

ESSAYS

FOREWORD TO *WHEN A WOMAN CAMPAIGNS: EMILY SLOAN'S RACES TO BECOME MONTANA'S FIRST FEMALE COUNTY ATTORNEY*

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Emily Sloan was not the first woman to run for public office in Montana; Ella Knowles, the state's first female attorney, ran for Attorney General in 1892,¹ long before women were granted suffrage nationally² or in

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Emily Sloan was Montana's first female county attorney, elected in 1924. She wrote a memoir, *This Life of Mine*, a chapter of which is reproduced in the following essay, Emily E. Sloan, *When a Woman Campaigns*, 74 Mont. L. Rev. 355 (2013). Since discovering Emily's memoir 21 years ago, I have been researching her life. This foreword is one section of a full-length biography of her on which I am currently working.

For more biographical information about Emily Sloan, see Emily E. Sloan, *Completing My Education*, 52 Mont. L. Rev. 419 (1991); Bari R. Burke & Margaret Bentwood, *Honoring Emily E. Sloan: A Special Student*, 52 Mont. L. Rev. 429 (1991); Emily E. Sloan, *The Coming American Woman*, 59 Tenn. L. Rev. 469 (1992); and Bari R. Burke, *Afterword: Pulling for the Shore of Independence*, 59 Tenn. L. Rev. 479 (1992).

1. Ella Knowles was admitted to practice in Montana in 1889. For more on her law career, see Richard B. Roeder, *Crossing the Gender Line, Ella L. Knowles, Montana's First Woman Lawyer*, 32 Montana: The Magazine of Western History 64 (1982), and Sherry Scheel Matteucci, *Montana's 1st Female Attorney Ella Knowles*, 33 Montana Lawyer 5, 7 (2008).

2. The Nineteenth Amendment to the United States Constitution, ratified in 1920, granted women full suffrage in all states. The Nineteenth Amendment did not enfranchise all women, however. Most Native Americans had to await passage of the Indian Citizenship Act in 1924 to exercise their right to vote. Even then, state law governed suffrage, and some states prohibited Native Americans from voting.

Montana³. Helen Piotopowaka Clarke was the first woman elected to public office in Montana; she was elected Lewis and Clark County Superintendent of Schools in 1882.⁴ Nor was Emily Sloan the first woman to run for public office after women had been granted full suffrage rights in Montana in 1914: Jeannette Rankin ran for, and was elected to, a seat in the United States House of Representatives in 1916;⁵ Margaret Smith Hathaway⁶ and Emma A. Ingalls⁷ ran for, and were elected to, the state legislature in 1916; and May Trumper ran for, and was elected to, the office of Superintendent of Public Instruction in 1917.⁸

Yet Emily Sloan may have run for office more frequently than any other woman in Montana during the 1920s and 1930s (or longer). She ran for state legislature in 1920. She ran for Carbon County Attorney in 1922, 1924, and 1926. She again ran for state legislature in 1928. She ran for police judge in 1935. She ran for clerk of the district court in 1938. In between, in 1932, she was a write-in candidate for district court judge in the Thirteenth Judicial District, making her the first female candidate for district court judge in Montana. She won only one of those eight races—the election of 1924, becoming the first female county attorney in Montana.

Surprisingly and ironically, Emily was not particularly interested in politics. Her initial motivation for entering politics and seeking so dog-

3. Montana women (but only non-Native women) were granted full suffrage in 1914. For more on the Montana suffrage campaign, see e.g. Ronald Schaffer, *The Montana Woman Suffrage Campaign, 1911-14*, 55 *Pacific Northwest Quarterly* 9 (1964); T. A. Larson, *Montana Women and the Battle for the Ballot*, 23 *Montana: The Magazine of Western History* 24 (1973); and Paula Petrik, *No Step Backward: Women and Family on the Rocky Mountain Mining Frontier, Helena, Montana 1865-1900* 115–133 (Mont. Historical Socy. Press 1990).

