barkeloo tried to convince friends that she was “still alive,”<sup>28</sup> and issued reports that “she [was] getting better,”<sup>29</sup> but on September 11, 1870, less than six months after reaching her goal of becoming a lawyer, Lemma Barkeloo passed away.<sup>30</sup>

The St. Louis legal community gathered to mourn the loss of their new colleague. W.H.H. Russell, a respected St. Louis attorney, presented the resolutions of the St. Louis Bar Association to the Criminal Court. In his eulogy, he praised Barkeloo’s ambition and fortitude:

[She made] incessant application in the arduous studies of the profession . . . [She] was always found to be in her seat at the lecture hour. In literary parlance, she was a “hard student,” ever ready and willing to undertake what might seem insurmountable objects, but with a lofty purpose and a fixed determination to overcome all.<sup>31</sup>

In his address to the St. Louis Bar Association, Judge Wilson Primm also praised Barkeloo: “[She] has left behind her an example which others of her sex may deem worthy of imitation; an example of self-reliance, of intellectual labor and courage.”<sup>32</sup>

Barkeloo was buried in Greenwood Cemetery in her home town of Brooklyn, New York on September 15, 1870, almost one year to the day of leaving it in search of her dream.<sup>33</sup> She left behind the task of advancing equality for women in the legal profession and in the law to her colleague in the 1869 entering law class at Washington University.

## II. PHOEBE WILSON COUZINS: CHAMPIONING WOMEN’S RIGHTS

I entered upon the study of law . . . [compelled] solely by a desire to open new paths for women, enlarge her usefulness, widen her responsibilities and to plead her cause in a struggle which I believed was surely coming . . . I trust the day is not far distant when men and women shall be recognized as

26. Kesling, *supra* note 1, at 5; Williams, *supra* note 1, at 105; Irving Union, Sept. 1870 (on file with the *Washington University Law Quarterly*).

27. UNITED STATES BIOGRAPHICAL DICTIONARY, MISSOURI VOLUME 111 (1878).

28. Letter from Lemma Barkeloo to Lucien Eaton (July 12, 1870) (Lucien Eaton Letterbook available at Missouri Historical Society).

29. Letter from James L. Smith to Lucien Eaton (Aug. 26, 1870) (Lucien Eaton Letterbook available at Missouri Historical Society).

30. *Death and the Bar*, *supra* note 2.

31. *Id.*

32. *Id.*

33. *Id.*

equal administrators of that great bulwark of civilization, law.<sup>34</sup>

Phoebe Wilson Couzins, a native St. Louisan, was born within a year or so of Lemma Barkeloo.<sup>35</sup> While Barkeloo came from a distinguished, wealthy Eastern family, Couzins came from a prominent, political family of the West.<sup>36</sup> In contrast to Barkeloo's background in music and fine arts, Couzins was a well-known public figure in the St. Louis suffragist movement.<sup>37</sup>

In December 1868, after consulting Honorable John Krum, a member of the law faculty, Couzins sought admission to the newly opened law department of Washington University.<sup>38</sup> Dean Hitchcock and the law faculty forwarded the following statement to the University Board of Directors in support of her request:

If the question were left to us to decide, [we] see no reason why any young woman who in respect to character and acquirements fulfilled the conditions applicable to male students, and who chose to attend the Law Lectures in good faith for the purpose of becoming acquainted with the law of her country, should be denied that privilege.<sup>39</sup>

The sixteen-member board unanimously agreed.<sup>40</sup> Washington Univer-

34. See Kesling, *supra* note 1, at 5; Newspaper clipping (unidentified, undated newspaper in Phoebe Couzins Collection available at Missouri Historical Society).

35. The year Couzins was born is unsettled. Some sources list the year as 1840, the year Barkeloo was born. See, e.g., Cottle, *Women in the Legal Profession*, 3 *WOMEN LAW. J.* 22 (Dec. 1913). Other sources note that the year is 1839. See, e.g., Thomas, *Phoebe Wilson Couzins* 390 (short biography of Couzins from unidentified book in Phoebe Couzins Collection available at Missouri Historical Society). Some sources, including her gravemarker, list the year as 1842. See, e.g., *Missouri Miniatures: Phoebe Couzins*, 37 *MO. HIST. REV.* 450 (July 1943). Still other sources list the year as 1843. See, e.g., Koeting, *supra* note 1, at 18.

