DISCRIMINATIONS AGAINST WOMEN IN THE LAWS OF NEW YORK

BY

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This speech, published by arrangement between the Men's League for Woman Suffrage of the State of New York and the National Woman Suffrage Publishing Company, Inc., was the result of a conversation between Mr. Gilbert E. Roe and the writer.

During the winter of 1913-14 the Men's League held bi-monthly meetings in New York City, and at one of these Mr. Roe first presented this address.

It created such wide interest on account of Mr. Roe's reputation and the timeliness of the subject that it was decided to issue it in pamphlet form.

While the address, as part of the work of the Men's League, should ordinarily be published by that organization, the facilities which the Publishing Company have for printing and distribution led us to welcome the suggestion that it be undertaken by them.

The Men's League is a co-operating organization holding membership in the Empire State Campaign Committee. While it is apparent that most of the campaigning will have to be done by the women, still the interest and support of men, if only to the extent of a large membership list for the Men's League, is of immense value.

The references to the N. Y. Code of Civil Procedure are to the 1913 edition.

R. C. BEADLE,
Secretary.

MEMORANDUM DEALING WITH CASES WHEREIN WOMEN ARE NOT ON AN EQUALITY WITH MEN UNDER THE LAW

The statement that women are at least on an equality with men before the law is one insistently repeated, and for that reason generally believed. If the statement were true, it would be no argument against equal suffrage, since equal suffrage is primarily desired as a means of promoting the welfare of *all* the people, without regard to sex. If on the other hand the statement is untrue, it condemns male suffrage utterly. If men have used their monopoly of the franchise to secure a legal advantage over women, that fact is an unanswerable argument in support of the proposition that women must have the right to vote in order to protect themselves.

Now, as a matter of fact we all know, if we stop to think of it, that men have used their monopoly of the right to vote, to give themselves certain advantages in the law over women. In fact it is only because the public has been educated to look upon legal discrimination against women as natural and right, that anyone can be found willing to risk his reputation for intelligence or veracity by asserting that women are on an equality with men under the law. Some of these admitted sex discriminations are as follows:

FIRST: THE PROPERTY AND INCOME OF A WOMAN IS TAXED THE SAME AS THAT OF A MAN, AND YET SHE HAS NO VOTE IN DETERMINING EITHER THE AMOUNT OF THE TAX OR THE PURPOSE FOR WHICH IT SHALL BE EXPENDED.

The above proposition is a mere truism, but it is a fact so stupendous that it would preclude further discussion of the question, if we had not through familiarity with it come to regard it as natural and right that women should be discriminated against in property matters. If we could step outside our environment, overcome our heredity, and forget our tradition and look at the simple fact that one-half our population is taxed precisely the same as the other, but has absolutely nothing to say either as to the amount of the tax or the use to which it shall be put, the discussion about woman suffrage would end as soon as it was begun. No one ever has or ever can make even a plausible apology for this injustice, much less successfully defend it. Of all countries in the world it is least defensible in our own, where opposition to "taxation without representation" was the cornerstone of our government. Whatever cheap and sentimental argument could once be made in behalf of this injustice by saying that women (sheltered in their homes) were represented through their husbands, fathers, brothers, etc., disappears in the light of the fact that the majority of women have been driven out of their so-called homes into the arena of business where they must compete with men for every dollar they can call their own. I have never been able to understand how a man could retain a vestige of self-respect and still insist upon the advantage that the law gave him in this matter, over his woman competitor in business. This discrimination, bear in mind, does not merely apply to the woman with property, but it applies to the wage-earner as well, for after all, under the system of taxation in this country, it is the wage-earner who pays the taxes.

SECOND: A WOMAN'S PROPERTY IS TAKEN PRECISELY THE SAME AS A MAN'S FOR PUBLIC USE, YET THE WOMAN HAS NO VOTE IN DETERMINING WHETHER OR NOT THE PUBLIC NECESSITY EXISTED FOR TAKING THE PROPERTY.

