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REPRESENTING INJUSTICE: JUSTICE AS AN ICON OF WOMAN SUFFRAGE

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Representing Injustice: Justice as an Icon of Woman Suffrage

Kristin A. Collins*

The meeting in Carnegie Hall . . . opened with a pageant of free nations, grouped colorfully about the central figure of “Justice” enthroned, before whom enchained America with a black-draped following of mourning women came to beg for a place in the light of true democracy.

. . . .

. . . Miss Vida Milholland took the central part of “Justice,” receiving the beautifully costumed women of free nations, who grouped about her in a glorious massing of color and light as the black-robed women of disfranchised America approached to make their plea.¹

This vignette is taken from a March 1919 edition of *The Suffragist*—the weekly publication of the National Woman’s Party (NWP)—and describes one of the last suffrage pageants staged by that early twentieth-century American woman suffrage organization during the final push for a federal suffrage amendment. Suffrage pageants were not unusual. In the last decades of the fight over woman suffrage in America, the contest was waged in images and symbols as much as words, on the streets and in theaters as much as in the courts and legislatures.² As in the Carnegie Hall

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1. *The Prison Special Tour Ends*, THE SUFFRAGIST, Mar. 29, 1919, at 4, 4-5.

2. See, e.g., ALBERT AUSTER, *ACTRESSES AND SUFFRAGISTS: WOMEN IN THE AMERICAN THEATER, 1890-1920* (1984); MARGARET FINNEGAN, *SELLING SUFFRAGE: CONSUMER CULTURE & VOTES FOR WOMEN*, ch. 3 (1999); SUSAN A. GLENN, *FEMALE SPECTACLE: THE THEATRICAL ROOTS OF MODERN FEMINISM* (2000); LINDA J. LUMSDEN, *RAMPANT WOMEN: SUFFRAGISTS AND THE RIGHT OF ASSEMBLY* (1997); ALICE SHEPPARD, *CARTOONING FOR SUFFRAGE* (1994); LISA TICKNER, *THE SPECTACLE OF WOMEN: IMAGERY OF THE SUFFRAGE CAMPAIGN, 1907-14* (1988); Karen J. Blair, *Pageantry for Women’s Rights: The Career of Hazel MacKaye, 1913-1923*, 31 THEATRE SURV. 23 (1990); Jennifer L. Borda, *The Woman Suffrage Parades of 1910-1913: Possibilities and Limitations of an Early Feminist Rhetorical Strategy*, 66 W. J. OF COMM’N 25 (2002); Lynda G. Dodd, *Parades, Pickets, and Prison: Alice Paul and the Virtues of Unruly Constitutional Citizenship*, 24 J. L. & POL.

pageant, the figure of Justice played a prominent role in pro-suffrage spectacle. Other candidates were available, and among the pantheon of female allegorical figures others—including Liberty, Truth, and Columbia—also featured in suffrage spectacles. But, as shown below, Justice frequently was the star—likely her first modern feminist role.³ In this Essay, I offer a brief, historically sensitive interpretation of the figure of Justice in woman suffrage spectacle and propaganda, deciphering, as best as possible, Justice’s salience and function in the battle over woman suffrage.

Why were suffragists drawn to Justice as a symbol of women’s claim to political and legal rights? Surely one reason is that, as Judith Resnik’s and Dennis Curtis’s sumptuously illustrated volume *Representing Justice* demonstrates, by the early twentieth century Justice had ascended as a distinctively resonant symbol of law and law’s legitimacy in a democratic polity.⁴ Precisely because Justice was a legible, ubiquitous symbol of law’s legitimacy, she was ripe for appropriation by suffragists, who wielded Justice’s familiar form to declare the *illegitimacy* of laws enacted by lawmakers who, they contended, had been elected through undemocratic processes.

Another reason why early twentieth-century suffragists were drawn to Justice is that, as a symbol, she was sufficiently pliable and thus could serve multiple purposes within suffrage propaganda and spectacle. Perhaps most obviously, suffragists used the figure of Justice to connect woman suffrage to law’s purportedly transcendental commitment to fairness, thus helping to naturalize woman’s suffrage as a necessary, even preordained, outgrowth of fundamental constitutional principles. Justice

339 (2008); Holly J. McCammon, “Out of the Parlors and into the Streets”: *The Changing Tactical Repertoire of the U.S. Women’s Suffrage Movements*, 81 SOC. FORCES 787 (2003); Sarah J. Moore, *Making a Spectacle of Suffrage: The National Woman Suffrage Pageant, 1913*, 20 J. AM. CULTURE 89 (1997); Belinda A. Stillion Southard, *Militancy, Power, and Identity: The Silent Sentinels as Women Fighting for Political Voice*, 10 RHETORIC & PUB. AFF. 399 (2007).

3. It is impossible, of course, to determine whether Justice had ever been deployed by an individual or group advocating the betterment of women’s position, legal or social, prior to the early twentieth century. However, it is worth observing that in the United States, both the term and the concept of “feminism” came into use in the final decade of the campaign for woman suffrage, and hence the word’s early use was contemporaneous with many of the Justice images discussed below. See NANCY F. COTT, *THE GROUNDING OF MODERN FEMINISM* 13-14 (1987). One might object to my characterization of the pro-suffrage deployment of Justice as “feminist” on the grounds that some early twentieth-century suffragists did not identify as “feminists,” nor did they advocate for the transformation of women’s rights and roles more generally. *Id.* at 15. As shown below, however, as an icon for woman suffrage, Justice was also identified with a proposed transformation of women’s social and legal status that would extend well beyond the ballot. See *infra* text accompanying notes 78-85.

4. JUDITH RESNIK & DENNIS CURTIS, *REPRESENTING JUSTICE: INVENTION, CONTROVERSY, AND RIGHTS IN CITY-STATES AND DEMOCRATIC COURTROOMS* 13 (2011) (explaining that one goal of the book is to “map the ascendancy of Justice as a marker for governments and the ascendancy of adjudication . . . as a *sine qua non* of democratic governance”).

also served as a visual articulation of a frequently contested rationale for woman suffrage: women's fundamental political equality. Feminine and elegant, Justice helped mediate competing understandings of the social and cultural meaning of woman suffrage, women's status in the polity, and womanhood itself. Finally, Justice and justice iconography played an arguably more transgressive role in suffrage iconography: In several early twentieth-century suffrage pageants, notable for their public reenactment of women's mistreatment under a legal regime created and enforced by men—including the often-forgotten violation of suffragists' civil liberties at the hands of various legal officials—suffragists used the figure of Justice to help construct and publicize a narrative of *injustice*.

By attending to suffragists' appropriation of Justice in their efforts to secure a federal woman suffrage amendment, I build on the work of constitutional law scholars who, in recent years, have encouraged us to acknowledge the central importance of public agitation—including protests, parades, and marches—in the development of constitutional law and meaning.⁵ I also draw on the work of social movement scholars who have analyzed how activists use symbols, representations, and rituals as “cultural resources”—“symbolic tools . . . wield[ed] in their efforts at social change”⁶ And to investigate *how* such representations and rituals shape meaning and, in turn, help effect (or thwart) legal change, I build on the work of those cultural historians, literary critics, and anthropologists whose central focus is the production of meaning and, in particular, the political efficacy of symbolic representations and rituals.⁷ There is obviously no consensus among scholars in any field concerning how representations—written or visual—generate meaning. Indeed, there has been significant disagreement concerning whether a truly progressive iconography is possible.⁸ Resolving that dispute in the abstract is

5. See, e.g., LARRY D. KRAMER, *THE PEOPLE THEMSELVES: POPULAR CONSTITUTIONALISM AND JUDICIAL REVIEW* 7 (2004); Dodd, *supra* note 2, at 353-54; Gary D. Rowe, *Constitutionalism in the Streets*, 78 S. CAL. L. REV. 401, 402 (2005).

6. Rhys H. Williams, *Constructing the Public Good: Social Movements and Cultural Resources*, 42 SOC. PROBS. 124, 127 (1995). On the concept of “cultural resources” in social movement literature, see *SOCIAL MOVEMENTS AND CULTURE* (Hank Johnston & Bert Klandermans eds., 1995); Fred Kniss, *Ideas and Symbols as Resources in Intrareligious Conflict: The Case of American Mennonites*, 57 SOC. RELIGION 7 (1996); and Ann Swidler, *Culture in Action: Symbols and Strategies*, 51 AM. SOC. REV. 273 (1986).

7. See, e.g., MIKHAIL BAKHTIN, *RABELAIS AND HIS WORLD* (H. Iswolsky trans., 1968); TERRY EAGLETON, *WALTER BENJAMIN, OR, TOWARDS A REVOLUTIONARY CRITICISM* (1981); MAX GLUCKMAN, *CUSTOM AND CONFLICT IN AFRICA* (1965); DAVID I. KERTZER, *RITUAL, POLITICS, AND POWER* (1988); PETER STALLYBRASS & ALLON WHITE, *THE POLITICS AND POETICS OF TRANSGRESSION* (1986); *THE REVERSIBLE WORLD: SYMBOLIC INVERSION IN ART AND SOCIETY* (Barbara A. Babcock ed., 1978).

8. For discussions of these debates within literary studies and cultural anthropology, see STALLYBRASS & WHITE, *supra* note 7, at 12-15; and *THE REVERSIBLE WORLD*, *supra* note 7, at 22-32.

impossible, but at least the historically minded would agree with the uncontroversial observation that questions concerning how meaning is generated by representations and rituals, and whether—and, if so, how—they shape the law, are best contemplated with careful examination of particular historical contexts.⁹

Early twentieth-century suffragists' deployment of the figure of Justice shows how an iconographic tradition, long used by the state to legitimize the law's authority, could be repurposed by activists challenging state-sanctioned injustice. In and of itself, that tactic was not novel. For centuries, marginalized groups had used the symbols and rituals of officialdom to contest the legitimacy of governing customs and laws through various modes of appropriation, most notably through parody and inversion.¹⁰ Other individuals and groups had enlisted Justice in the critique of laws or processes perceived as unjust.¹¹ In the campaign for woman suffrage, as in those previous struggles, symbolic practices and representations functioned both as iterative political acts and as important sites of contest. But, as I demonstrate below, the suffragists' appropriation of Justice was unusual in an important respect: They enlisted her in a concerted effort to define and defend a new status for women as recognized participants in the political process.