36. See *supra* note 6 and accompanying text. Couzins' father was John Edward Decker Couzins, holder of various political offices in St. Louis, including that of chief of police and U.S. marshal for the Eastern District of Missouri. Thomas, *supra* note 35, at 390.

37. See *supra* notes 6-9 and accompanying text. See also Thomas, *supra* note 35, at 390; *A Noteworthy Career* (unidentified, undated newspaper article in J. E. D. Couzins Collection available at Missouri Historical Society).

38. St. Louis Law School Faculty Minutes, 1867-1935, at 23, 26-27 (available at Washington University archives). Judge John M. Krum, a philanthropist, women's rights advocate, and member of the law school faculty, suggested that Couzins apply for admission. Thomas, *supra* note 35, at 390; Williams, *supra* note 1, at 104; St. Louis Globe Democrat, Sept. 12, 1936 in 2 *ST. LOUIS AND MISSOURI WOMANHOOD SCRAPBOOK* 103-04 (available at Missouri Historical Society).

39. St. Louis Law School Faculty Minutes, 1867-1935, at 23 (entry of Dec. 7, 1868) (available at Washington University archives).

40. On motion of James Yeatman, the Board of Directors unanimously adopted the following resolution: "That in the opinion of the Board no application for admission to the Law Department, as a pupil, made by a person otherwise qualified under the regulations prescribed by the Law Faculty

sity Law School, only two years after opening its doors,<sup>41</sup> became the first law school in the country to accept qualified applicants regardless of sex.<sup>42</sup> Columbia University did not admit women law students until 1929, Harvard not until 1950.<sup>43</sup>

Couzins, "a rather thin young lady with large, deep eyes, a rather prominent straight nose, and masses of dark hair,"<sup>44</sup> entered law school with some foreboding. Reportedly, however, she was well received by the male students and professors.<sup>45</sup> Couzins' classmates elected her secretary and treasurer of the law school's first student organization, the Lyceum, and later vice president of the school's first alumni association.<sup>46</sup>

Unlike Barkeloo, who chose to forgo her studies to take the bar examination in March 1870, Couzins completed the two-year period of study and became the first woman to graduate from Washington University and its law school,<sup>47</sup> and the third woman in the nation to graduate from law school.<sup>48</sup>

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should be refused because of the sex of the applicant." Williams, *supra* note 1, at 105 (quoting Washington University Corporation Records, vol. A, at 257).

41. Williams, *supra* note 1, at 103-07; St. Louis Law School Faculty Minutes, 1867-1935, at 1-27 (available at Washington University archives).

42. See *supra* note 3.

43. K. MORELLO, *supra* note 1, at 101-03.

44. Koeting, *supra* note 1, at 24.

45. K. MORELLO, *supra* note 1, at 46, 47.

46. Williams, *supra* note 1, at 105, 175. The name of the association was the St. Louis Law School Alumni Association. *Id.* at 175.

47. Robinson, *supra* note 1, at 13; Williams, *supra* note 1, at 105, 107. After Couzins' graduation from Washington University School of Law in 1871, 25 years passed before another female would graduate from the law school. Daisy B. Barbee graduated in 1896 and received a \$50 award for the best senior thesis of the year. A CATALOGUE OF GRADUATES OF ST. LOUIS LAW SCHOOL (LAW DEPARTMENT WASHINGTON UNIVERSITY), 1896-1897, at 108; Williams, *supra* note 1, at 359, 360. In 1899, Barbee returned to the law school to enroll in advanced classes. She later married Allen Siedel and practiced in Goldfield, Nevada. A CATALOGUE OF GRADUATES OF ST. LOUIS LAW SCHOOL (LAW DEPARTMENT WASHINGTON UNIVERSITY), 1899-1900, at 113; GENERAL ALUMNI CATALOGUE WASHINGTON UNIVERSITY 91 (1917). Wilson Ella Palmer McAlister enrolled in the school in 1886, but did not graduate. A CATALOGUE OF GRADUATES OF ST. LOUIS LAW SCHOOL (LAW DEPARTMENT WASHINGTON UNIVERSITY), 1886-1887, at 110. The next woman to graduate from Washington University Law School was Cora Daisy Milligan in 1900. A CATALOGUE OF GRADUATES OF ST. LOUIS LAW SCHOOL (LAW DEPARTMENT WASHINGTON UNIVERSITY), 1899-1900, at 118. One woman attended in 1896; three in 1897; two in 1898; and two in 1899. Williams, *supra* note 1, at 108.