4. Ms. Clarke was not simply the first woman elected to public office in Montana; she was also the first Native American (woman) elected. Her mother was Blackfeet. Ms. Clarke was re-elected in 1884. Montana History Wiki, <http://montanahistorywiki.pbworks.com/w/page/21639801/People> (accessed Mar. 6, 2013).

5. As the first woman ever elected to the United States House of Representatives, Jeannette Rankin has been the subject of many biographies. See e.g. James J. Lopach & Jean A. Luckowski, *Jeannette Rankin: A Political Woman* (U. Press of Colo. 2005); Norma Smith & Kathryn Anderson, *Jeannette Rankin: America's Conscience* (Mont. Historical Socy. 2002); Kevin S. Giles, *Flight of the Dove: The Story of Jeannette Rankin* (Touchstone Press 1980).

6. Margaret Smith Hathaway (D-Stevensville) served from 1917 through 1921 in Montana's House of Representatives. For more on Ms. Hathaway's life, see Harold Tascher, *Maggie and Montana: The Story of Maggie Smith Hathaway* (Exposition Press 1954).

7. Emma A. Ingalls (R-Kalispell) served one term, from 1917 through 1919, in the Montana House of Representatives. The Montana Historical Society has more information on Ms. Ingalls, available at <http://mtscprod.msl.mt.gov/uhtbin/cgiisirs/?ps=6h3c7EQy1K/MT-HIST/43570332/9> (accessed Mar. 6, 2013).

8. May Trumper (R) served from 1917 through 1929 as Superintendent of Public Instruction. In the 1916 election, Miss Trumper “[had] the largest majority of any candidate in the state.” *Miss Trumper Gets Largest Majority*, *Kalispell Daily Inter Lake* 1 (Nov. 13, 1916); Montana History Wiki, *Women Elected Officials*, <http://montanahistorywiki.pbworks.com/w/page/21639875/women%20Elected%200officials#statewideelectednbsppofficialsnbsp> (accessed Apr. 16, 2013).

gedly to be elected was to become a successful attorney. Lawyers and a judge or two advised her that she should get into the limelight and stay there to become known and establish her law practice; they told her that politics was the way into the limelight. Emily was so committed to becoming a successful attorney that she willingly entered these political races despite the number of her losses and the emotional and financial costs of campaigning.

Perhaps more surprisingly, Emily originally had no interest in studying or practicing law. She lasted long enough on a remote ranch to which her husband had relegated her to raise four children before she decided that she had to do whatever it took to free herself, saying, “[I had] made up my mind that I was not going to live the second half of my life practically a prisoner on a dry ranch.” Becoming a lawyer was her means of escape.⁹

Emily Eva Mullenger Sloan was born October 27, 1878, in Wisconsin. She was married by the time she turned 17 to a man she thought would take her away from—and make up for—her inattentive and unaffectionate family. Not long after their marriage, Al Sloan moved them to a homestead in South Dakota about thirty miles from town on which sat a cabin Emily described as “a tar-papered shack, ten by twelve feet in dimension” and inside of which “there was a small old-fashioned cook stove, with the stove pipe going right through a hole in the roof.”¹⁰ There were no trees, but only “grass and sage brush as far as the eye could reach.”¹¹ Water was scarce, and sometimes Emily had to ride horseback for a mile to get drinking water. Neighbors were few, the nearest miles away. A trip to town took two full days. Her husband was often gone, moving horses and sometimes working for other ranchers. Emily keenly felt her isolation from human society during the years she remained on the homestead raising four children—Edith, Elsie, Dean, and Stanley. Emily hated her years on this desolate ranch.¹²

Sometime around 1913, Emily’s husband learned about the American School of Correspondence, and he decided that they should study the Law Course.¹³ She was not interested, and she told him so. He raised the subject a year later, and nothing she said silenced him. Finally, Emily told him:

9. Emily E. Sloan, *This Life of Mine* 289 (unpublished manuscript, date unknown) (copy on file with the author).

10. *Id.* at 195.