THIRD: THE LAW EXACTS FROM WOMEN THE SAME PENALTY AS FROM MEN FOR THE COMMISSION OF A CRIME, YET THE WOMAN HAS NO VOTE IN DETERMINING WHAT CONSTITUTES CRIME OR WHAT EXCUSES OR MITIGATES IT.

FOURTH: **THE WOMAN IS HELD TO PRECISELY THE SAME MEASURE OF RESPONSIBILITY FOR THE VIOLATION OF A CONTRACT AS IS THE MAN, YET SHE HAS NO VOTE IN DETERMINING THE CONDITIONS WHICH MAKE A CONTRACT VALID AND ENFORCEABLE, OR VOID AND OF NO EFFECT.**

FIFTH: **THE WOMAN HAS NO VOTE IN DETERMINING THE MACHINERY OF THE LAW BY WHICH HER PROPERTY RIGHTS OR HER PERSONAL RIGHTS ARE DETERMINED.**

No woman sits on the grand jury that finds the indictment, or on the petit jury, whose magic words of "guilty" or "not guilty" make all the difference between shame or honor, and life or death. If a grand jury were to be drawn in this State from which all negroes or all people of any particular race or nationality were excluded, that grand jury would be an illegal body. Every indictment it found would be quashed; so also every petit jury thus made up would be unlawful, and every verdict that it rendered would be void. In the last analysis the wholesome principle of constitutional law which discrimination against women violates, rests back upon the proposition that all classes of our people have something of value to contribute to the making of laws, and to their execution, and therefore that they are entitled to be heard and represented both in making laws and in executing them. It is only when we come to women that we suspend these principles and assert that they do not apply. So also it is a familiar historical fact that any class not represented in the government is bound to be a subject class, and the persistent demand of the women for suffrage is due to the fact that they are no longer willing to accept the position of a subject class, although that condition is supposed to carry with it a certain freedom from responsibility.

I have so far only touched upon a few cases of discrimination, the existence of which is known to everyone and admitted by everyone. If this were all, the case for equal suffrage would be complete. No concessions such as the right to make contracts, and own property, and conduct business, can make up to women the loss they have sustained in depriving them of the great fundamental rights I have men-

tioned. Indeed, the right to make contracts, to own property, and to conduct business, which the opponents of equal suffrage point to with such pride in our "married woman's acts" carry with them as a necessary conclusion that women must also have the suffrage. You can deny that a woman has any identity separate from her husband as the common law does, and sustain the position by force if not by argument, but you cannot admit that the woman as a person has the right to make contracts, own property and conduct business, and then exclude her from the right to determine how that business should be conducted, how the contracts shall be made, and how the property may be disposed of. There is simply no half-way ground.

I now call attention to some discriminations against women which are not of such common knowledge as those heretofore noticed.

SIXTH: IN ALL MATTERS CONCERNING THE CUSTODY OF CHILDREN, THE LAW DISCRIMINATES IN FAVOR OF THE MAN.

By Secs. 2823 and 2827 of our Code of Civil Procedure (supposed to be enlightened and advanced legislation), the husband may secretly and without notice to the wife, where they are living apart, have himself appointed guardian of their minor children, while if the wife under the same circumstances make an application for guardianship, ten days' notice thereof must be given the husband, with full opportunity to defend.

Sec. 2823, New York Code of Civil Procedure, provides:

"A petition presented as prescribed in the last section, must also state whether or not the father and mother of the petitioner are known to be living. If either of them is known to be living and the petition does not pray that the father, or, if he is dead, that the mother, may be appointed the general guardian, it must set forth the circumstances which render the appointment of another person expedient, and must pray that the father, or if he is dead that the mother, of the petitioner may be cited to show cause why the degree should not be made. *A citation issued to the father of the petitioner, must be served at least ten days before it is returnable.*"

It is sometimes said that by Sec. 81 of the New York Domestic Relations' Law a "married woman" is made "joint guardian" of her children with her husband and with equal power, rights and duties. The courts, however, were very prompt to hold that this statute intends only a mother who is married at the time to the father of the infant, not a woman who is divorced and who would be the one most likely to have any real interest in the matter. The courts further suggest that this statute anyway only relates to testamentary guardians, that is, guardians appointed by will. See Matter of Wagner, 75 Misc. 419, p. 424.