48. Ada Kepley, who graduated from the old University of Chicago Law Department in June 1870, preceded Couzins by one year. Robinson, *supra* note 1, at 13, 14, 17. Sara Kilgore Wertman graduated from the Michigan University Law School in March 1871, two months prior to Couzins' graduation. *Id.*

To mark the occasion of Couzins' graduation from the law school in May 1871, a magnificent banquet was held in her honor. Some of the most prominent judges, lawyers and politicians in Missouri, as well as several members of the press, attended the gathering. University Chancellor William G. Eliot, Missouri Lt. Governor E.O. Stanard and former U.S. Senator John Henderson were among those offering toasts to Couzins at the event.<sup>49</sup>

After graduation, Couzins set up a law office on Olive Street in downtown St. Louis.<sup>50</sup> In the same year, she took the Missouri bar examination and passed with "high marks."<sup>51</sup> Her admission to the Missouri bar in 1871 gave Couzins the distinction of being only the third or fourth woman licensed to practice law in the United States, following Mansfield, Barkeloo, and perhaps Sara Kilgore Wertman of Michigan.<sup>52</sup>

While Couzins was the second woman admitted to practice law in Missouri, she was the first woman admitted to the bar in Arkansas, in 1871.<sup>53</sup> Couzins and Georgia Snow, daughter of Utah's Attorney General, were both admitted to the Utah bar in 1872, the first women admitted to that bar.<sup>54</sup> Couzins also was later admitted to practice in Kansas and the Dakota Territory.<sup>55</sup>

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49. *To Honor Phoebe Couzins* (undated, unidentified newspaper clipping in J.E.D. Couzins Collection available at Missouri Historical Society).

50. Irving Union, June 1, 1871 (on file with the *Washington University Law Quarterly*).

51. Larkin, *Missouri Heritage: Phoebe Couzins*, Kansas City Star (undated article in Phoebe Couzins Collection available in Missouri Historical Society). She was admitted to appear in the federal district courts on May 24, 1871. Williams, *supra* note 1, at 106; Daily Missouri Republican, May 25, 1871. The following month, on June 20, 1871, she was admitted to appear in the Missouri circuit courts. Thomas, *supra* note 35, at 390. She was admitted to the Missouri Supreme Court on March 28, 1873. Williams, *supra* note 1, at 106.

52. Arabella "Belle" Mansfield, admitted to the Iowa bar in June 1869, was the first woman in the nation admitted to the bar. Couzins' classmate, Lemma Barkeloo, was second, being admitted to the Missouri bar in March 1870. Couzins and Wertman were both admitted in 1871. Wertman may have preceded Couzins in becoming licensed to practice. The exact month of Wertman's admission to the bar is not evident; but it is known that she graduated from law school two months earlier than Couzins. See *supra* note 48. Robinson credits Wertman with being the third woman in the country to become licensed to practice law, while Koeting and Williams credit Couzins with that honor. Koeting, *supra* note 1, at 22; Robinson, *supra* note 1, at 13, 14, 17-18; Williams, *supra* note 1, at 107.

53. Certificate of Admission to the Arkansas bar (Dec. 8, 1871) (J. E. D. Couzins Collection available at Missouri Historical Society).