I. "AGITATION BY SYMBOL"

There is no better illustration of the centrality of image to law's development than the woman suffrage movement of the early twentieth century. Although nineteenth-century suffragists had used art to promote their cause, suffragists' reliance on spectacle and images in the early twentieth century was of a different magnitude. Across the Atlantic, British suffragists mastered parades, protests, and imagery, integrating those devices into their campaign.¹² Two collectives of British artists—the Artists' Suffrage League and the Suffrage Atelier—produced a steady supply of expertly rendered drawings and paintings for use in suffrage propaganda, from postcards to posters.¹³ The militant British suffrage organization the Women's Social and Political Union took matters further, staging protests that often turned violent and landed many of its members in prison, where some were force-fed—events that were then rendered in suffrage art.¹⁴ Spectacle played such a central role in the

9. Cf. STALLYBRASS & WHITE, *supra* note 7, at 16.

10. See *id.* at 11-16; THE REVERSIBLE WORLD, *supra* note 7, at 22-32.

11. See *infra* note 64 and accompanying text.

12. See TICKNER, *supra* note 2, at ix.

13. *Id.*

14. Figure 1.

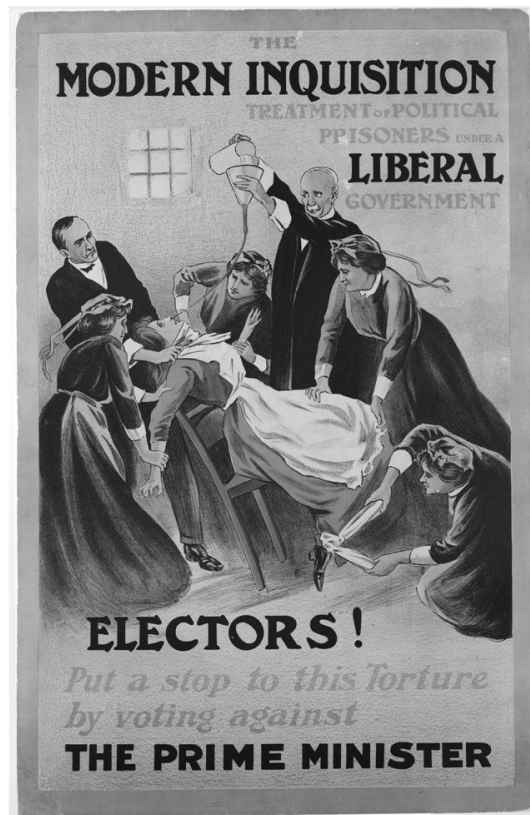


Figure 1.
Modern Inquisition, Alfred
Pearse, published by the
Women's Social and
Political Union, circa 1910.

Reproduced courtesy of the Museum of
London.

British woman suffrage campaign that *The Common Cause*, a British suffrage magazine, proclaimed that the campaign was in significant part “agitation by symbol.”¹⁵

In no small measure because of the direct influence of the British suffrage movement on NWP founders Alice Paul and Lucy Burns, some American suffragists turned to similar tactics (though never crossing the line to violent protest).¹⁶ Paul and Burns had met in a London police precinct just after being arrested for their participation in a suffrage protest.¹⁷ They reunited in America in 1912 and for a period worked with

15. *The News of the Week*, THE COMMON CAUSE, July 15, 1909, at 173, 173, quoted in TICKNER, *supra* note 2, at v.

16. TICKNER, *supra* note 2, at 266 (“[T]he influence of the British [suffrage] campaign encouraged [American suffragists’] adoption of militant propaganda techniques developed initially by the Artists’ Suffrage League, the Suffrage Atelier and the WSPU.”). For discussion of the influence of British and American woman suffrage organizations on each other, see PATRICIA GREENWOOD HARRISON, CONNECTING LINKS: THE BRITISH AND AMERICAN WOMAN SUFFRAGE MOVEMENTS, 1900-1914 (2000); and Jane Marcus, *Transatlantic Sisterhood: Labor and Suffrage Links in the Letters of Elizabeth Robins and Emmeline Pankhurst*, 3 SIGNS 744 (1978).

17. LINDA G. FORD, IRON-JAWED ANGELS: THE SUFFRAGE MILITANCY OF THE NATIONAL WOMAN’S PARTY, 1912-1920, at 29-34 (1991).

the National American Woman Suffrage Association (NAWSA)—the large, venerable national suffrage organization. But by 1914, it was clear that Paul and Burns' methods and goals were inconsistent with those embraced by the NAWSA leadership.¹⁸ Paul and Burns founded a spin-off organization called the Congressional Union, which, by 1917, had been reconstituted as the National Woman's Party.¹⁹ Its strategy was fairly straightforward: get as much public attention to the cause of woman suffrage as possible, use that attention to pressure politicians, and seek a federal constitutional suffrage amendment (rather than state-by-state reform).²⁰ The strategy worked—sometimes too well. The Congressional Union's and NWP's parades, marches, and pageants were themselves headline makers, as were the violent responses of the mob to the women who entered the public sphere to claim their rights as citizens. Police were sometimes on hand, but it was not always clear whether they were there to keep the peace or to assist the mob.²¹

This was especially true with respect to the campaign of the "Silent Sentinels," the members of the NWP who picketed the White House during World War I to draw attention to President Woodrow Wilson's lukewarm support for woman suffrage.²² The Silent Sentinels were mobbed on more than one occasion and the Washington, D.C., police

18. COTT, *supra* note 3, at 53-54; ELEANOR FLEXNER & ELLEN FITZPATRICK, *CENTURY OF STRUGGLE: THE WOMAN'S RIGHTS MOVEMENT IN THE UNITED STATES* 255-67 (1996); Dodd, *supra* note 2, at 370-79.

19. See COTT, *supra* note 3, at 53.

20. See *id.* at 53-62; FORD, *supra* note 17, at 34; CHRISTINE A. LUNARDINI, *FROM EQUAL SUFFRAGE TO EQUAL RIGHTS: ALICE PAUL AND THE NATIONAL WOMAN'S PARTY, 1910-1928*, at 87-94 (1986).

21. For example, in 1913, prior to separating from the NAWSA, the Congressional Union staged a massive suffrage parade in Washington, D.C., on the eve of President Woodrow Wilson's inauguration, in which as many as 8,000 women marched. INEZ HAYNES IRWIN, *THE STORY OF THE WOMAN'S PARTY* 29 (1921). Although the Congressional Union had secured a permit and police protection, the women were heckled and assaulted by a mob. Secretary of War Henry Stimson had to call in troops to control the crowd. At least 100 people were taken to the hospital. See *100 Are in Hospital*, WASH. POST, Mar. 4, 1913, at 10; see also FORD, *supra* note 17, at 49. Although public rallies in Washington, D.C., are now a well-accepted tradition, the 1913 suffrage parade marked the second time ever that a protest march had been staged in the capital city. See LUCY G. BARBER, *MARCHING ON WASHINGTON: THE FORGING OF AN AMERICAN POLITICAL TRADITION*, at ch. 2 (2002). Six years later, in 1919, NWP protesters were attacked by a mob as they marched in New York City to protest Wilson's tepid endorsement of woman suffrage. The police reportedly did nothing to stop the mob, and instead joined the assault and arrested six suffragists on unspecified charges. See *Suffragists Protest at President's Meeting in New York, Burn President's Speeches*, THE SUFFRAGIST, Mar. 15, 1919, at 4, 4. For discussions of the crowd's reaction to suffrage parades and protests, see FLEXNER & FITZPATRICK, *supra* note 18, at 256-68; and Borda, *supra* note 2, at 41-43.

22. For descriptions of the Silent Sentinel picketing campaign on the White House, see FORD, *supra* note 17, at chs. 4-6; IRWIN, *supra* note 21, at 193-260; and DORIS STEVENS, *JAILED FOR FREEDOM* 63-79 (1920). For competing views on Wilson's support for woman suffrage, see Sally Hunter Graham, *Woodrow Wilson, Alice Paul, and the Woman Suffrage Movement*, 98 POL. SCI. Q. 665 (1984); and Christine A. Lunardini & Thomas J. Knock, *Woodrow Wilson and Woman Suffrage: A New Look*, 95 POL. SCI. Q. 655 (1980).

seemed to share the mob's antipathy for the NWP.²³ Starting in June 1917, approximately 500 NWP pickets were arrested for obstructing the sidewalk outside the White House.²⁴ At least 169 of them served prison sentences after trial in the D.C. police court.²⁵ Their convictions were eventually vacated by the D.C. Circuit, but not before at least fifty-four NWP pickets were sent to the Occoquan workhouse, where many were brutally beaten and, like their British counterparts, subjected to force-feeding.²⁶



Figure 2. *Section of Working Women's Picket*, Feb. 17 [18], 1917.

Reproduced courtesy of *Women of Protest: Photographs from the Records of the National Woman's Party*, Manuscript Division, Library of Congress, Washington, D.C.

23. See FORD, *supra* note 17, at 147-49.

24. See STEVENS, *supra* note 22, at 354-71 app.4.

25. *Id.* at 104, 354-71 app.4; see also LUNARDINI, *supra* note 20, at 116-26.

26. STEVENS, *supra* note 22, at 354-71. The NWP pickets' convictions were vacated in *Hunter v. District of Columbia*, 47 App. D.C. 406, 1918 WL 18180 (1918). See Figures 3 & 4.