My attention was first called to this statute by a case of great hardship. A husband and wife who had been married and had two children separated by mutual agreement. Afterward the man decided to violate the terms they had mutually agreed upon, giving the wife the control of the children, and while the children were temporarily in his custody, procured himself to be appointed guardian without notice to the mother, and when it was too late the mother discovered that by the application of this principle of law she had lost the dearest and most important thing in life—the custody of her children. So it is with every one of the instances here given. To the sheltered and protected woman these illustrations of wrong and injustice are unreal and in a large measure are abstractions, but as I have seen them in my work as lawyer they are indeed very real characters of flesh and blood. Remember, also, that every illustration here given represents not a single wrong perpetrated in a single instance, but a thousand wrongs perpetrated in a thousand instances. It is not only the woman who has appealed to the law and been beaten by its unjust discriminations against her sex who has suffered, but it is that infinitely greater number who have not appealed to the law at all, because they knew it was hopeless, since the decision in the one case applied to all and the unjust statute necessarily covered all similar cases. It isn't only the women who have thus been made conscious of the law's discriminations that have suffered, but it's that vastly greater body we have in mind who have blindly come to understand, without knowing why or how, that in any real contest under the law they are always at a disadvantage.

Over in the neighboring State of Connecticut we have at the present time an excellent illustration of a woman who knew the law gave her

no chance, though she never knew just why. It is quite in keeping with the theme of my talk to say a word about Bessie Wakefield and the law. She is a woman, in years a girl, whom twelve jurors, good *men* and true, have said was guilty of murder in the first degree without extenuating circumstances. Therefore a judge, a good *man* also, said to her, I direct that "you be hanged by the neck until you are dead." And a governor, also a good man no doubt, and a Board of Pardons, composed, also, of men, have declined to interfere. The facts are very simple, very simple and very common, except that a man was killed. Bessie Wakefield was reared in poverty and ignorance. Very simple and very common! She was betrayed by a man. Also very simple and very common. And then it was insisted that the honorable thing be done, and they were married to each other. Quite commonplace all this. The man was a drunkard and a profligate. This is a fact hardly worth mentioning, it's so common. Two children were soon born of this marriage, a boy and a girl. The boy, it is said, will always be a cripple from a kick administered by his father. A very commonplace story. No doubt the father was intoxicated at the time and was sincerely sorry for it afterward. Then another man came along and the wife was not true to her husband. Remarkable under the circumstances! The other man's name was Jim Plew. Plew proposed that they kill the husband. Now, up to this point the law has not concerned itself with the life of Bessie Wakefield. It's all been too common and commonplace. But, when this husband and father was killed by Plew the law became very active, and all the men who administer the law responded promptly to the call of duty—the sheriff, the jailor, the district attorney, the bailiffs, the jurors, the judges—all these men immediately became busy in executing the law upon Bessie Wakefield. And so she is to be hanged by the neck until she is dead.

I have never seen but one statement in print from Bessie Wakefield, and here it is:

> "I never knew until they put me into prison that women folks had any rights. I've learned a lot of things that make life seem different than it did before they said they were going to hang me. I know now that I never had a chance. But it wasn't until

the women of the State began to try and save me that I realized what my life had been. My one hope now is that they will interest the Board of Pardons. Plew tried to save himself at my expense. That's why I'm here. He planned everything. I never knew until it was all over. I'd never been in a courtroom before. I was so afraid. I've been afraid for seven years. First of Will (her husband), then of Jim Plew (her lover), then of everybody. There didn't seem any use trying to explain in the courtroom. They were all men around me. It seemed hopeless. Now that I have seen 'Clara Bell' (her little girl) I want to live so she can have a chance. It's been wonderful to me to learn that women can speak out. Why, I didn't tell things I should have at my trial, because I didn't think it mattered. Plew had threatened me and he had told that I knew all about the murder. So, what chance had I? But, now that I understand that women are trying to do for me it makes me understand lots of things I didn't think possible before. If I get a new trial I wouldn't be afraid to tell what I should have told before. It means so much to me just to understand that women can have a chance."