54. K. MORELLO, *supra* note 1, at 38; Martin, *supra* note 1, at 78; Thomas, *supra* note 35, at 390.

55. Thomas, *supra* note 35, at 390.

Couzins, however, handled very few, if any, legal cases.<sup>56</sup> Women's suffrage was Couzins' true passion before and after law school.<sup>57</sup> Service on the Western Sanitary Commission during the Civil War had spurred Couzins' interest in helping to obtain the right to vote for women.<sup>58</sup> She believed that there would be no more wars if women could vote.<sup>59</sup>

Couzins helped found the National Woman Suffrage Association (NWSA) along with prominent suffragists Susan B. Anthony and Elizabeth Cady Stanton.<sup>60</sup> She was an early member of the Woman Suffrage Association of Missouri (WSAM), founded by Virginia Louise Minor of St. Louis.<sup>61</sup> Couzins resigned from the WSAM, when it affiliated with the American Woman Suffrage Association, a conservative suffragist society composed primarily of young, wealthy women that rivaled the NWSA for leadership of the national suffrage movement.<sup>62</sup>

Couzins was renowned as an eloquent lecturer and a stirring orator on the issues of suffrage, temperance, and women's rights.<sup>63</sup> One of her earliest public appearances was before the Missouri legislature in February 1869, as a delegate of the American Equal Rights Association, advocating passage of legislation granting women the right to vote.<sup>64</sup> Although the proposal was rejected by a vote of eighty-nine to five, it launched Couzins' career as a public advocate.<sup>65</sup> She spoke predominantly in the West and was well received by her audiences, which sometimes numbered in the thousands.<sup>66</sup> Stanton, in reviewing one of Couzins' speeches,

56. Some sources suggest Couzins never practiced. *See, e.g., id.* Some authorities, however, state that Couzins handled some cases, but very few. *See, e.g.,* K. MORELLO, *supra* note 1, at 47.

57. Martin, *supra* note 1, at 78.

58. The Western Sanitary Commission assisted in rendering medical aid to wounded soldiers during the Civil War. Distinguished honorary members of the Commission include former Presidents Abraham Lincoln and Ulysses S. Grant. Couzins served as secretary of the Mississippi Valley Sanitary Fair, an event run under the auspices of the Sanitary Commission. *Stag, Local Incidents of the Civil War*, 4 COLLECTIONS 67, 68 (no. 1, 1912) (available at Missouri Historical Society). *See* P. HANAFORD, *supra* note 1, at 566.

59. P. HANAFORD, *supra* note 1, at 566.

60. Thomas, *supra* note 35, at 390.

61. *Id.*

62. *Id.* When the NWSA merged with the American Woman Suffrage Association (AWSA) in 1890, Couzins fell from prominence in the movement. *Id.*

63. K. MORELLO, *supra* note 1, at 47. Couzins reportedly also sang on the platform during a few of her speeches. Newspaper clipping, May 10, 1878 (unidentified newspaper in Phoebe Couzins Collection available at Missouri Historical Society).

64. Larkin, *supra* note 51; Thomas, *supra* note 35, at 390.

65. Larkin, *supra* note 51.

66. K. MORELLO, *supra* note 1, at 47; *A St. Louis Lady Abroad*, Missouri Republican, May 10, 1878, at 5, col. 5.

said: "Phoebe Couzins on 'Women as Lawyers' was ably written and well delivered. It was rich in illustration, logical, keen, witty, pathetic, moving her audience alike to laughter and tears."<sup>67</sup>

As the years passed, Couzins' influence expanded to the national level. She spoke on the platform at the Democratic National Convention on June 27, 1876, advocating women's rights.<sup>68</sup> In 1882, President Chester Arthur considered Couzins for a seat on the Utah Territory governing commission.<sup>69</sup> She failed to get that appointment, but in September 1887, President Grover Cleveland appointed her to succeed her father as U.S. marshal for the Eastern District of Missouri.<sup>70</sup> Couzins was the first woman in the country appointed to serve as a U.S. marshal, an appointment that drew public criticism. Couzins responded to this criticism in a letter to the editor of the *Missouri Republican*, stating that "a woman typifies justice and . . . symbolizes law; therefore it does not appear so funny to empower women to execute the office of U.S. Marshal."<sup>71</sup>

In 1889, Couzins left St. Louis to reside in Washington, D.C., where she had a brief and unsuccessful career as a writer.<sup>72</sup> She was appointed one of Missouri's two delegates to the Board of Lady Managers of the World's Columbian Exposition in 1890 and was elected secretary of this organization, a paid position that Couzins desperately needed as she had very little income after her father's death.<sup>73</sup> However, conflicts with the

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67. Stanton, *Women as Lawyers*, St. Louis Republic, Oct. 26, 1873 (J. E. D. Couzins Collection available at Missouri Historical Society) (review of Phoebe Couzins' address to the (AWSA)).