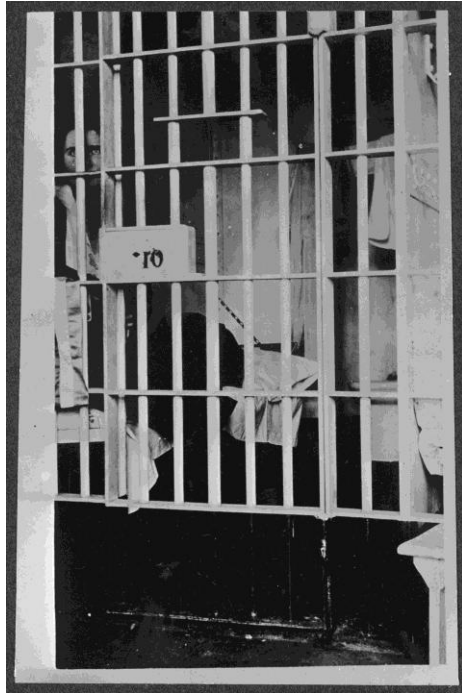


Figure 3.
Vida Milholland [in jail cell],
Harris & Ewing, July 4, 1917.

Reproduced courtesy of *Women of Protest: Photographs from the Records of the National Woman's Party*. Manuscript Division, Library of Congress, Washington, D.C.



Figure 4.
Kate Heffelfinger
After Her Release
from Occoquan
Prison, circa 1917.

Reproduced courtesy of
Women of Protest: Photographs
from the Records of the
National Woman's Party.
Manuscript Division, Library of
Congress, Washington, D.C.

II. JUSTICE'S FIRST MODERN FEMINIST ROLE

In this charged context, in which public spectacle and protest served as a crucial site of contest over the merits and meanings of woman suffrage, Justice emerged as an icon of the women's movement on both sides of the Atlantic. Suffrage artists and cartoonists capitalized on Justice's female form to promote women's rights to vote and protest. In many of these images, Justice is rendered as a powerful, if sometimes stealth, advocate of woman suffrage. In an early twentieth-century British suffrage poster, an image of Justice draped in dark robes holds tilted scales and a banner that reads "Justice Demands the Vote." Justice is flanked by a young woman—presumably a suffragist—with a shadowy outline of the halls of

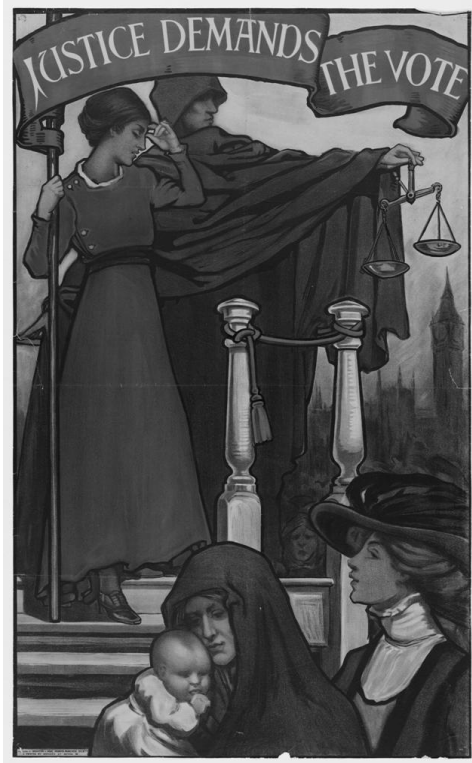


Figure 5. *Justice Demands the Vote*, Anonymous, published by the Brighton and Hove Women's Branch of the National Union of Women's Suffrage Societies, circa 1909.

Reproduced Courtesy of the Schlesinger Library, Radcliffe Institute, Harvard University.

Parliament in the distance.²⁷ A 1911 issue of *The Common Cause*, a British suffrage magazine advertised the sale of a large color poster depicting Justice secreting her way into a doorway marked "House of Commons" and "Reform Bill Debate." In the poster, a blindfolded Justice wears a crimson toga and holds her scales and sword close to her body. She carries a document labeled "women's enfranchisement."²⁸ The caption reads "Justice—at the door: I, Surely am not excluded."²⁹ The advertisement helpfully explained that the poster was large enough for use in suffrage parades and anticipated that "those who see it will perhaps be reminded that it is not possible for those in power to exclude all women from the Bill without excluding

27. Figure 5.

28. Figure 6.

29. *Id.*

also the cardinal virtue who, like her sisters, has been symbolized from time immemorial by a woman's form."³⁰

American artists, especially political cartoonists, also appropriated Justice as a champion of women and woman suffrage.³¹ In a 1915 cartoon by the suffrage cartoonist Mary Taylor, a woman supplicates Uncle Sam on her hands and knees, wrists shackled, while Justice stands by her side pointing toward lettering taken from President Lincoln's Gettysburg Address: "A government of the people, by the people, and for the people."³² In a more hopeful portrayal, *Justice*—"Make Way!," Justice



Figure 6. *Justice at the Door*, Mary Lowndes, published by the National Union of Women's Suffrage Societies, 1911.

Reproduced courtesy of the Women's Library, London Metropolitan University.

30. *Justice at the Door* (advertisement), THE COMMON CAUSE, Nov. 8, 1912, at 533, 533, quoted in TICKNER, *supra* note 2, at v.

31. American artists also organized for the woman suffrage cause, such as the 1915 "Exhibition of Painting and Sculpture by Women Artists for the Benefit of the Woman Suffrage Campaign," held at the Macbeth Gallery on Fifth Avenue in Manhattan. See Mariea Caudill Dennison, *Babies for Suffrage: "The Exhibition of Painting and Sculpture by Women Artists for the Benefit of the Woman Suffrage Campaign,"* 24 WOMAN'S ART J. 24, 24-25 (2003).

32. Figure 7.

serves as the protector of a woman wearing a “suffragist” sash, pushing aside two men blocking a ballot box so the woman can vote.³³

Justice had landed her first modern feminist role.

To us, perched in the twenty-first century, using Justice to promote women’s legal rights, including suffrage, may seem an obvious and even uncreative choice. After all, today Justice is a well-known, accessible symbol of the law and its integrity, and women’s formal equality has been secured by and through the Fourteenth and Nineteenth Amendments and a raft of federal and state statutes. Identifying women’s legal rights with the figure of Justice hardly requires one to draw an unfamiliar connection between women’s equality and the law, even if the particulars of that connection continue to be debated.

But neither Justice’s ubiquity as a symbol of the law’s legitimacy nor women’s legal equality is a transhistorical phenomenon. As Resnik and Curtis show, although Justice’s distinctive salience as a

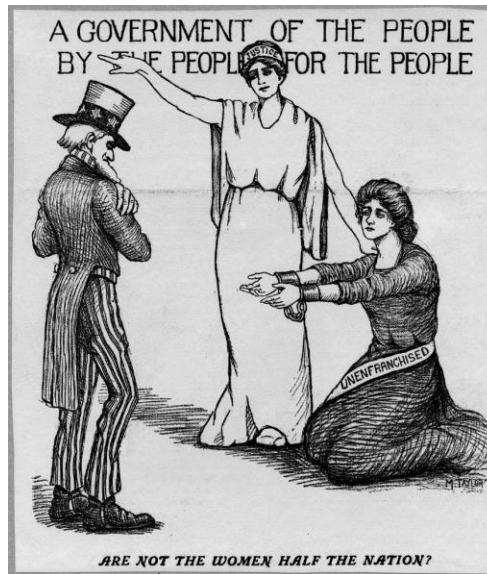


Figure 7. *A Government of the People by the People for the People*, M[ary] Taylor, published in *Maryland Suffrage News*, Aug. 17, 1915.

Reproduced courtesy of the Sophia Smith Collection, Smith College.



Figure 8. *Justice—“Make Way!”*, Laura E. Foster, published in *Judge*, Jan. 15, 1916.

Reproduced courtesy of the University of Michigan, Hathi Trust.

33. Figure 8.

symbol of law was firmly established by the early twentieth century, that had not always been the case. In the European iconographic tradition, by the twelfth century, writers and religious and secular leaders were regularly incorporating Justice as one of several Virtues—along with Prudence, Temperance, and Fortitude—in battle with, and often conquering, the Vices.³⁴ And for several centuries, Justice served as one of a collective of virtues associated with good governance. Then, as images of the other Virtues faded into obscurity and hence became increasingly illegible, Justice ascended as a legible and pliable symbol of the law's authority and legitimacy.³⁵ Resnik and Curtis argue that her ascendancy can be explained in part by the felt need to justify the state's enforcement of laws enacted, not by divinely approved monarchs, but by officials whose authority to govern was derived from earthly institutions.³⁶ By the early twentieth century, Justice's resonance and identification with the law's legitimacy was well established, making her ripe for appropriation by activists, such as suffragists, who sought to demonstrate the law's illegitimacy.

Early twentieth-century suffragists' appropriation of the figure of Justice was certainly not the first time that Justice had been used to articulate a critique of the state and the laws of man. *Representing Justice* is brimming with examples.³⁷ However, the suffragists' appropriation of Justice was distinctive in one very important respect: as a general matter, she had not been used to register critique of women's treatment under, or claims upon, the law.³⁸ At least two English queens—Elizabeth I and

34. See RESNIK & CURTIS, *supra* note 4, at 8-12, 344-47 (discussing Justice's iconographic ascent relative to the other Virtues). For a discussion of Justice's Egyptian and Greek forebears, see *id.* at 18-22.

35. See *id.* at 12 (noting that "many of the Virtues, save Justice, are largely lost to general knowledge"); see also *id.* at chs. 4 & 5 (tracing the shift in meanings of Justice's blindfold and other symbolic accessories); *id.* at 87-89; 94-95 (discussing Justice's placement outside courthouses and identification with adjudication); *id.* at 79 (noting the "plasticity and variety of Justice symbolism").

36. See *id.* at 12 ("Problems of legitimacy came alongside the growth of republican governance. The judgments of all-too-mortal judges were in need of anchors beyond sheer power."); *id.* at 61 ("Violence, death included, was part of a legal system's prerogatives. Law was used to justify authority, and that authority was produced and reinforced through public representations of law as an explanation for violence."); *id.* at 12 ("Justice's remarkable longevity stems from her political utility, deployed because of a never-ending need to legitimate state violence.").