11. *Id.*

12. *Id.* at ch. 14.

13. It isn’t apparent why Al Sloan suggested that he and Emily study law (although it is clear that he never intended to complete law study and himself become a lawyer). Perhaps he hoped that Emily would become a lawyer and earn enough to support them both. He was not known as a hard worker, and he never made much money. *Id.* at 270.

All I wanted was to write. I would study anything in that line I could get my hands on. He said if I thought he would be damned fool enough to give me money or spend his money on anything like that, I just didn't know him. Well, I knew him, all right. He talked a whole afternoon. Finally, when I could endure no more I said, "O-kay. I'll take the law. If I can't have a whole loaf, I'll take a half of one, and convert it into what I want."¹⁴

Emily compromised and agreed to study law because she realized that "if I ever escaped that barren old ranch, it would be through brain work and not otherwise." So she enrolled in the Law Course of the American School of Correspondence.¹⁵ Although she found the law textbooks "dry and uninteresting,"¹⁶ Emily studied law by correspondence for two years and then went to Pierre, South Dakota, to take the bar examination. She failed.¹⁷

Not many years later, when her children were mostly grown (Edith had married, Elsie had begun teaching school, and her sons were young men), Emily decided it was time to leave the ranch and Belle Fourche, and study law in college. She applied to the University of South Dakota School of Law and The University of Montana School of Law (then called Montana State University), ultimately choosing to enroll in Montana's law school because it was farther away from the ranch.¹⁸ She studied there from October 1, 1917, to June 1, 1919, but she left school before she was ready and before she graduated because she could not afford to stay.¹⁹ She took and passed the Montana Bar Examination and began practicing law in Billings, Montana, in 1919.²⁰ Emily divorced her husband in 1924, continuing to practice law, primarily in Billings, until about 1939.²¹

Although practicing law was not her first choice of career (and maybe not even a genuine choice), Emily was committed to doing whatever it took to succeed. Neither law nor electoral politics were natural habitats for women in the early twentieth century. To succeed at one, Emily was told, she needed to succeed, or at least actively participate, in the other. Perhaps

14. *Id.* at 271.

15. Her husband read "one small text book through" and gave up his study after announcing, "Why, mommy, there's nothing to it. I could learn all the law there is, in three months." Sloan, *supra* n. 9, at 272.

16. *Id.*

17. *Id.*

18. *Id.* at 289.

19. Emily described her law school experience in an essay, *Completing My Education*, *supra* n. *. Four women preceded Emily Sloan into The University of Montana School of Law: Bernice Selfridge Forbes (graduated 1915), Edna Rankin (Jeannette Rankin's sister) (graduated 1918), Jane Bailey (graduated 1918), and Mary Frances Garrigus (graduated 1918).

20. Emily was the 21st woman admitted to practice in Montana. See Appendix I: *Women Admitted to the State Bar of Montana: 1889-1939*.

21. Unable to make a living practicing law even after two decades of trying, Emily moved to Washington to be near her daughters. Sloan, *supra* n. 9, at 555.

unknown to her advisors, that was a risky strategy for women, because few women succeeded in the 1920s in either.

Admittedly, the 1920s seemed to hold promise for women in both law and politics. By 1920, there were 1,738 female attorneys (and 120,781 male attorneys) in the United States;²² women had been admitted to 102 of the 142 law school in the United States,²³ and about 1,000 women were enrolled in law schools;²⁴ women had been admitted to practice in all 48 states;²⁵ and the American Bar Association opened membership to women lawyers in 1918.²⁶ Some women managed both to marry and practice law. Yet few female lawyers managed to support themselves by practicing law in the 1920s and 1930s. Employment opportunities available to women lawyers only rarely matched those available to male attorneys. In fact, “[w]omen lawyers in the early twentieth century typically practiced law at the bottom of the professional ladder and lagged behind their men colleagues both economically and professionally.”²⁷ In response to a survey conducted by the Bureau of Vocational Information, female lawyers throughout the United States reported “the near impossibility of finding even a modest clerkship or office position.”²⁸ Thus, law was not a particu-

