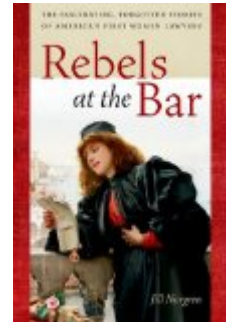


**Jill Norgren.** *Rebels at the Bar: The Fascinating, Forgotten Stories of America's First Women Lawyers.* New York: New York University Press, 286 pp. \$29.95, cloth, ISBN 978-0-8147-5862-5.



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**Commissioned by** Christopher R. Waldrep (San Francisco State University)

Who were America's early women lawyers, and what are their stories? Although this two-part question emerged some four decades ago in the context of women's increasing representation in the legal profession, in *Rebels at the Bar*, Jill Norgren demonstrates that it continues to generate rich avenues for research and scholarship. By focusing on women's agency, the work importantly moves beyond an examination of women's exclusion from and, then, triumphant entry into the legal profession and sheds much-needed light on how early women lawyers engaged in legal work on their own terms. In *Rebels at the Bar*, Norgren weaves stories of the lives and careers of eight early women attorneys together with historical and professional circumstances in a bid to create what she characterizes as an "additional narrative" (p. xiii) of what transpired in the latter part of the nineteenth century, as the law transformed from gentlemen's stronghold to beacon of "meritocracy." While Norgren's notion of using lesser-known careers to deepen our understanding of

the legal profession's evolution is compelling, the narrative she chooses to tell is less satisfying.

For a work premised on elucidating the forgotten, curiously, Norgren's rebels happen to be some of the most remembered figures of women's legal history. At least half have starred in their own book-length biographies. Norgren herself penned Belva Lockwood's in 2007. Furthermore, most of the remaining women have featured prominently in articles or book chapters.

More to the point, however, I question the extent to which Norgren's rebels fulfill the monograph's objective of speaking to early women lawyers' experiences in the legal profession. Given the investment of time and money required to study law, and the uncertainty of return on that investment, it makes good sense that many early women lawyers were elites who had ample amounts of both. Nevertheless, the homogeneity of Norgren's rebels is striking. Not only are they exclusively white, middle- to upper-middle class, native-born Protestants with remarkably lengthy

careers for early women lawyers, many additionally enjoyed close proximity to power. Myra Bradwell's husband was a prominent lawyer, politician, and judge, and she also counted the Lincolns as friends. Clara Foltz was the sister of U.S. senator for California, Samuel Shortridge. Mary Hall's brother was a Connecticut senator and she read law with a direct descendent of Connecticut founder Thomas Hooker. Likewise, Mary Greene's pedigree reveals that she is a direct lineal descendent of Rhode Island founder Roger Williams. As important as Norgren's work is, its representational range is limited.

Certainly the lives and careers of more marginal or lesser-known women lawyers can prove difficult and even impossible to recover. Most early women lawyers had short and poorly documented careers, and many never practiced at all. That being the case, however, raises additional concerns about the validity of structuring an inquiry about women's entry into the legal profession around female attorneys with long and full careers, as such women lawyers are by definition extraordinary. In the preface, Norgren rightly notes that Charlotte Ray, the first woman—and a black woman no less—admitted to practice in the District of Columbia, belongs in *Rebels*. Yet, the record on Ray is sparse. Probably more significant in Ray's exclusion, however, is the fact that she left law for teaching when she could not find legal work. That she had to make a living should not escape our attention either. Similarly, Mary Ann Shadd Cary might have been included. In terms of writing, publishing, and activism, her career matches those of Norgren's rebels. While the historical record is comparably strong in her case, because she did not exercise her profession, probably also finding opportunities limited for a black woman lawyer, she will likely remain obscure in women's legal history. Although Ray's and Shadd Cary's legal careers were short, their experiences would nevertheless enrich the narrative of women's entry into the legal profession.

Though still white, middle class and Protestant, there are other lesser-known women who might also have broadened the scope of this narrative. Nettie Tator, whom Norgren mentions in her unsuccessful bid to change California's bar admission statute prior to Foltz, would have been a rich subject of study. It is thought, though not confirmed, that she is likely the "Annette Cronise" and later the "Nettie Lutes" who was the first woman called to the Ohio bar in 1873. She practiced for years in a two-woman partnership, but eventually gave it up to facilitate the continued courtroom practice of her husband, who had lost his hearing. Catharine Van Valkenburg Waite, also mentioned in the preface, might have been interesting to read about. Though she was the equivalent of Norgren's elite rebels in many ways, aspects of her more unique experience as a Canadian immigrant and an older law student, like Tator's, could have served to reveal the range in early women lawyers' experiences.

That Norgren declined to grapple with the implications of her narrative weakens the theoretical underpinnings on which it stands. While the stories of women like Ray, Shadd Cary, Tator, and Van Valkenburg Waite may have complicated and undermined the continuity of the narrative, and required considerable additional effort to include, they would have greatly reinforced Norgren's objective of broadening and deepening our understanding of both women's entry into law and the legal profession's evolution. Ultimately, the question remains: in separating the story from the non-story to create the version of reality furthered in *Rebels*, who is and what is tacitly obscured? Related questions may have examined whether and to what extent the progress of high-status women in the legal profession favorably impacted the prospects of lower-status women. And, if lower-status women did benefit, how and when, and in what way did their opportunities and experiences differ from elite women's or even men's of the same status?

Similar to the issue of using elite women to portray women's experiences broadly, is representing women's--particularly elite women's--struggle for advancement as synonymous with a broad push toward equality and fair play. In many cases, the progress sought by early women lawyers was narrow and self-interested. Norgren does acknowledge that "women lawyers were not always on the side of racial minorities" (p. xi), but that admission does little to address the outright bigotry and classism that peppered many of these women's Progressive outlooks and informed their actions. Myra Bradwell was known for her anti-Semitism and narrow view of lower socioeconomic classes and Clara Foltz for her connection to the California Workingmen's Party, which openly and notoriously took aim at California's Chinese population, as well as other groups. These aspects of women's stories, as unflattering as they may be, are critical to meaningfully charting the inroads early women made into the profession and understanding the barriers that they may have contributed to erecting, rather than just those they overcame. In connecting women with the broader profession, we might ask how their presence has perpetuated or even contributed to the bar's exclusionary attitudes. Ignoring such realities further separates women's history from that of the mainstream legal profession and leaves much of their potential significance unrecorded.

While *Rebels* does provide a more nuanced understanding of elite women's ongoing functioning in law, its ultimate contribution is limited because it assesses elite women lawyers in a self-referential vacuum and, in so doing, obscures historical distinctions through failing to draw necessary and related parallels between women's broader experiences and professional and historical circumstances. If Norgren had expanded the scope of her narrative and more seriously considered its implications, her monograph might have moved beyond highlighting the legal careers of eight extraordinary early women lawyers and significantly contributed to contextualizing women's legal

history in broader understandings of women's advancement and an evolving legal profession.

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