37. For example, the blindfold may have been offered initially to note the limitations of human laws and judgment. *Id.* at 62-67. Thus, the mid-fifteenth-century image, *The Fool Blindfolding Justice* appeared in a volume that advocated reform of the German legal system and adoption of Roman law. *Id.* at 67-68; see also *id.* at 72-74 (discussing Joost de Damhoudere's Janus-faced justice); *infra* text accompanying note 77 (discussing Pieter Bruegel the Elder's early sixteenth-century drawing "Justice").

38. This is not to say that Justice—or her sister Virtues—was gendered female by coincidence, nor that the disconnect between the Virtues' female forms and women's legal and social disempowerment went unnoted. See PETER GOODRICH, *OEDIPUS LEX: PSYCHOANALYSIS, HISTORY, LAW* 121-80 (1995); MARINA WARNER, *MONUMENTS & MAIDENS: THE ALLEGORY OF THE FEMALE FORM*, at chs. 4 & 8 (1985); Martin Jay, *Must Justice Be Blind? The Challenge of Images to the Law*,

Anne—appropriated the female image of Justice in official portraiture to signal their authority as queens in a world dominated by kings.³⁹ Such claims to legal authority by women were the rare exception, however, and early modern commentators were far more concerned with the inconsistency between women's legal inferiority and the practice of representing law's authority with a female figure.⁴⁰ The concern was not that reality should conform to the representation of law as a woman; rather, it was that the representation of law should conform with the reality of women's inferior legal status.⁴¹ But in the nineteenth century, as women began to recognize their disenfranchisement and general political and legal disempowerment as a women's issue⁴²—"the woman question"—suffragists appropriated Justice's female form to protest women's disenfranchisement as an injustice visited upon women as *women*.⁴³

In one strand of this iconographic appropriation, suffragists enlisted Justice to represent woman suffrage as a legal right that has its foundation in women's fundamental equality as citizens. If it seems natural today to discuss woman suffrage in terms of "justice," this is partly because our understanding of woman suffrage and women's rights more generally has been shaped by the ascendancy of legal discourse and "rights talk," in particular as a means of framing conflicting social and political claims, including women's claims to equal standing in the polity.⁴⁴ But in the early twentieth century, the assertion that woman should join the ranks of the enfranchised as a matter of *right*—or because "justice" required it—was a distinctive and contested mode of reasoning about woman suffrage, even among suffragists.

Justice-based arguments had been a fundamental component of pro-

in *LAW AND THE IMAGE: THE AUTHORITY OF ART AND THE AESTHETICS OF LAW* (Costas Douzinas & Lynda Nead eds., 1999). Nevertheless, the Virtues represented qualities and values to which *all* should aspire, not just women, and the physical spaces in which Justice in particular was usually realized—such as courthouses and other government buildings—were domains in which law was generally created and administered by *men*.

39. RESNIK & CURTIS, *supra* note 4, at 21, 83-84.

40. GOODRICH, *supra* note 38, at 114-43.

41. *Id.*

42. Cf. Ellen Carol DuBois, *Outgrowing the Compact of the Fathers: Equal Rights, Woman Suffrage, and the United States Constitution, 1820-1878*, 74 J. AM. HIST. 836, 848-49 (1987) (tracing the shift from arguments based on "universal suffrage" to arguments that identified women's particular claim to enfranchisement).

43. Not coincidentally, as Resnik and Curtis explain, in early twentieth-century America, official commissions of Justice imagery to adorn courthouses were fraught with disagreement over what type of woman should represent "justice." RESNIK & CURTIS, *supra* note 4, at ch. 6.

44. See generally Thomas L. Haskell, *The Curious Persistence of Rights Talk in the "Age of Interpretation,"* 74 J. AM. HIST. 984 (1987); Nicolas Pedriana, *From Protective to Equal Treatment: Legal Framing Processes and Transformation of the Women's Movement in the 1960s*, 111 AM. J. SOC. 1718 (2006).

suffrage reasoning since the antebellum period.⁴⁵ By the late nineteenth century, however, there was a marked shift toward arguments premised on the notion that women, as the moral guardians of the community, would use the vote to secure socially salubrious laws regarding such issues as alcohol, prostitution, and child labor.⁴⁶ Those suffragists who employed justice-based rhetoric to promote woman suffrage tended to emphasize women's and men's fundamental similarity. Those who argued for woman suffrage based on the "expediency" of woman suffrage—its beneficial consequences—tended to emphasize men's and women's differences, among them women's superior virtue.⁴⁷ Many early twentieth-century suffragists employed both modes of reasoning simultaneously, maintaining what Nancy Cott calls a "functional ambiguity" in their rhetorical strategy.⁴⁸ Nevertheless, there was a tension between these two primary rationales for woman suffrage—justice and expediency.⁴⁹

All of this means that, while it may seem evident today that the fight over woman suffrage concerned women's claims to justice and equality, to promote woman suffrage using such terms in the early twentieth century was a particular way of reasoning about suffrage that, in turn, shaped some suffragists' discursive strategies. When, on the eve of Woodrow Wilson's inauguration in 1913, suffragists leading a reportedly 8,000-woman-strong suffrage parade in Washington, D.C., held a banner that read, "We Demand an Amendment to the Constitution of the United States Enfranchising the Women of the Country,"⁵⁰ suffragists were not asking for the vote, but rather insisting on it as a right. The program for the parade reiterated the suffragists' demand, explaining they sought "to give evidence to the world of [their] determination that this simple act of justice shall be done."⁵¹ One reason why Justice emerged in pro-suffrage propaganda, then, was her ability to represent and frame women's claim to suffrage in a particular fashion: as about equality and justice, and, at its core, a claim about women's legal rights. We see this in the British

45. See DuBois, *supra* note 42, at 837-44; see also COTT, *supra* note 3, at 16-17.

46. See AILEEN S. KRADITOR, *THE IDEAS OF THE WOMAN SUFFRAGE MOVEMENT, 1890-1920*, at 44, 53-71 (1965); DuBois, *supra* note 42, at 851 ("By the end of the 1870s, such arguments [based on women's moral superiority] would dominate woman suffrage ideology.").

47. KRADITOR, *supra* note 46, at 45. The term "expediency" was used by the suffragist Mary Putnam Jacobi in *"Common Sense" Applied to Woman Suffrage* (1894) and was adopted by Kraditor. See also COTT, *supra* note 3, at 19-21.

48. COTT, *supra* note 3, at 20.

49. *Id.* ("A tension stretched between emphasis on the rights that women (like men) deserved and emphasis on the particular duties or services that women (unlike men) could offer society, as also between the claim that women had to act for their own advantage or for the benefit of others.").

50. IRWIN, *supra* note 21, at 29, 203; Dodd, *supra* note 2, at 365.

51. OFFICIAL PROGRAM, *WOMAN SUFFRAGE PROCESSION, WASHINGTON D.C., MARCH 3, 1913*, foreword (Harriet Connor Brown ed.).

suffrage poster discussed above, “Justice Demands the Vote.”⁵² Justice is portrayed at her most powerful—erect, determined, stoic and unwavering—and in league with the young suffragist at her side.

It would be simplistic, however, to conclude that the figure of Justice had a single or stable meaning in suffrage propaganda—that it could and did signify only one specific, contested justification for woman suffrage. Just as American suffragists were well practiced in offering multiple arguments in favor of woman suffrage, so too Justice’s flexibility and multivalence served suffragists well.⁵³ On the one hand, she was used to signal the law’s unwavering commitment to fairness and equality, standing for the “true,” if unrealized, meaning of those fundamental democratic principles.⁵⁴ But, as a symbol that had long identified the virtue of justice with a woman’s form, she could also be deployed to represent the beneficial consequences of—the expediency of—woman suffrage. Justice *demands* the vote in the poster described above, but beneath Justice and the suffragist, another woman holds a baby, suggesting the importance of woman suffrage for the protection of mothers and children through maternalist social policies.⁵⁵ Justice worked in service of virtuous governance in the poster, just as it often did in contemporary pro-suffrage rhetoric.⁵⁶



Figure 9. *The Blind Goddess! Can This Be Justice?*, Linscott, published in *The Woman's Journal*, June 19, 1909.

Reproduced courtesy of the Schlesinger Library, Radcliffe Institute, Harvard University.

52. See Figure 5.

53. Cf. RESNIK & CURTIS, *supra* note 4, at 79 (noting Justice’s plasticity as a symbol of law’s legitimacy).

54. See *infra* note 63 and accompanying text.

55. See Figure 5.

56. Cf. COTT, *supra* note 3, at 19-21.

The logic of expediency—including its dark underside—is even more transparently on display in several American political cartoons. Pro-suffrage arguments based on women’s moral superiority—and educated women’s intellectual superiority—blended easily and frequently with the illiberal and often racist argument that many men who already possessed the vote were unqualified.⁵⁷ Suffragists used Justice to peddle those ideas as well. In a cartoon that was rendered in myriad configurations and printed in various publications, a blindfolded Justice sits behind a ballot box. All sorts of unsuitable looking men cast their ballots while a policeman (helpfully labeled “The Law”) holds back a group of well-dressed and well-educated women.⁵⁸ Lest the essential point be lost on the viewer, one of the women is clothed in academic regalia, and the caption reads, “THE BLIND GODDESS! CAN THIS BE JUSTICE?”⁵⁹ The cartoon “Justice—Make Way,” discussed above,⁶⁰ is a more hopeful version of the same scenario, but it too is tainted by anti-democratic impulses that sometimes inflected pro-suffrage reasoning and rhetoric. In that cartoon, an unblindfolded Justice pushes two men aside so that a well-dressed woman can cast her vote. The men’s rumpled attire and slumped posture signal that they are hardly ideal voters.⁶¹ Consistent with well-rehearsed pro-suffrage arguments, both of these cartoons suggest that justice would be better served if well-educated white women were given the vote, rather than the uneducated male masses.