22. Virginia G. Drachman, *Sisters in Law: Women Lawyers in Modern American History* 253 (Harvard U. Press 1998):

1870	5 female lawyers	40,731 male lawyers
1880	75 female lawyers	64,062 male lawyers
1890	208 female lawyers	89,422 male lawyers
1900	1,010 female lawyers	113,693 male lawyers
1910	558 female lawyers	114,146 male lawyers.

Thirty-eight percent of the women lawyers in 1920 did not practice law. Virginia G. Drachman, *The New Woman Lawyer and the Challenge of Sexual Equality in Early Twentieth-Century America*, 28 *Ind. L. Rev.* 227, 229 (1995).

In Montana, 24 women had been admitted to practice by the end of 1920; another five women were admitted to practice during the 1920s. See Appendix I.

23. Drachman, *Sisters in Law*, *supra* n. 22, at 118.

24. *Id.* at 175.

25. Sue Heinemann, *Timelines of American Women's History* 53 (Berkeley Publishing Group 1996).

26. Drachman, *Sisters in Law*, *supra* n. 22, at 236.

27. *Id.* at 168.

28. *Id.* at 216. But Barbara Allen Babcock, in *Feminist Lawyers*, 50 *Stan. L. Rev.* 1689, 1699 (1998), challenged Drachman's opinion that success of early women lawyers was “modest, not monumental.”

According to Barbara J. Harris, however, “most historians see the 1920s as a period when the movement of women into the professions slowed down and in some areas, such as medicine, reversed itself.” *Beyond Her Sphere: Women and the Professions in American History* 139 (Greenwood Press Inc. 1978).

In Montana, 18 women were admitted to practice between 1912 and the end of 1920; five women were admitted to practice between 1921 and 1930, none in 1927, 1928, and 1929. See Appendix I.

larly hospitable environment; “bleak” was the word Virginia Drachman used to describe the situation for women attorneys during the 1920s.²⁹

Certainly, there were women who made a successful life in the law, but they were exceptions. Many of those who did succeed had the help of family members,³⁰ such as lawyer-fathers,³¹ lawyer-husbands,³² or lawyer-brothers.³³ They also grew up with advantages,³⁴ some in economically secure homes, and many who had parents who approved of their decision to become a lawyer or at least did not vehemently disapprove.³⁵

Politics also appeared to offer promise to women in the 1920s. It was in 1920 that the Nineteenth Amendment was ratified,³⁶ and women in all states could vote (at least theoretically) in all elections.³⁷ Gaining the vote was not, however, the equivalent of being elected to and serving in public office, even in the minds of suffrage advocates. Suffragists did not openly set their sights on political office; indeed they denied that electing women to office or serving in office, or both, were aspirations of the suffrage movement:

29. Drachman, *Sisters in Law*, *supra* n. 22, at 221.

30. *Id.* at 184.

31. Throughout her childhood, Alice McClanahan’s father referred to her as “his partner, Brooks” and, after becoming a lawyer in 1919 and practicing with Legal Aid for three years, she became her father’s law partner. Alice M. McClanahan, *Her Father’s Partner: The Story of a Lady Lawyer* 10 (Vantage Press 1958).

32. After graduating from the University of Mississippi Law School in 1922, Lucy Somerville was employed in her brother-in-law’s law firm for four years, learning to be a lawyer. She married Joseph Howarth in 1928, and they moved to Jackson, Mississippi, where they practiced law together. Dorothy S. Shawhan & Martha H. Swain, *Lucy Somerville Howorth: New Deal Lawyer, Politician, and Feminist from the South* 35–58 (La. St. U. Press 2006).