Bessie Wakefield is just the logical result of the system of man-made and man-executed laws. It would seem that here was a fine opportunity for that masculine chivalry to assert itself of which we hear so much from the anti-suffragists. If Bessie Wakefield's husband had been just a little chivalrous and not taken advantage of her ignorance and lowly condition it would have been very helpful. Even after they were married, if he had been chivalrous enough to have provided a decent home and been a little kind it would probably have avoided trouble. Then there was Plew. He might have been chivalrous. But he wasn't. But, of course, those common people are not expected to be chivalrous—although they vote. But there was the jury. And then the judge. Surely he was an educated, refined man. But the history of Bessie Wakefield's trial is not remarkable in its record of deeds of chivalry. Surely the governor and the estimable and philanthropic Board of Pardons will be chivalrous! But they have not been.

Another thing about Bessie Wakefield's case is that the women of

whom she speaks and who have interested themselves in her behalf are suffragettes, not the Antis who set such store by the chivalry of men.*

"Ah, but," you say, "this would not happen in New York. It is only in Connecticut where there is such lack of chivalry among men." But it was only a few years ago that a great and good and progressive governor of New York, Theodore Roosevelt, refused to interfere to save the life of a Mrs. Place. Her story in principle was not very different from that of Bessie Wakefield. The part that men played in the proceedings was about the same, except that Mrs. Place was not hanged by the neck until she was dead. She was just strapped into a chair by some men and electrocuted.

What has all this to do with the discriminations of the law against women? It has all to do with it. Every fact in the sordid story of these women is a monument to some discrimination of the law in favor of the man and against the woman, and every step in the legal procedure, from the time the heavy hand of the officer was laid upon the victim's shoulder in making her arrest, until she is killed by the hand of another man, represents some discrimination in the law against the woman. It is fundamental in the law that a man shall be tried by his peers. That's more than a formula and a phrase. It meant in the beginning that a man should not be tried by the members of some class to which he did not belong and who therefore could not understand the motives, the passions, the temptations or the wrongs which might drive him to a deed of desperation. Why not apply the same rule to women? Let them be tried by their peers.

SEVENTH: IN ALL MATTERS OF RELIGIOUS INSTRUCTION AND TRAINING THE FATHER'S WILL IS SUPREME.

In the Matter of Jacquet, 40 Misc. N. Y. 575, the mother was a Protestant and the father a Catholic. The father and his religion is thus described in the opinion of the court:

> "So far as the father makes religious profession, he is a Catholic, but it must be found upon the evidence that his practice does not conform to the profession of any religious creed. He has been

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* EDITOR'S NOTE.—Since the lecture was delivered Bessie Wakefield has been granted a new trial, convicted and sentenced to life imprisonment.

convicted of petty larceny and of intoxication. He was committed to the State Industrial School and has been an inmate of the penitentiary under convictions."

Yet it was held that this father's express wish to have his children brought up in the Catholic faith should prevail over the desire of the mother to have them brought up in the Protestant faith.

In a still later case, In re Lamb's Estate, 139 N. Y. Supp. 685 (decided December 30, 1912), speaking again of an unworthy father's right to determine the religious education of his children, the court at page 690 says:

"The father even yet, in contemplation of our common law, is priest and king in his own household, I Bla. Com. 453. Even if he is an unworthy father, he is not ipso facto dethroned, and he retains the right to regulate the religious welfare of his own infant."

EIGHTH: IN ALL MATTERS OF APPOINTMENT OF EXECUTORS OR ADMINISTRATORS, THE STATUTE EXPRESSLY GIVES THE PREFERENCE TO MEN OVER WOMEN.

Sec. 2660 of the Code of Civil Procedure of the State of New York (1913) provides:

"Administration in the case of intestacy must be granted to the relatives of the deceased entitled to succeed to his personal property who will accept the same in the following order:

1. To the surviving husband or wife.
2. To the children.
3. To the father.
4. To the mother.
5. To the brothers.
6. To the sisters.
7. To the grandchildren.
8. To any other next of kin entitled to share in the distribution of the estate. * * * If several persons of the same degree of kindred to the intestate are entitled to administration they must be preferred in the following order: First, *men* to women; second, relatives of

the whole blood to those of the half blood; third, unmarried women to married."