It is impossible, of course, to know definitively how these images of Justice were actually received at the time, or the meaning they conveyed to different viewers, including other suffragists (of various stripes), movement outsiders who were nonetheless receptive to the idea of woman suffrage, and anti-suffragists.⁶² But it is clear that at a key moment in the woman suffrage campaign, Justice served as an important cultural resource for advocates of woman suffrage. As a suffrage icon, Justice helped suffragists make sense of and articulate the meaning of women’s disenfranchisement and the possibility of woman suffrage, insisting visually that women’s disenfranchisement was a legal injury and that woman suffrage was the realization of a national commitment to inviolable democratic principles.

57. See KRADITOR, *supra* note 46, at 164-218; SUZANNE M. MARILLEY, WOMAN SUFFRAGE AND THE ORIGINS OF LIBERAL FEMINISM IN THE UNITED STATES, 1820-1920, at ch. 6 (1996).

58. Figure 9.

59. *Id.*

60. See Figure 8.

61. *Id.*

62. For a useful discussion of how social movements lack perfect control over meaning generation, see Anne E. Kane, *Theorizing Meaning Construction in Social Movements: Symbolic Structures and Interpretation During the Irish Land War, 1879-1882*, 15 SOC. THEORY 249, 255 (1997).

The last point bears emphasizing. Like other successful social movements, suffragists claimed authority for legal change by advocating a return to the enduring principles of America's founding documents, such as the Declaration of Independence and the Constitution.⁶³ The figure of Justice performed a similar function by visually connecting woman suffrage with fundamental principles of democratic governance, thus reinforcing the assertion—common in pro-suffrage arguments—that enfranchising women marked less a change from than a natural outgrowth of, or even return to, basic constitutional principles.

III. PAGEANTS OF INJUSTICE

If suffragists regularly appropriated the figure of Justice to signal the connection between woman suffrage and fundamental principles of democratic governance, they also turned to her to narrate the story of women's disenfranchisement—and the struggle for suffrage—as a story about injustice. There is little question that narratives are crucial to the operation of the law, and to activists seeking to transform the law. Activists use narratives to give coherence to what otherwise may seem to be unrelated events and, ideally, to create a collective consciousness—among movement insiders and outsiders—about the meaning of those events.⁶⁴ Injustice narratives in particular serve a normative function by providing an account of events and circumstances that should rightly be repudiated.⁶⁵ The centrality of narrative, and especially the injustice narrative, to the suffrage movement is well illustrated by Justice's appearances in a significant early twentieth-century suffrage ritual: the suffrage pageant.

Today, the word pageant hardly conjures images of public protest or legal reform. Civil rights marches, sit-ins, picketing—those are the tools that activists have used in hard-fought battles for individual rights and

63. See JACK M. BALKIN, *LIVING ORIGINALISM* 11 (2011) ("Most successful political and social movements in America's history have claimed authority for change in just this way: either as a call to return to the enduring principles of the Constitution or as a call for fulfillment of those principles."); KRADITOR, *supra* note 46, at 51 ("[T]hroughout the entire campaign of women for the franchise, the argument based on natural right most frequently took the form not of the request to be allowed to become equal but of the simple assertion that the Declaration of Independence made its principles universal."); Reva B. Siegel, *She the People: The Nineteenth Amendment, Sex Equality, Federalism, and the Family*, 115 HARV. L. REV. 947, 987-88 nn.120 & 121 (2002) ("At every turn, suffragists justified women's right to self-representation by appeal to the nation's revolutionary heritage . . . [using] the Declaration of Independence as a model for its inaugural Declaration of Sentiments.").

64. See generally Gary Alan Fine, *Public Narratives and Group Culture: Discerning Discourse in Social Movements*, in *SOCIAL MOVEMENTS AND CULTURE*, *supra* note 6, at ch. 7; Robert S. Jansen, *Resurrection and Appropriation: Reputational Trajectories, Memory Work, and the Political Use of Historical Figures*, 112 AM. J. SOC. 953, 958-59 (2007); Steven Knapp, *Collective Memory and the Actual Past*, 26 REPRESENTATIONS 123, 123-24 (1989).

65. Knapp, *supra* note 64, at 123.

liberties. To the extent that we think about early twentieth-century pageants at all, we tend to imagine the civic pageants sponsored by municipalities during the pageant craze of the 1910s and 1920s.⁶⁶ Self-consciously mimicking Renaissance pageants of the Old World, municipalities across the nation staged elaborate pageants portraying the evolution of a distinctively American history. As David Glassberg has demonstrated in wonderful detail, Progressive-era officials used these productions to construct a sense of communal identity while masking the dislocations and strife associated with industrialization and immigration.⁶⁷ Consistent with Progressive-era historical consciousness, civic pageants “situated their audiences on the verge of a new era in which the customary relations between social classes . . . would be transformed, while promising that the new society would be no more than the inevitable outgrowth of those of the past.”⁶⁸

In the world created and celebrated by Progressive-era civic pageants, however, men’s and women’s “customary relations” and socioeconomic roles had not been transformed. Men engaged in weighty affairs, such as treaty negotiations with Native Americans, while women married and happily performed domestic work, such as spinning.⁶⁹ Interludes punctuating the key tableau featured women dressed in flowing gowns representing allegorical figures, including the Cardinal Virtues—Justice among them—and noncanonical virtues, such as Liberty and Truth.⁷⁰ Progressive-era pageants thus reinforced women’s traditional role as keeper of hearth and home, as well as their marginal status in affairs of state and commerce.

Given these conventions, civic pageantry may seem an unlikely vehicle for pro-suffrage propaganda. But it was precisely the pageant’s socially conservative attributes that made it an attractive device for suffragists.⁷¹ Led by professional pageant producer Hazel MacKaye, a charter member of both the American Pageant Association and the NWP, suffragists staged pageants throughout the country.⁷² Each pageant performance was

66. See DAVID GLASSBERG, *AMERICAN HISTORICAL PAGEANTRY: THE USES OF TRADITION IN THE EARLY TWENTIETH CENTURY* (1990); NAIMA PREVOTS, *AMERICAN PAGEANTRY: A MOVEMENT FOR ART AND DEMOCRACY* (1990). Pageantry’s bona fides and integrity were established and protected by the well-heeled American Pageantry Association, established in 1913. GLASSBERG, *supra*, at 107-13.

67. David Glassberg, *History and the Public: Legacies of the Progressive Era*, 73 J. AM. HIST. 957, 971-72 (1987).

68. *Id.* at 971.

69. GLASSBERG, *supra* note 66, at 136-37.

70. *Id.*

71. Cf. KERTZER, *supra* note 7, at 12 (observing that rituals “have both a conservative bias and innovatory potential,” and noting that “[p]aradoxically, it is the very conservatism of ritual forms that can make ritual a potent force in political change”).

72. MacKaye wrote three major suffrage pageants staged between 1913 and 1915, a victory

a major undertaking, often involving hundreds of participants and thousands of viewers.⁷³ Suffrage pageants were costly to produce, but they also generated significant revenues for suffrage organizations.⁷⁴ As others have noted, suffragists used pageantry's aesthetic to feminize the suffrage cause, thus addressing anxieties of gender inversion that characterized so much anti-suffrage rhetoric.⁷⁵ The appearance of Justice in these pageants provided a visual rejoinder to such anxieties. A photograph of Justice as she was portrayed in a post-suffrage pageant staged by the NWP illustrates this point: she is elegant and feminine, wearing a diaphanous Greek-style gown and carrying a diminutive set of scales.⁷⁶

Suffrage pageants did more than feminize the concept of woman suffrage, however. They also enabled suffragists to enact and reenact the history of women's legal and political inequality, and the struggle for suffrage, as a story about injustice. Early twentieth-century suffragists were by no means the first to deploy Justice in representations of injustice. To take just one example from *Representing Justice*, Resnik and Curtis explain how Pieter Bruegel the Elder's sixteenth-century drawing *Justice* can be read as a critique of the limits of earthly administration of justice. In this elaborate work, an oddly clothed figure of Justice is surrounded by administrators, judges, torturers, and executioners engaged in a host of unjust practices. Blindfolded and scales hanging close to the ground, Justice is unable to see or evaluate "the many injuries imposed in her name."⁷⁷ Similarly, in suffrage pageantry, Justice recurred as a trope in reenactments of the injustice of women's disenfranchisement, helping

pageant in 1920, and a pro-Equal Rights Amendment pageant staged in 1923: *The Allegory* (1913), *The American Woman: Six Periods of American Life* (1914), *Susan B. Anthony* (1915), *A Victory Goal* (1920), and *Equal Rights Pageant* (1923). MacKaye's family was deeply involved in the theater and the pageant movement, and MacKaye also wrote and directed numerous non-suffrage pageants during the heyday of Progressive-era pageantry. Blair, *supra* note 2, at 31-33. For discussions of MacKaye's career and the suffrage pageants, see LUMSDEN, *supra* note 2, at 96-113; and Blair, *supra* note 2, *passim*.

73. See Blair, *supra* note 2, at 36, 44.

74. *Id.* at 38.

75. *Id.* at 37. As Reva Siegel observes, "opposition to women voting was as much about preserving the arrangements that make men men and women women as it was about the deep pragmatic question of what women would do with the ballot . . ." Siegel, *supra* note 63, at 977. Anti-suffragists often argued, and anti-suffrage cartoons often suggested, that woman suffrage would emasculate men and make women manly and even monstrous. See Borda, *supra* note 2, at 41-46; Siegel, *supra* note 63, at 977-78 n.81; see also Moore, *supra* note 2, at 94; Lisa Marie Baumgartner, *Alice Paul, the National Woman's Party, and a Rhetoric of Mobilization* 84-85 (1994) (unpublished Ph.D. dissertation, University of Minnesota).