33. In the early 1920s, Pearl Tyler studied law in her brother’s office. She was admitted to practice in Idaho in 1922. She became a law librarian rather than a practicing lawyer. Debora K. Kristensen, *1895–1975: The First 50 Women in Idaho Law* 13–14 (Idaho St. Bar 2005).

34. *Called from Within: Early Women Lawyers of Hawai’i* 7 (Mari J. Matsuda ed., U. of Hawai’i Press 1992).

35. “[Early women lawyers’] stories confirm similarities in their experiences of support and encouragement: middle class parents who encouraged education for their daughters, widespread assistance from the women’s movement in the late 19th and early 20th centuries, and timely interventions on the part of a number of prominent men who shared their ideas about equality for women.” Mary Jane Mossman, *Book Review*, 5 Cal. Leg. History: J. of the Cal. Sup. Ct. Historical Socy. 339–348 (2010) (Reviewing *Woman Lawyer: The Trials of Clara Foltz*).

36. Many western states granted women full suffrage earlier. Wyoming was the first state to grant full suffrage to women, doing so in 1869; then, Colorado (1893); Utah and Idaho (1896); Washington (1910); California (1911); Oregon, Kansas, and Arizona (1912); Montana and Nevada (1914); and South Dakota and Oklahoma (1918). But the chronology is not quite this simple, because, for example, Utah first granted full suffrage to women in 1870, but it was rescinded in 1887; and Washington first granted full suffrage to women in 1883, but rescinded it in 1887.

37. In some states, eligibility for voting was not the same as for holding public office. For example, in Missouri, women were not eligible to run for public office until 1922, after a state constitutional amendment was adopted. See Elizabeth M. Cox, *Women State and Territorial Legislators, 1895–1995: A State-by-State Analysis, with Rosters of 6,000 Women* 23 (McFarland & Co. 1996).

The idea that women would run for and occupy political offices in large numbers was not a primary focus of arguments for and against women's suffrage. . . . [A]n article in the *Woman Citizen* in 1919 assured readers that though some suffrage leaders had been proposed for high political office, "most of them have no wish for anything of that sort."³⁸

Nonetheless, and perhaps unsurprisingly, the women who participated in the suffrage movement comprised a large number of those women who ran for political office during the decade of the 1920s. About half of the women who served in state legislatures during the 1920s had been active suffrage advocates.³⁹ Many female candidates also had experience in women's organizations and clubs (e.g., League of Women Voters, Women's Peace Party).⁴⁰ Some women had served as campaign workers or participated in party politics. The women who ran for political office in the decade after suffrage also tended to be well-educated and middle-class.⁴¹

Unlike most male politicians, most of the women who ran for office likely did so out of their sense of public obligation rather than personal ambition, for altruistic reasons "or to accomplish certain collective ends, and not to gain a share of the political spoils"⁴² Female candidates were particularly interested in "social welfare, education, hygiene, and other women's and children's issues, as well as issues involving moral conduct."⁴³

Some women were convinced to run by male party leaders who believed that putting women on their ticket would draw female voters who were newly enfranchised.⁴⁴ Indeed, political parties frequently nominated women as "sacrificial lambs . . . [and] a large proportion of the major parties' nominations of women [took] place in situations where the party was in the minority."⁴⁵

38. Kristi Andersen, *After Suffrage: Women in Partisan and Electoral Politics before the New Deal* 111 (U. Chi. Press 1996). "[I]n examining the thinking of the political theorists, the historical background of our present political system, and the female suffrage movement . . . the idea that women would hold public office in any large numbers was simply not contemplated or envisioned." Robert Darcy, Susan Welch & Janet Clark, *Women, Elections, and Representation 2* (U. Neb. Press 1994).

The same appears to be true in Montana. Maggie Smith Hathaway told an audience listening to her advocate women's suffrage that "the holding of public offices by women was not the issue and pointed out that very few ladies had been elected in the states granting woman's suffrage." Tascher, *supra* n. 6, at 65.