NINTH: THE HUSBAND CAN SERVE ON THE JURY ON THE STRENGTH OF HIS WIFE'S OWNING SOME PROPERTY, WHILE THE WOMAN, WHETHER WIFE OR NOT, CANNOT SERVE ON THE JURY AT ALL.

By Sec. 502 of the Judiciary Law of the State of New York the qualification of jurors is described as follows:

"In order to be qualified to serve as a trial juror in a court of record a person must be:

1. A male citizen of the United States and a resident of the county.

2. Not less than 21 nor more than 70 years of age.

3. Assessed for personal property belonging to him in his own right to the amount of $250; or the owner of a freehold estate in real property situate in the county belonging to him in his own right of the value of $150; *or the husband of a woman who is the owner of a like freehold estate.*

By what vicarious processes the fact that the wife owns property is supposed to qualify the husband for jury service, is one of the mysteries of man-made laws.

TENTH: THE LAWS OF DESCENT AND INHERITANCE NOTORIOUSLY DISCRIMINATE IN FAVOR OF THE MAN AND AGAINST THE WOMAN.

For example, by Sec. 81 of the New York Decedent Estates' Law, the real estate of one dying without lineal descendants descends to the father in preference to the mother. So also by Sec. 84 of the same law it is provided:

"If the intestate die without lawful descendants and leave a father the inheritance shall go to such father,"

while by Sec. 85 of the same law it is provided:

"If the intestate die without descendants and leave no father * * * and leave a mother and a brother or sister or the descendant of a brother or sister, the inheritance shall descend to the mother for life, and the reversion to such brothers and sisters."

ELEVENTH: THE LAWS RELATIVE TO CURTESY AND DOWER ARE UNFAIR TO THE WOMAN.

The dower right of the widow entitles her upon the death of her husband without will merely to the use for life of one-third of her husband's realty. But the husband upon the death of the wife without a will is entitled by the right of curtesy, in case of a child born alive, to the use for life of all her real estate. Sec. 190, Real Property Law.

TWELFTH: THE LAW GROSSLY DISCRIMINATES AGAINST THE MOTHERS AS COMPARED WITH FATHERS IN THE MATTER OF INHERITING FROM THEIR OWN CHILDREN.

If a child dies leaving no widow or children but leaving a father and mother, the father takes all the property. Sec. 98, subd. 7, Decedent Estates' Law. If a child dies leaving a father and mother and brothers and sisters the father also takes all. But if a child dies leaving a mother and brothers and sisters and no father, the mother only takes equally with the brothers and sisters. Sec. 98, subd. 6, Decedent Estates' Law. In the case of real estate in the last case, that is, where a child dies leaving a mother and brothers and sisters but no widow or children and no father, the mother only takes a life estate. Sec. 85, Decedent Estates' Law. But if in the same circumstances the father survives instead of the mother, the father takes all. Decedent Estates' Law, 84. This discrimination is carried out to the most remote relatives, so that in a case where the nearest relatives were great uncles and great aunts, the former, the uncles, took to the exclusion of the latter. Hunt v. Kingston, 3 Misc. 309.

THIRTEENTH: IF A HUSBAND DIES LEAVING NO DESCENDANTS BUT LEAVING EITHER A FATHER OR MOTHER OR BROTHERS OR SISTER OR EVEN NEPHEWS AND NIECES, THE WIDOW ONLY TAKES ONE-HALF OF THE

PERSONAL PROPERTY. UNDER THE SAME CIRCUMSTANCES, THE WIFE DYING, THE HUSBAND WOULD TAKE ALL.

Matter of Thomas, 38 Misc. 729. The Manning case which occupied so much newspaper space over in New Jersey is a good illustration of this, the law even discriminating against the widow in the matter of recovering damages for the death of her husband.