76. Figure 10.

77. RESNIK & CURTIS, *supra* note 4, at 71-72 ("Although titled *Justice*, the scene could be its inversion, Injustice. . ."). Resnik and Curtis also note the ambiguity of Bruegel's *Justice*, observing that "some commentators see in Bruegel's *Justice* a naturalistic and unproblematic portrayal of the ordinary administration of criminal justice." *Id.* at 72.



Figure 10.
Justice. Miss Florence Hanlin as Justice in the Dance Drama Presented at Seneca Falls, on July 20th in Connection with the National Woman's Party's Seventy-Fifth Anniversary Celebration of Equal Rights, Bullock Studios, July 20, 1923.

Reproduced courtesy of *Women of Protest: Photographs from the Records of the National Woman's Party*. Manuscript Division, Library of Congress, Washington, D.C.

suffragists articulate a much broader—even radical—disaffection with the social and legal subordination of women.

MacKaye's 1914 production *Six Periods of American Life: A Woman Suffrage Pageant* is a good example.⁷⁸ Staged at the Seventy-First Regiment Armory in midtown Manhattan, the two-and-a-half-hour pageant dramatized the mistreatment and marginalization of women throughout American history. *Six Periods* opens with a scene in which "Indian" women are subjugated by their daily toil and sexual exploitation. The women "bearing all the paraphernalia [sic] of the camp upon their shoulders, make the fire and begin to work busily," while "their lords and masters" make "themselves comfortable and take their ease."⁷⁹ A "villianous-looking [sic] Medicine-Man" from another tribe "come[s] to trade" with the Chief, who not only trades away various goods that the women have made (without compensating them), but also barter his own

78. Hazel MacKaye, *Six Periods of American Life: A Woman Suffrage Pageant* (1914), Papers of Hazel B. MacKaye, Dartmouth College Library (unpublished manuscript) (on file with author).

79. *Id.* at 1.

daughter for a coveted bison skin.⁸⁰ In a scene titled “The Puritans,” set in “Salem-town,” a revered medicine woman is accused of witchcraft after she fails to save a dying infant. Although she demands a “just trial,” with a jury that includes women, she is told that only a witch could suggest “such a blasphemous thing.”⁸¹ The scene titled “The Colonists” begins on a more hopeful note, as it shows men and women working together “all equally busy and equally useful.”⁸² But women’s equal labors are not rewarded with equal representation: when the town crier calls “Town-meeting! Town-meeting!” the men quickly depart for the meeting, leaving the women to “meekly and submissively gather up their things and retire to their homes.”⁸³ Little had changed in “The Present,” when “The Law—a symbolic figure, impersonated by a man in flowing robes,” bars a group of women from entering the statehouse.⁸⁴ If Progressive-era civic pageants and other forms of municipal art from that period tended to gloss over social strife, *Six Periods* foregrounded women’s struggles, both social and legal.⁸⁵

But *Six Periods* was not without hope. Conforming to the traditional structure of Progressive-era civic pageants, suffragists used the pageant device and the figure of Justice to weave the struggle for woman suffrage into a narrative in which past, present, and future were presented as a progression from disorder to order and, in particular, from injustice to justice.⁸⁶ This message was conveyed clearly in the final scene of *Six Periods*, titled “The Future.” The figure of Justice emerges along with “Future Man and Women [sic]”—the latter played by the famous actress-suffragist Inez Milholland. Justice bestows upon them a copy of “the Law,” now represented by a book rather than embodied in a man.⁸⁷ Dancers celebrate Justice while she swings a sword.⁸⁸ As MacKaye explained in the foreword to *Six Periods*, “[t]his pageant attempts to show the position of women in various phases of American life, and how the present movement of Women Suffrage holds out the promise of Justice to

80. *Id.*

81. *Id.* at 1-2.

82. *Id.* at 2.

83. *Id.*

84. *Id.* at 3-4.

85. Blair, *supra* note 2, at 39-40.

86. Progressive-era pageant writers, including suffragists, borrowed the injustice-to-justice narrative structure from early modern pageants and royal masques. For a discussion of Justice’s appearance as Astrea in one such masque, see Martin Butler & David Lindley, *Restoring Astraea: Jonson’s Masque for the Fall of Somerset*, 61 *ENG. LITERARY HIST.* 807, 808 (1994).

87. MacKaye, *supra* note 78, at 5.

88. *Id.* at 5. The sword was one of Justice’s primary accessories in Renaissance iconography and remains a common feature in modern depictions of Justice, representing “[t]he legitimacy of the exercise of law’s violence.” See RESNIK & CURTIS, *supra* note 4, at 95.

women in the Future.”⁸⁹

The “promise of Justice” dramatized in *Six Periods* was not limited to suffrage; it extended to reform of both private and public systems of gender stratification and subordination. In this respect, *Six Periods* dramatized the understanding—shared by many suffragists—that enfranchising women would do more than simply allow women to enter the voting booth. Rather, as Reva Siegel has demonstrated in great detail, many suffragists believed that woman suffrage would help dismantle a distinctive system of governance in which women’s marginalization from market and government affairs was foundational to men’s authority in both domains.⁹⁰ Accordingly, one of the most threatening—even revolutionary—implications of woman suffrage was that it would establish women’s direct relationship with the state, a connection that challenged the logic and operation of coverture, the constellation of legal principles that established the husband as the head of the household and the wife’s “representative” in legal and political affairs.⁹¹ As a tool, many within the woman’s movement also understood—and hoped—that the franchise would enable women as voters to press for laws addressing myriad forms of women’s subjugation, both social and legal.

Similarly, as portrayed in *Six Periods*, woman suffrage would end various forms of women’s sexual exploitation, including sex trafficking, which the pageant portrayed as a Native American practice but Progressive-era viewers would likely have identified with the so-called white slave trade.⁹² Woman suffrage would ensure that women were legally eligible to serve on juries, thus securing female defendants—such as the medicine woman accused of witchcraft—trial by a jury of their peers.⁹³ And woman suffrage would ensure that women’s work was

89. MacKaye, *supra* note 78, foreword.

90. Siegel, *supra* note 63, at 979-87.

91. *Id.* at 987 (“The demand for the vote was, in short, a challenge to the order of coverture. Suffragists argued that women had a right to ‘direct relations with the state, independent of their ‘mate’ or ‘brood,’ in terms at once conservative and explosive.”) (quoting MARY PUTNAM JACOBI, “COMMON SENSE” APPLIED TO WOMAN SUFFRAGE 138 (1894)); DuBois, *supra* note 42, at 842-44.

92. In the early twentieth century, a panic over what was known as the “white slave trade”—sex trafficking involving abducted, coerced, or duped white women and girls—spread through America, England, and parts of continental Europe. The white slave trade became a focus of some proponents of woman suffrage, SUSAN KINGSLEY KENT, *SEX AND SUFFRAGE IN BRITAIN, 1860-1914*, at 159 (1987), and made it into suffrage imagery. For example, in a striking appropriation of the scales of Justice that appeared in a 1915 edition of *The Woman’s Journal*, a suffrage periodical, a woman stands on one side of a set of scales, a tranquil child clinging to her skirts, placing a document labeled “Justice” in the tray. On the other side of the balance, an evil-looking man holds a chain connected to wrist cuffs on a kneeling, sobbing girl. He places a bag marked \$100 in the other tray. Fredrikke S. Palmer, *Justice Handicapped*, WOMAN’S JOURNAL, Jan. 23, 1915, printed in SHEPPARD, *supra* note 2, at 134. One plausible interpretation of the image is that without the vote, women are powerless to combat the evils of the white slave trade. Justice is thus “handicapped” by women’s disenfranchisement.

93. See Siegel, *supra* note 63, at 992 & n.140.

equally valued and recognized as a basis for equal standing in the polity.⁹⁴ In short, *Six Periods* broadcast the view, shared by many suffragists, that the injustices visited upon women under the existing legal system were many, and that woman suffrage was a keystone right that would transform the existing governance structure that denigrated and disempowered women.⁹⁵

Within the genre of suffrage propaganda, *Six Periods* was also typical in how it identified “The Law” as a man, and as the key source of the myriad injustices visited on women. As in suffrage cartoons, “The Law” in *Six Periods* figured as an impediment to woman suffrage,⁹⁶ thereby inverting a symbolic vocabulary—in use in early twentieth-century America as elsewhere—in which law was represented using images of male lawgivers. As Resnik and Curtis describe, just twelve years before *Six Periods* was performed, and only blocks away, an elaborate statuary display was commissioned by the architect James Brown Lord to grace the exterior of a new New York state courthouse. Like Progressive-era producers of civic pageants, Lord embraced a didactic understanding of art and sought to enlighten the masses through public displays.⁹⁷ Justice featured prominently in the statuary commissioned for the courthouse, in league with a host of male lawgivers, secular and religious, including Justinian, Moses, and Muhammad.⁹⁸ By contrast, in *Six Periods*, the male persona of “The Law” works on the side of injustice by barring women from participating in democratic governance and subjugating them in various ways. In “The Future,” Justice, as a universal virtue, secures woman suffrage by transforming “The Law” into a book, presumably signaling the ascendance of the rule of law over the (literal) rule of man.⁹⁹

Suffragists’ portrayal of law-as-injustice extended to institutions and officials charged with administration of the law, such as courts, prosecutors, and prisons. Courts fared particularly poorly in early twentieth-century suffrage spectacle in significant part because suffragists had found little relief or protection in the courts. A generation earlier, after failing to secure woman suffrage through the Fifteenth Amendment, suffragists had taken their claims to court in a strategy called the New

94. For a discussion of suffragists’ challenge to laws that deprived them of their earnings and failed to recognize the value of the wife’s labor within the household, see *id.* at 992. See also Reva B. Siegel, *Home as Work: The First Woman’s Rights Claims Concerning Wives’ Household Labor, 1850-1880*, 103 YALE L.J. 1073 (1994). For a rich account of suffragists’ objection to “taxation without representation,” see LINDA K. KERBER, NO CONSTITUTIONAL RIGHT TO BE LADIES: WOMEN AND THE OBLIGATIONS OF CITIZENSHIP 81-123 (1998).