39. Andersen, *supra* n. 38, at 135–136.

40. *Id.* at 17.

41. *Id.* at 137.

42. *Id.* at 128.

43. *Id.* at 133. Other "women's" issues included equalizing inheritance and promoting protective and regulatory legislation.

44. *Id.* at 135–136.

45. Andersen, *supra* n. 38, at 126.

Regardless of their motivation for running or the issues they identified, “[o]nce women were nominated, most of them had an extremely difficult time winning elections.”⁴⁶ Altogether “women won election to only about 2 percent of all state legislative seats in the United States from 1920 to 1928.”⁴⁷ Although “[t]he number of women state legislators did rise from 33 in 1921 to 149 in 1929, [it] was a tiny fraction of the almost 10,000 men in offices.”⁴⁸ There is no official compilation of how many women ran for state legislature.⁴⁹ The number of female local office-holders rose significantly during the 1920s, and women in local government positions were relatively common by 1929.⁵⁰

Emily entered politics in 1920. Neither an active suffrage advocate nor an active member of any women’s organization, Emily was not the typical female candidate for public office in the 1920s. She had spent her adult life raising four children, marooned on a ranch away from people and places where people met. Emily came to Montana in 1917 and spent the next two years in law school in Missoula; she was not well-known in Billings or Red Lodge, and thus lacked the family, community, or organizational support of many female candidates during the 1920s. Unlike many female state legislators in the 1920s, Emily was a lawyer.⁵¹ Also unlike most of the female candidates for state legislatures, Emily ran as part of a strategy to build a financially successful law practice and not out of a sense of public obligation.⁵²

46. *Id.* at 124.

47. Heidi J. Osselaer, *Winning Their Place: Arizona Women in Politics, 1883–1950* 81 (U. Ariz. Press 2009).

48. Nancy F. Cott, *The Grounding of Modern Feminism* 110 (Vail-Ballou Press 1987). Between 1920 and 1925, 141 women served in state legislatures. Cox, *supra* n. 37, at 24. “The number of women serving in state legislatures grew to 146 by 1931” Andersen, *supra* n. 38, at 17.

49. According to Kristi Andersen:

No easily available record exists of the number of women who *ran* for state legislative seats during this time, though the *Woman Citizen* attempted to list all female candidates at least during the mid-1920s. In November of 1922, for example, it surveyed all states for names of women candidates for state and national office; thirty-seven states responded, and these listed 179 female nominees for state legislative seats (either in the Senate or the House). Projecting the same rate of nomination onto the eleven states that didn’t respond (which were not concentrated in any particular region) produces an estimate of 232 legislative candidates in the 1922 elections.

Andersen, *supra* n. 38, at 117. Emily Sloan was one of those 232 legislative candidates. Apparently 98 women were elected, *id.*; Emily was not. Of course, some women ran before 1920 in those states in which women had been granted suffrage before the Nineteenth Amendment had been ratified.

50. *Id.* at 17.

51. “Strange to say, only 3 percent of these lawmakers [women state legislators] are lawyers, although many are the daughters or wives of lawyers.” *Id.* at 137 (quoting Dorothy Moncure, *Women in Political Life*, 29 *Current History* 639–643 (Jan. 1929)). In Arizona, only three of the thirty-five women elected to the state legislature between 1914 and 1950 had legal training. Osselaer, *supra* n. 47, at 94.