68. I W. HYDE & H. CONRAD, *ENCYCLOPEDIA OF THE HISTORY OF ST. LOUIS* 470 (1899).

69. K. MORELLO, *supra* note 1, at 48. President Ulysses S. Grant, on February 26, 1873, personally wrote to his Secretary of the Treasury requesting that the Secretary see Phoebe "on business connected with the Treasury though not the usual business which ladies have at the department." Letter of President Grant to Secretary of Treasury (Feb. 26, 1873) (Phoebe Couzins Collection available at Missouri Historical Society).

70. Phoebe Couzins' father was commissioned as U.S. marshal by President Arthur on June 5, 1884. Mr. Couzins subsequently appointed his daughter as deputy marshal when his health began to fail because she knew the routine of the office and because she was a lawyer. Couzins thereby became the first woman to hold this office. After Mr. Couzins died on September 1, 1887, before the expiration of his term, President Cleveland appointed Phoebe to serve out his term. She served as U.S. marshal for two months. See Larkin, *supra* note 51.

71. Letter from Phoebe Couzins to the editor of the *Missouri Republican* (Sept. 20, 1887) (Phoebe Couzins Collection available at Missouri Historical Society).

72. Koeting, *supra* note 1, at 27.

73. "World's Columbian Exposition" Certificate (Oct. 3, 1890) (J. E. D. Couzins Collection available at Missouri Historical Society). According to one source, Couzins' search for a cure for her "rheumatism" and her extravagance for clothing and "the good life" drained her financially. Thomas, *supra* note 35, at 391.

chair, Bertha H. Palmer, led to Couzins' removal from the board<sup>74</sup>—an action Couzins contested in court, but lost.<sup>75</sup>

In the 1890s, Couzins inexplicably retreated from some of her earlier views on women's rights and the suffrage and temperance movements. She became a lobbyist for the liquor industry. Further, she asserted that "the great work for the majority of women is motherhood,"<sup>76</sup> and no longer advocated women working outside the home. In the most dramatic turnabout, she argued that "endow[ing women] with the ballot would be a mistake."<sup>77</sup> One author suggests that Couzins, struggling to reconcile the roles of women as mothers and political activists, became "frustrated by the lethargy of the feminist movement after 1880."<sup>78</sup>

In her later years, Couzins grew embittered at the new, young, wealthy members of the suffrage movement; Couzins herself was in a state of poverty.<sup>79</sup> Sadder yet, she began to suffer serious mental and physical deterioration. In 1898, a prominent member of the suffrage movement, V. C. Whitney, warned mutual friends that "Phoebe Couzins has been crazy for six years."<sup>80</sup> Confined to a wheelchair and in a questionable mental state, Couzins began requesting financial assistance not only from friends, but also from people she had never met.<sup>81</sup>

She directed her frustration not only toward members of the progressive movements, but also toward Washington University. In 1907, she demanded that she be allowed to speak at the thirty-eighth anniversary of the law school's commencement exercises;<sup>82</sup> her request was denied.

74. Thomas, *supra* note 35, at 391.

75. *Couzins v. Palmer*, 47 F. 227 (N.D. Ill. 1891).

76. *Phoebe Couzins Wants to Help Anti-Drug Fight: Former Womans Suffrage Leader Tells Post-Dispatch Why She Was Wrong*, St. Louis Post-Dispatch, May 9, 1909 (available at Missouri Historical Society).

77. *Id.*

78. Koeting, *supra* note 1, at 28-29, 34-35.

79. K. MORELLO, *supra* note 1, at 48, 49. These new young and wealthy members were former members of the AWSA.

80. Letter from V.C. Whitney to Mr. and Mrs. Blake (Jan. 18, 1868) (regarding Phoebe Couzins' mental health) (Blake Collection available at Missouri Historical Society).