95. See Siegel, *supra* note 63, at 992-93; see also DuBois, *supra* note 42, at 844.

96. See Figures 9 & 10.

97. RESNIK & CURTIS, *supra* note 4, at 117.

98. *Id.*

99. MacKaye, *supra* note 78, at 4-5.

Departure.¹⁰⁰ But cases brought by suffragists in federal and state courts, in which they argued that the Fourteenth Amendment secured women's right to vote, failed to yield the desired result.¹⁰¹ In 1874, the Supreme Court affirmed those outcomes, along with women's legal inferiority, in *Minor v. Happersett*.¹⁰² Unable to gain traction on woman suffrage or other claims to women's equality in the courts, the next generation of suffragists turned to other methods: lobbying in state and federal legislatures, organizing local suffrage groups, and holding lectures.¹⁰³ And when suffragists took their cause to the streets—literally and figuratively—judges proved hostile to their right to protest, convicting suffragists for their public protests and sending them to the workhouse.¹⁰⁴ Understandably, then, early twentieth-century suffrage pageants portrayed the struggle for the vote as a struggle in—and, at times, with—the courts and other institutions responsible for administration of the law.

For example, in her extraordinarily successful 1915 suffrage pageant, *Susan B. Anthony*, MacKaye recreated Anthony's 1873 criminal trial for voting as a travesty of justice.¹⁰⁵ In her handwritten director's notes, MacKaye described Justice Ward Hunt, who presided over Anthony's trial, as "a small-framed, pale-faced, prim looking man"¹⁰⁶ who is plainly biased against Anthony and the suffrage cause. When Hunt orders the all-male jury to enter a guilty verdict against her, Anthony's lawyer objects to the instruction, observing that it is "a direction no Court has power to make in a criminal case."¹⁰⁷ Anthony then takes center stage, challenging her conviction by a jury that was not of her peers, complaining to the court—and the audience—that all of her prosecutors, "from the 8th ward corner grocery politician who entered the complaint, to the U.S. Marshal, Commissioner, District Attorney, District Judge, your honor on the bench,

100. For a detailed description of the New Departure, see DuBois, *supra* note 42, at 852-60. For an analysis of the conditions that constrained the New Departure, see Jack M. Balkin, *How Social Movements Change (or Fail to Change) the Constitution: The Case of the New Departure*, 39 SUFFOLK U. L. REV. 27, 36-49 (2005).

101. Reva Siegel describes the legal arguments made in New Departure litigation in Siegel, *supra* note 63, at 971-74.

102. *Minor v. Happersett*, 88 U.S. (21 Wall.) 162 (1874).

103. See FLEXNER & FITZPATRICK, *supra* note 18, at 149-84.

104. In addition to the notorious arrests and conviction of the Silent Sentinels in 1917, discussed in the text accompanying *supra* note 24, and the arrest of suffragists in New York City in March 1919, discussed in the text accompanying *infra* note 116, suffragists who took to the streets in Boston to greet President Wilson on his return from peace negotiations in Paris were arrested, convicted of loitering, and sentenced to eight days in jail. See IRWIN, *supra* note 21, at 408-10; *Women Jailed in Boston*, THE SUFFRAGIST, Mar. 8, 1919, at 4, 4.

105. Hazel MacKaye, *Susan B. Anthony* (1915), Papers of Hazel B. MacKaye, Dartmouth College Library (unpublished manuscript) (on file with author).

106. *Id.*

107. *Id.*

not one is my peer, but each and all are my political sovereigns.”¹⁰⁸ There is nothing subtle about the critique of legal institutions delivered in *Susan B. Anthony*, but it is worth observing how the past itself functions as a symbolic resource in suffrage pageantry. Suffragists used the pageant—a genre well suited for historical appropriation—to take public ownership of the history of the struggle for woman suffrage and to enlist it in service of the suffrage cause.

During the final years of the suffrage campaign, suffragists did not need to reach very far into the past for pageant-ready material. The incarceration and physical abuse of NWP members for picketing the White House in 1917, described above, attracted considerable media attention and became a key feature of pro-suffrage spectacle.¹⁰⁹ The Carnegie Hall pageant described in the opening vignette of this Essay was one of them.¹¹⁰ It was staged in March 1919, a particularly tense moment in the suffrage campaign. After years of stalling by anti-suffrage legislators, the woman suffrage amendment was finally called to a vote in Congress in February 1919, but it failed by just one vote in the Senate.¹¹¹ In the weeks and months that followed, both the NWP and the more mainstream and much larger NAWSA went into high gear trying to secure the necessary support from the public, national legislators, and the President.¹¹²

As part of that push, the NWP staged a series of public events throughout the country, including a city-to-city train tour on the “Prison Special.” Twenty-six NWP members who had served time in Occoquan for picketing the White House in 1917 toured the country dressed in prison garb.¹¹³ Along the way, they gave speeches describing their arrests and mistreatment at the hands of prison officials.¹¹⁴ The Prison Special ended its tour in New York City in early March 1919, just days after President Wilson traveled through New York on his way to Paris to continue the peace negotiations.¹¹⁵ During Wilson’s brief stay in New

108. *Id.*

109. See Baumgartner, *supra* note 75, at 141-53.

110. The Carnegie Hall pageant was written by Aline Davis Fleisher with Hazel MacKaye’s assistance. See *The Prison Special Tour Ends*, THE SUFFRAGIST, Mar. 29, 1919, at 4, 4-5.

111. *Senate Again Beats Suffrage*, N.Y. TIMES, Feb. 11, 1919, at 1.

112. FLEXNER & FITZPATRICK, *supra* note 18, at 307.

113. For a list of the NWP members who toured on the “Prison Special,” see The Library of Cong., *Suffrage Prisoners*, AMERICAN MEMORY, WOMEN OF PROTEST: PHOTOGRAPHS FROM THE RECORDS OF THE NATIONAL WOMAN’S PARTY, available at <http://memory.loc.gov/ammem/collections/suffrage/nwp/prisoners.pdf> (last visited on June 7, 2011). For contemporary coverage of the Prison Special tour, see *Suffragists Off in ‘Prison Special’*, N.Y. TIMES, Feb. 16, 1919, at 16. See also FORD, *supra* note 17, at 242-43; IRWIN, *supra* note 21, at 407.

114. *Prison Special Arouses the South*, THE SUFFRAGIST, Mar. 8, 1919, at 8, 8-11.

115. See *President and Taft Speak*, N.Y. TIMES, Mar. 5, 1919, at 1; *The Prison Special Tour Ends*, THE SUFFRAGIST, Mar. 29, 1919, at 4, 4.

York, NWP members who attempted to march up Broadway to protest Wilson's tepid support for woman suffrage were greeted by police, who beat back the suffragists with assistance from the mob and arrested several of the protesters on unspecified charges.¹¹⁶

Six days after this fracas, Vida Milholland—the suffragist pictured above behind bars at Occoquan, imprisoned for her protest as a Silent Sentinel outside the White House¹¹⁷—appeared at Carnegie Hall playing Justice. Despite the gowns and upscale venue, there can be little doubt that the Carnegie Hall pageant was an act of protest—one in which the NWP asserted women's right to vote, proclaimed women's right to protest publicly, and exposed the violent mistreatment suffragists had suffered for doing both.¹¹⁸ Justice took the stage, "receiving" a group of "beautifully costumed" women representing the "free nations"—countries in which



Figure 11. *Lucy Branham in Prison Costume Speaking at a Prison Special Meeting*, Mar. 8, 1918.

Reproduced courtesy of *Women of Protest: Photographs from the Records of the National Woman's Party*. Manuscript Division, Library of Congress, Washington, D.C.

116. See IRWIN, *supra* note 21, at 425; *Suffragists Protest at President's Meeting in New York*, *Burn President's Speeches*, 7:11 THE SUFFRAGIST 4, 4-5 (Mar. 15, 1919).

117. See Figure 3.

118. The selection of Vida Milholland to play the role of Justice—and to represent justice denied—was no coincidence. Vida had been imprisoned for picketing the White House, and her sister Inez—who appeared in MacKaye's *Six Periods*—died in 1916 after collapsing while making a suffrage speech. See LINDA J. LUMSDEN, *INEZ: THE LIFE AND TIMES OF INEZ MILHOLLAND 174-73* (2004). For radical suffragists of the NWP, Inez had become the martyr of the woman suffrage cause, and Vida's very presence in the pageant would have resonated.

women had won the vote.¹¹⁹ Meanwhile, the enchained figure of “America” emerged, followed by a group of women dressed in mourning—American women who, mimicking the adjudicative process, then turned to Justice “to make their plea.” Lest the audience miss the essential message, at the end of the pageant several NWP members who had toured on the Prison Special, dressed in prison garb, took the stage and told of their experiences in prison.¹²⁰ Here, Justice figured not as an advocate for woman suffrage, but as a fundamental—albeit unacknowledged—principle of democracy denied to American women.

Speeches delivered after the pageant underscored what was evident in the pageant spectacle: Woman suffrage was a transnational movement, and American women were being left behind the women of other nations. Thus, one of the former NWP pickets explained that “[t]he United States fought for democracy” but it was “Our enemies”—German women—who had been fully enfranchised.¹²¹ The theme of international hypocrisy—that America declared itself a democracy in international negotiations but disenfranchised half of its adult population—had been a staple of NWP rhetoric since the United States entered the war in 1917. When a Russian envoy arrived at the White House in 1917 to discuss Russia’s role in the

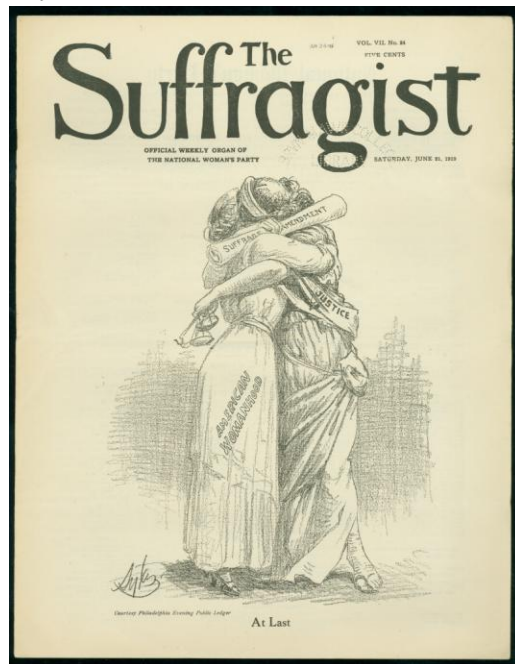


Figure 12.
At Last, Charles H. Sykes,
1919, published on the cover of
The Suffragist, June 21, 1919.