52. One other early woman lawyer thought that serving in a state legislature improved her chances of building a successful law practice. “Ruth Averill, elected in 1920 to the Nevada state legislature, for

Emily's essay, *When a Woman Campaigns*,⁵³ describes three of her campaigns: her exceptionally brief campaign for state legislature in 1920 and her first two races for Carbon County Attorney in 1922 and 1924.⁵⁴ Few women who ran for public office wrote about their campaigns, and few others have described the campaigns of these early women politicians.⁵⁵

Emily ran for office before campaign strategy and law⁵⁶ were as complex as today. She describes simple campaigns: she donned the clothes she owned; she walked or hitchhiked in buggy and car; she met voters face-to-

example, was a young law school graduate who said 'the experience helped to launch me into the profession which I intend to follow from now on, namely, law.' She was unusual in the way she saw politics as part of a career, and did not hesitate to admit it." Andersen, *supra* n. 38, at 131.

53. Emily E. Sloan, *When a Woman Campaigns*, 74 Mont. L. Rev. 355 (2013) (following this Foreword).

54. At least two other women ran for county attorney in other states in the early 1900s—Jessie Junette Nye and Kate E. Neville Feltham. Immediately after graduating from Washburn Law School in 1912, Ms. Nye (Washburn's first female graduate) ran for Harvey County Attorney in Newton, Kansas, on the Democratic ticket. She lost by a vote of 2,308 to 1,487. Linda Diane Henry Elrod, *Washburn Law School Celebrates a Century of Welcoming Women*, 42 Washburn L.J. 853, 872 (2004). Ms. Feltham was elected in 1926 "to serve as prosecuting attorney for Washington County, the first woman to hold a prosecuting attorney position in Idaho." Kristensen, *supra* n. 33, at 9–10.

55. May Trumper wrote a brief memoir that includes mention of campaigning. May Trumper, *May in Montana* (self-published 1954). Gertrude Bryan Leeper, a Democrat, served in the Arizona legislature from 1930 to 1931. She wrote about that experience, including her campaigning, in *Lady in the Legislature*, *The Forum* 54 (July 1932).

Harold Tascher's biography of Margaret Hathaway includes a brief description of her campaigns. Tascher, *supra* n. 6, at 67–68, 79–80, 87–88. Lucy Somerville Howorth was an early and ultimately successful lawyer in Mississippi who ran for and was elected to the Mississippi Legislature in 1931. Shawhan & Swain, *supra* n. 32, at 61–66. Teva J. Scheer's biography of the first female governor of Wyoming, *Governor Lady: The Life and Times of Nellie Tayloe Ross* (U. Mo. Press 2005), contains information about Ross's campaign for governor.

56. Emily Sloan could have been a party to a case interpreting election law involving write-in candidates. In a primary election on July 19, 1932, Emily received one of two write-in nominations for district judge of the Thirteenth Judicial District. The Democratic Party ticket was open to only two candidates; George Smith (Billings City Attorney) received 77 votes, Emily received 58, and Henry Myers received 33. *Woman to Seek Place on Bench*, *Billings Gazette* 4 (Aug. 14, 1932); *Courts May Decide Status of Woman for District Court*, *The Helena Daily Independent* 5 (Sept. 2, 1932); *Peculiar Election Case Before Court*, *Kalispell Daily Inter Lake* 8 (Sept. 6, 1932).

Emily told the following story about the election:

Came the Primary election the 19th day of July and my name was written in on the ballot, as was also the name of George S. Smith, a sufficient number of times that we received our certificates of nomination and were declared candidates for District Judge on the Democratic ticket. However, the Secretary of State, Sam Mitchell, did not send these certificates until after the time limit for us to pay our filing fees. Ex-Governor Sam Steward, who was then a Justice of the State Supreme Court, paid my filing fee as soon as he heard of the election returns at Billings. . . . I had no funds and after a week or two I found it wasn't any fun explaining why I wasn't out campaigning. . . . I knew of no way to raise money for a campaign. Sure, I had friends. But everybody was broke. Nobody was taking any chances. People kept telling me that they would vote for me. I stood out so conspicuously broke that I decided to drop out of sight for a while.

Sloan, *supra* n. 9, at 475–476. Emily left for Minneapolis to avoid explaining why she wasn't campaigning; her name was not on the ballot for the general election.

face distributing campaign cards; she stayed loyal to her party; and she appreciated people's kindnesses. Mostly she persevered.