81. Couzins suffered from severe attacks of "rheumatism"—probably arthritis—that periodically left her confined to a wheelchair. Thomas, *supra* note 35, at 391. *See, e.g.*, Letter from Phoebe W. Couzins to William Bixby (Apr. 11, 1911) (requesting financial assistance) (Bixby Collection available at Missouri Historical Society). Although Couzins had never met Bixby, Couzins believed that because Bixby "should be familiar with her as . . . a suffragist and [the] first female law student in Missouri," he would be willing to help her financially.

82. Letter from Phoebe W. Couzins to Chancellor W.L. Chaplin (Apr. 19, 1907) (requesting permission to speak at commencement) (available at Washington University archives).

In 1912, she vehemently requested the privilege of sitting on the platform at the commencement, marking Washington University's sixtieth anniversary.<sup>83</sup> Although she was permitted to attend the graduation ceremony, she was not allowed a place on the platform.

Couzins' otherwise brilliant career had taken a sad and ironic twist. Friends and those who knew her history were surprised and saddened by the shift in Couzins' views. The woman who once had been described as "one of the most widely known women in America"<sup>84</sup> and affectionately referred to as "Colonel Couzins,"<sup>85</sup> died quietly in poverty in December 1913.<sup>86</sup> Only six people attended her funeral.<sup>87</sup>

Couzins was buried in Bellefontaine Cemetery in St. Louis, Missouri, with a U.S. marshal star pinned to her chest.<sup>88</sup> In 1950, women lawyers of St. Louis and Kansas City erected a tombstone over Couzins' unmarked grave as a memorial of her historic career.<sup>89</sup>

### III. THE NATION'S FIRST WOMEN LAW STUDENTS: STRUGGLING FOR EQUALITY

It is possible that other women, in addition to Barkeloo and Couzins, attended law school in the fall of 1869. Ellen Martin, writing for the *Chicago Law Times* in 1886, mentions a woman by the name of Elizabeth Peckham: "Phoebe W. Couzens' [sic] application for admission to Washington University Law School in St. Louis had been favorably acted upon in 1868, and Elizabeth (Lila) Peckham had been, for some time, a law student in Milwaukee, and had been generally known to the public as such."<sup>90</sup> Martin also mentions Peckham in an earlier account: "Lilly Peckham of Milwaukee, who prepared about the same time [as Barkeloo]

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83. Letter from Phoebe W. Couzins to Chancellor Charles Eliot (June 3, 1912) (requesting permission to sit on the platform during commencement) (available at Washington University archives).

84. *Who Miss Phoebe Is* (undated, unidentified newspaper clipping in J. E. D. Couzins Collection available at Missouri Historical Society).

85. Larkin, *supra* note 51.

86. Newspaper clipping (unidentified, undated newspaper in Phoebe Couzins Collection available at Missouri Historical Society).

87. *Old Friends Fail to Pay Respects to Phoebe Couzins*, Dec. 8, 1913 (unidentified newspaper clipping in Phoebe Couzins Collection available at Missouri Historical Society).

88. Larkin, *supra* note 51.

89. *Pioneer Woman in a Man's World*, Kansas City Star Times, June 19, 1950 in 8 ST. LOUIS AND MISSOURI WOMANHOOD SCRAPBOOK 183 (available at Missouri Historical Society).

90. Martin, *supra* note 1, at 76.

. . . decided before her death to adopt the profession of theology."<sup>91</sup> It is unclear if Peckham attended formal law school and, if so, where and when; it is possible that she studied law under the tutelage of a practicing lawyer, the typical means of studying law at that time.