Reproduced courtesy of the Bryn Mawr
College Library, Special Collections.

119. *The Prison Special Tour Ends*, THE SUFFRAGIST, Mar. 29, 1919 at 4, 4-5.

120. *Id.* at 4-5.

121. *Militants Demand a Special Session*, N.Y. TIMES, Mar. 11, 1919 (internal quotation marks omitted).

war, NWP pickets held a banner declaring “Help us make this nation really free. Tell our government that it must liberate its people before it can claim free Russia as an ally.”¹²² It was signs like those, calculated to embarrass the Wilson administration during the war, that had landed the NWP pickets in jail.¹²³ Not coincidentally, then, in March 1919, with Wilson en route to Paris to continue peace negotiations, those same suffragists adopted the figure of Justice to promote suffrage as an imperative for American women. More so than other prevalent female icons, such as Columbia and Liberty—who by the early twentieth century were readily identified as *American* icons¹²⁴—Justice had transnational salience.¹²⁵ Justice imagery in suffrage spectacle drew on that fact: When women around the world sought the vote, they sought it in the name of justice.

As somber as the message of the Carnegie Hall pageant was, it, like *Six Periods*, held out the possibility of a world in which American women would unite with Justice—and “free” women of the world—to bring order to a world in which disorder now reigned. As it turned out, American suffragists did not have to wait long for their vision of justice to become a reality. Three months after the Carnegie Hall pageant, both houses of Congress voted in favor of the woman suffrage amendment.¹²⁶ Commemorating this event—and anticipating the ratification of the Nineteenth Amendment fourteen months later—the cover of the June 1919 issue of *The Suffragist* featured an image of Justice, in flowing robes, holding scales in one hand and a rolled-up copy of the “Suffrage Amendment” in the other. She stands in an impassioned embrace with a woman in a dress labeled “American Womanhood.” The caption reads: “At Last.”¹²⁷ The NWP chose Justice to represent the suffragists’ victory in Congress. And, by 1919, it was not just suffragists who identified woman suffrage with Justice. The same image of Justice embracing

122. *The Woman’s Party Appeals to the Russian Mission*, THE SUFFRAGIST, June 23, 1917, at 7.

123. See Haig A. Bosmajian, *The Abrogation of the Suffragists’ First Amendment Rights*, 38 W. SPEECH 218, 220-21 (1974).

124. Columbia had long been a symbol of America and American ideals. See Thomas J. Schlereth, *Columbia, Columbus, and Columbianism*, 79 J. AM. HIST. 937 (1992). Although Liberty began as a gift from France to America on the occasion of the celebration of the centennial of American independence from Great Britain, by the early twentieth century Liberty was firmly associated with the story of American immigrants who had flooded to America seeking freedom and opportunity. See WARNER, *supra* note 38, at 15.

125. RESNIK & CURTIS, *supra* note 4, at 8 (observing that the “linkage of state power with Justice images spans continents and differently constituted polities” in Europe, North and South America, Africa, Australia, and Asia).

126. See *Suffrage Wins in Senate; Now Goes to States*, N.Y. TIMES, June 5, 1919, at 1. The Nineteenth Amendment was ratified by the requisite thirty-six states, and became law, in August 1920. *Colby Proclaims Woman Suffrage*, N.Y. TIMES, Aug. 27, 1920, at 1.

127. Figure 12.

“American Womanhood” that appeared on the cover of *The Suffragist* in June 1919 had appeared a couple of weeks earlier in the *Philadelphia Public Ledger*.¹²⁸ Justice had become a mainstream icon of woman suffrage.

CONCLUSION

There is no way to calculate the efficacy of suffrage spectacle, much less make a fine-grained determination of Justice’s role in securing support for woman suffrage.¹²⁹ But we can be certain that, in the hands of American suffragists, the figure of Justice functioned simultaneously as a protest device and a mediating figure. At once a symbol of law’s unwavering commitment to fairness and to expediency, her figure reproduced the duality within the American suffrage movement regarding the justifications for woman suffrage. At once powerful and feminine, her image helped suffragists reconcile tensions between the notion of women as political actors and the conventional conception of womanhood embraced by the anti-suffrage movement. As in suffrage art, Justice appeared in suffrage pageantry as a legible reference to the law’s transcendental commitment to fairness, portraying woman suffrage as a realization of the true nature of the Constitution, rather than a seismic break with tradition.¹³⁰ Finally, as she appeared in suffrage pageants, Justice dramatically connected woman suffrage to a narrative of national and transnational progress in which the enfranchisement of women was the inevitable conclusion of the arc of American and human history that moves from injustice to justice.

The story of suffragists’ appropriation of Justice as a suffrage icon confirms the importance of recent constitutional historiography that insists that one look beyond the courts to identify the origins and nature of much constitutional change in the American system.¹³¹ And it suggests

128. Charles Henry Sykes, *Met, at Last!*, PHILA. EVENING PUB. LEDGER, June 5, 1919, at 30.

129. Unsurprisingly, there are all manner of competing explanations for why American suffragists prevailed in securing a constitutional woman suffrage amendment when they did. Some emphasize the centrality of the NWP’s militant tactics. See, e.g., FORD, *supra* note 17, at 8; LUNARDINI, *supra* note 20, at xiv. Others tend to emphasize the importance of the “winning plan” of Carrie Catt, president of the NAWSA in the final years of the suffrage campaign. See FLEXNER & FITZPATRICK, *supra* note 18, at 263-68, 309-17. Stanley Lemons argues that the two organizations’ competing tactics operated together: “The militancy of the National Woman’s Party only emphasized the reasonableness of the NAWSA’s position.” J. STANLEY LEMONS, *THE WOMAN CITIZEN: SOCIAL FEMINISM IN THE 1920S*, at 10 (1973). Others have focused on the central importance of institutional organization and political resources. See, e.g., Alana S. Jeydel, *Social Movements, Political Elites and Political Opportunity Structures: The Case of the Woman Suffrage Movement from 1890-1920*, 27 CONGRESS & THE PRESIDENCY 15, 36 (2000).

130. See *supra* note 63 and accompanying text.

131. See, e.g., BARRY FRIEDMAN, *THE WILL OF THE PEOPLE: HOW PUBLIC OPINION HAS INFLUENCED THE SUPREME COURT AND SHAPED THE MEANING OF THE CONSTITUTION* (2009); RISA

that one should look, not just to legislatures and administrators and the executive branch, but to ways that individuals—operating both independently and in concert—harness and invent rituals, symbols, and images to bring about constitutional change and changes in constitutional consciousness.¹³² In other words, while suffragists surely used Justice to secure formal law reform—the enactment of a woman suffrage amendment—they also used her to register and prompt a transformation of men's and women's collective consciousness about women as equal citizens: the belief that women are rights-holders under the Constitution and can draw on its rules and norms to protect those rights.¹³³

Finally, suffragists' appropriation of Justice as a suffrage icon serves as a case study of the complexities of constitutional change and the importance of human agency. Although suffragists proclaimed women's enfranchisement as a natural and necessary consequence of settled constitutional values and principles, their multi-decade struggle to secure woman suffrage—and the sometimes brutal resistance to their claim of equal citizenship—belies all assertions of inevitability. To transform women's demand for suffrage into a coherent and resonant claim that, for all its boldness, could be made to appear part of the arc of national progress and an inevitable outgrowth of the constitutional principles of equality and justice took conviction, bravery, impeccable organization, funding, and creativity. The state had inadvertently aided the suffragists' cause by imbuing the symbols, rituals, and representations of Justice to stand for the law's highest aspirations, thus equipping suffragists with a powerful cultural resource. But it was the suffragists who recognized Justice's iconographic salience and resonance, and seized the opportunity to exploit the disjunction between the ideals represented by Justice and American women's lived experience of the law and to tell a powerful story of injustice. In this respect, the suffragists' successful appropriation of Justice and related judicial iconography serves as evidence of the power of art, and as a reminder not to cede the power of representation to the state.

GOLUBOFF, *THE LOST PROMISE OF CIVIL RIGHTS* (2007); MICHAEL J. KLARMAN, *FROM JIM CROW TO CIVIL RIGHTS: THE SUPREME COURT AND THE STRUGGLE FOR RACIAL EQUALITY* (2004); GERALD LEONARD, *THE INVENTION OF PARTY POLITICS: FEDERALISM, POPULAR SOVEREIGNTY, AND CONSTITUTIONAL DEVELOPMENT IN JACKSONIAN ILLINOIS* (2002); Kenneth W. Mack, *Rethinking Civil Rights Lawyering and Politics in the Era Before Brown*, 115 YALE L.J. 256 (2005).

132. For examples of recent scholarship that has incorporated analysis of public protest as part of the process of constitutional transformation, see KRAMER, *supra* note 5, at 168, 197-98; and Rowe, *supra* note 5. Lynda Dodd appropriately described the NWP's public tactics as "a case study of popular constitutionalism." Dodd, *supra* note 2, at 353-54.

133. See Hendrik Hartog, *The Constitution of Aspiration and "The Rights That Belong to Us All"*, 74 J. AM. HIST. 1013, 1015, 1032 (1987).