Emily said that she "kept notes on myself," reflecting on what worked or didn't and determined that when she was true to herself (followed her own hunches, said things she really thought), she received a larger vote. Throughout her life, Emily mostly followed her hunches and said what she thought.

I suspect you will find some surprises in her chronicle of these three campaigns. As she says, Dame Fashion played a major, perhaps determining, role in the outcomes, and men were likely, and maybe more than women, to support Emily. You might also note that after twenty years practicing law, Emily did not succumb to standard legal writing.

Emily Sloan is a remarkable figure in Montana history—a brave and resolute woman who practiced law for nearly twenty years and ran for public office seven times early in the twentieth century. She practiced law because that was the best of the escape routes open to her, and she obediently ran for office to boost her chances of succeeding at law. Although neither practicing law nor running for public office were her first choices, she committed herself wholeheartedly to those enterprises. She remained true to her calling as well: she never gave up her writing. At her death, she left behind a memoir, a volume of published poetry, a published novel, many short stories, hundreds of unpublished poems, a journal of her last few years, letters, and more.

At the risk of dispensing with professorial or professional objectivity, I offer my hope that you enjoy this small chapter in Emily's life story. Carol Sanger, a law professor and writer, warns biographers to remain alert for "signs of unguarded affection for . . . their subjects."⁵⁷ I note my affection for Emily and suspect that you might find yourself with a similar sentiment.

Montanans elected their first female district court judge, Diane Barz, in 1978. *Montana Elects First Female District Judge*, *The Spokesman-Review* 9 (Nov. 9, 1978).

57. Carol Sanger, *Curriculum Vitae (Feminae): Biography and Early American Women Lawyers*, 46 *Stan. L. Rev.* 1245, 1252 (1994).

APPENDIX I
WOMEN ADMITTED TO THE STATE BAR OF MONTANA:
1889–1939⁵⁸

- 1889 Ella Knowles [Haskell]
- 1901 Eveleen Kennedy
- 1902 Josephine Harris Sherwood
- 1906 Pearl Kennedy Hilbert
- 1909 Anna Marie Lambert
- 1910 Marguerite Young
- 1912 Cora C. Miles
- 1914 Elsa M. Fasel
- 1915 Harvena M. Cannon
- 1915 *Bernice Selfridge Forbes
- 1915 Nellie J. Wilson
- 1916 Hedwig Federle
- 1916 Ethel S. Abbott
- 1917 Jessie Roscow
- 1918 Cynthia Coles
- 1918 *Edna Rankin [McKinnon]
- 1918 *Jane Bailey
- 1918 *Mary Frances Garrigus
- 1918 Nellie MacNamara
- 1918 Helen A. Henderson Glover
- 1919 Emily E. Sloan
- 1919 Teresa M. Fitzgerald
- 1919 Eglantine Bessette Roper
- 1920 *Helen Fredericks Leber
- 1921 Fanny Neyman
- 1923 *Louis Harriet James Schnebly
- 1925 *Virginia Marie McGuire Fitz
- 1926 *Geraldine M. O'Hara Grant MacDonald
- 1926 Louise A. Steele
- 1930 *Frances Caroline Elge
- 1930 Mabel E. Crenshaw
- 1931 Laura Page Knudson
- 1932 *Dorothy Marie Hannifin
- 1933 *Astrid Arnoldson
- 1938 *Margaret Holmes [McDowell]
- 1939 Sara Jane Reynolds Kaulback

58. This list was compiled by the author and Margaret Bentwood by reviewing the beginning pages of the *Montana State Reporter* from 1889 to 1969. The names preceded by an asterisk are graduates of The University of Montana School of Law. The others either attended a law school out of state or read for the law and never attended law school. Emily Sloan attended The University of Montana School of Law but did not graduate.