Ada H. Miser Kepley also may have attended law school in 1869. Kepley, believed to be the first woman law graduate in the United States, reportedly earned her degree in June 1870 from the old University of Chicago Law Department (which, in 1873, became Union College of Law of the Chicago University and the Northwestern University).<sup>92</sup> According to Lelia Robinson, who wrote in 1890, Kepley began the study of the law profession in her husband's office. She studied during 1868 and 1869, and was graduated from the Union College of Law in Chicago in 1870.<sup>93</sup> It is unclear when she began, or for how long Kepley actually attended, formal law school. The common course of law study at that time was two or three years, but only one year or less was required for a degree.<sup>94</sup>

It is also possible that Sarah Kilgore Wertman attended law school in 1869. Wertman graduated from the University of Michigan Law School in March 1871.<sup>95</sup> According to various sources, she had transferred to Michigan from the old Chicago Law School where she had previously studied for one year.<sup>96</sup> However, it is unclear when Wertman began her formal legal studies at Chicago or Michigan.<sup>97</sup>

91. Martin, *Women at the Bar*, *The Missouri Republican*, Apr. 28, 1879, at 5, col. 5.

92. K. MORELLO, *supra* note 1, at 49; Martin, *supra* note 1, at 78; Robinson, *supra* note 1, at 14. See generally F. ELLSWORTH, *LAW ON THE MIDWAY: THE FOUNDING OF THE UNIVERSITY OF CHICAGO LAW SCHOOL* (1977); Babb, *Union College of Law, Chicago*, 1 *GREEN BAG* 330 (1889).

93. Robinson, *supra* note 1, at 14. See also K. MORELLO, *supra* note 1, at 49; A WOMAN OF THE CENTURY 434 (F. Willard & M. Livermore eds. 1893).

94. Williams, *supra* note 1, at 106 (citing A. REED, *TRAINING FOR THE PUBLIC PROFESSION* 173 (1927)).

95. See E. BROWN, *LEGAL EDUCATION AT MICHIGAN, 1859-1959*, at 251-52 (1959) (citing University of Michigan Minutes for 1870-71, filed by Acting President Henry Friese); K. MORELLO, *supra* note 1, at 52-53; Martin, *supra* note 1, at 79.

96. K. MORELLO, *supra* note 1, at 53; Robinson, *supra* note 1, at 17.

97. Further evidence that other women may have attended law school in 1869 comes from Myra Bradwell. Bradwell's application to take the Illinois bar was denied in 1869 because she was a married woman. She stated in her initial brief to the Illinois Supreme Court, filed in November 1869, only one month after Barkeloo and Couzins began Washington University Law School, that "the doors of many of our universities and law schools are now open to women upon an equality with men." Robinson, *supra* note 1, at 14 (citing Petitioner's Brief, *In re Bradwell*, 55 Ill. 535 (1869) (emphasis added)). See Kogan, *Myra Bradwell: Crusader at Law*, in *CHICAGO HISTORY* 132 (1975), adapted from H. KOGAN, *THE FIRST CENTURY: THE CHICAGO BAR ASSOCIATION, 1874-1974*

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The struggles fought by Lemma Barkeloo, Phoebe Wilson Couzins, and the other women of their era to gain admission to law school and to join the legal profession were part of a broader battle for equal opportunities and rights for women. Their spirit survives as an inspiration to those still struggling for equality for women in legal education, in the legal profession, and in the law.

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(1974). Bradwell does not identify the law schools to which she was referring. (Bradwell's rejection was later upheld by the U.S. Supreme Court. *Bradwell v. Illinois*, 83 U.S. (16 Wall.) 130 (1873)).

It is known that Bradwell was influential in pressuring the old University of Chicago Law Department to admit women. F. ELLSWORTH, *supra* note 92, at 12. However, it is not clear when the first women were admitted there. Goodspeed suggests in his book that "in 1873 the trustees [of the old University of Chicago] opened the college classes to women." T. GOODSPEED, *A HISTORY OF THE UNIVERSITY OF CHICAGO: THE FIRST QUARTER-CENTURY* 20 (1972). He makes no mention of women being admitted to the law department.

Stevens asserts that the University of Iowa admitted women law students as early as 1869. R. STEVENS, *supra* note 1, at 82. But other sources dispute this. *See* Hansen, *supra* note 20, at 60 (first woman admitted to Iowa in 1874); K. MORELLO, *supra* note 1, at 52 (first woman graduated from Iowa in 1873).