In case a husband is killed by the negligence of his employer, leaving a widow, and the widow sues and recovers judgment for damages on account of the negligence which caused her husband's death, what she recovers must be divided equally with the father of her husband. Matter of Snedeker v. Snedeker, 164 N. Y. 58. In the case last cited the Court of Appeals said:

> "We are not insensible to the peculiar hardship of this case where a widow left without means of support is compelled to divide the net amount of the judgment she has recovered as administratrix with a man of means, possessed of considerable real and personal property. We must, however, construe the law as it is written, regardless of the seeming injustice inflicted in the particular case by the existing rule."

It's only fair to say that the legislature of 1911 and 1913 have recognized the injustice of this decision and have passed legislation aiming to correct it. See Chapter 756, Laws of 1913: Chapter 122, Laws of 1911. This legislation has not yet, however, run the gauntlet of the courts, and no one knows what may be decided respecting it.

FOURTEENTH: **THE LAW GROSSLY DISCRIMINATES AGAINST THE WIFE IN ALL MATTERS INVOLVING THE JOINT EARNINGS OF HUSBAND AND WIFE.**

The wife is not entitled to her own earnings when she works with her husband, or even if she works in his store or factory.

The joint earnings of a husband and wife belong to the husband. Where husband and wife work together and both are responsible for the accumulation of personal property by their joint efforts, as is the case with the vast majority of our people, the wife acquires absolutely no legal interest in the product of their joint efforts.

The injustice and discrimination in the foregoing statutes and decisions have been brought to my knowledge very largely by individual cases of hardship in my general practice as an attorney. No doubt many lawyers can greatly extend the list from their own experience. It is only when one comes in contact with the specific cases, and sees the woman robbed of the custody and companionship of her child, or deprived of the scanty property which even a rudimentary sense of justice would award her from the estate of a deceased child or husband, that the enormity of the injustice in the law can be appreciated.

FIFTEENTH: SOME OTHER DISCRIMINATIONS.

But this is only a small part of the story. The foregoing statutes and decisions frankly turn upon the question of sex, and the woman is discriminated against solely because of sex. Her sex is the reason given as a matter of law for depriving her of those property rights which, if she was of the opposite sex, she would posses. The greatest discrimination against woman, however, arises from those decisions which profess to make no distinction between sexes, but where the training and education and bent of mind of the judge unconsciously leads to discrimination. For example, not long ago I tried a case where a woman had been induced to convey her property in trust because, as she was told, she could not by her will in Pennsylvania cut off her profligate husband from a share in the property which she had inherited from her father. She desired to secure her property to her daughter free from the claims of a worthless husband who had deserted her, years previous, and was told by her male relatives that only by a deed of trust could she accomplish this purpose. She was told by the same relatives, as the evidence shows, that in spite of the deed of trust she could still have control over her property and use it up if she desired. She too late awoke to the realization of the fact that by her deed of trust her property had passed forever from her control and that she had virtually become a pensioner upon her trustee. One of the judges in upholding the transaction remarked rather cynically that the arrangement seemed like a good one and that probably the effect of upholding it would result in conserving the woman's estate and prevent her from squandering it unwisely. The right of the woman as an individual to

control her own property, which would have been so prominent in the case of a man, was quite lost to view. Copeland v. Staples, 199 Fed. Rep. 987.

There are many other ways in which the law discriminates against the woman and in favor of the man, although the written statute apply according to its terms equally to both. This is well illustrated in actions for divorce and separation. In the State of New York there is but one ground for divorce, that is adultery, and adultery is made a cause of divorce equally whether the divorce is applied for by the husband or wife. So, also, the grounds for separation as distinguished from divorce are substantially the same. Yet, as the law actually works out, it is practically impossible for the woman to prove adultery against her husband, while on the contrary the woman's adultery is comparatively easy to prove, and even suspicious circumstances may warrant the conclusion of adultery on her part when the same circumstances on the part of the man would be wholly insufficient. This is well illustrated in two recent cases in the New York Supreme Court. In H——— v. H———, 104 N. Y., Supp., the wife brought the action for divorce on the ground of the husband's adultery. I quote from the opinion:

> "The evidence in the present case shows that for a year and a half the defendant was a frequent visitor at the apartment of the co-respondent, an unmarried woman. That he visited her apartment an average of twice a week, frequently taking meals at her table and often spending the evening in her home. * * * Although the defendant's family resided in the neighborhood they appear to have been entirely unaware of the existence of the co-respondent, notwithstanding the intimacy which so long existed between her and the defendant. * * * The defendant attempts to explain his constant attendance at the co-respondent's home on the ground that he was experimenting in her rooms with a new kind of gas burner and that being a sufferer from diabetes he was served at intervals at the co-respondent's house with food specially prepared for victims of that disease. His testimony, it is admitted, strengthens rather than weakens the case of the plaintiff. Considerable testimony was introduced tending to show that the defendant was known among the

janitors and servants in the apartment house of the co-respondent as her husband."

Yet, the learned court held, and properly so, according to the law, that the facts were entirely insufficient to entitle the plaintiff to a divorce.*

* While delivering this address at a Men's League Meeting one evening, upon reaching this point, a young lady in the audience arose and said:

"If you will excuse me, Mr. Roe, I would like to say a few words at this point. I am A—— H————, and the case you just discussed was that of my father and mother. My mother by her own efforts supported the two children of the family, my sister and myself, for years before the divorce was applied for and the decision was rendered, which you have just read, and never since that time has my father contributed one penny to the support of any of us. The facts which you have stated are not only all true, but they are even stronger than you have stated them against my father's conduct, and yet with all those facts standing admitted, my mother has never been able from that day to this, to get a divorce from my father, nor has he in the slightest degree assisted my mother in the struggle she has made to maintain herself and bring up and educate their children in this city.

"No woman ought to remain silent in the face of these facts, and no woman, I believe, who has suffered by these laws as I have and has been hurt by them even as a child, as I have been, can help being a suffragist."

To which Mr. Roe replied:

"I am indeed glad of this interruption and thank Miss H———— for what she has said. She has made of what, as I discussed it, was little more than an abstraction, a reality of flesh and blood. These statutes that I have read and cases that I have cited seem very impersonal in cold type, but the point is that they represent numberless instances of injustice and oppression, just as flagrant as the H———— case and some of them much more so."

Now take the other side of the picture. In Auld v. Auld, 16 N. Y. Supp. 803, the Supreme Court of New York had before it a case where the husband was seeking divorce on account of the alleged adultery of the wife. The testimony of opportunity and desire for wrongdoing on the part of the wife in the Auld case is less strong than that on the part of the husband in the case just referred to, and yet the application of a different rule to the conduct of the woman as compared with the conduct of the man led to an entirely different result. In the opinion in the Auld case the learned judge thus lays down the rule for the conduct of married women:

> "Married women should not only avoid evil, but the appearance of it, and if by their course of conduct with other men they give color to charges of misconduct and commit acts of indiscretion and impropriety which tend to evidence them, they must not complain if the public draws the conclusion which seems inevitable, that the marriage vows have not only been forgotten but broken."

Again:

> "Married women should so live that the electric light of truth when turned upon them will reveal nothing but honor and purity. Such women have nothing to fear." And so the court concludes: "'The law gives the husband who has been wronged certain means of redress, of which divorce is one,"

and, therefore, the divorce was granted.

In this discussion I have not sought to point out individual cases of hardship and injustice, but rather to call attention to those general rules and principles of our law, the operation of which every day results in numberless cases of injustice because of the law's discriminations against women. The old common law at least had the merit of consistency. If it despoiled women of rights, it also relieved them of responsibility. At the present time the condition of women under our law is an impossible one. Much of the protection which the common law concedes them as a man's possession has been withdrawn, and yet they have not been given that equality with men before the law, to which the recognition of their individuality logically entitles them. Why should the male have the advantage in matters of inheritance, in the

guardianship of children, in the administration of estates, in the education of children, and in the many other matters I have mentioned?

There is no reason, but there is an answer. The answer is that the law is so because men have made it so, and will remain so until women have an equal part with men in making the law, and in administrating it.

Roe, Gilbert Ernstein. Discriminations against Women in the Laws of New York. New York: National Woman Suffrage Publishing Co., Inc., 1914. Nineteenth Century Collections Online. Web. 14 July 2014.