The View from the **Border: West Virginia Republicans and** Women's Rights in the Age of Emancipation ARLESTON

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ABSTRACT

In 1866, the West Virginia Supreme Court of Appeals upheld a divorce issued to a woman who had fled her home after her husband had been "negligent, intemperate in drinking ardent spirits, and abusive and violent to her, frequently beating her with great bodily hurt." The ruling by the state supreme court ensured Aveline Hitchcox's divorce, rights to all her pre-marital property, and full custody of the couple's children. During the age of emancipation, ideas of freedom were in flux, including those regarding women's roles within the household and society; Aveline Hitchcox was in the middle of a re-evaluation of gender roles not only in her own state, but throughout the country.

ARTICLE

In 1866, the West Virginia Supreme Court of Appeals upheld a divorce issued to a woman who had fled her home after her husband had been "negligent, intemperate in drinking ardent spirits, and abusive and violent to her, frequently beating her with great bodily hurt." The ruling by the state supreme court ensured Aveline Hitchcox's divorce, rights to all her pre-marital property, and full custody of the couple's children.¹ In many ways, this case exemplified the incremental changes in the legal interpretation of women's rights in West Virginia during the critical Civil War period. Though spousal abuse had become a more socially acceptable reason for divorce during the antebellum period, the West Virginia court also recognized Hitchcox's rights to her own property in an era when married women's formal property acts were a novelty, and had yet to come to fruition in Virginia, the state from which West Virginia had so recently split. In addition, female custody was a relatively new innovation, since under common law "fathers automatically received custody of children."2 During the age of emancipation, ideas of freedom were in flux, including those regarding women's roles within the household and society; Aveline Hitchcox was in the middle of a re-evaluation of gender roles not only in her own state, but throughout the country.

West Virginia's geographical and political position during this era makes an ideal and unusual case through which to explore these changes. Formed in the midst of a civil war, West Virginia was also born during a wave of change in women's rights. In the years following the 1848 Seneca Falls Convention, the budding women's movement worked hard to convince the country of the necessity for laws allowing married women access to property and divorce, and for laws modifying the concept of *feme covert* (the common law notion that a woman's legal identity was merged with her husband's upon marriage).³ After breaking with Virginia in 1861, the men in control of the new state of West Virginia had a chance to adopt many aspects of this new legal framework. As such, the state's subsequent legal code reflected the Virginia code as well those of a number of other states—both North and South. Due to their state's geographical border location and its New South-style industrialization, West Virginia legislators challenged Virginia's legacy toward women's rights and reinterpreted the law in ways that expanded the legal rights of women and reshaped their gender roles.

Until the past decade, historians of West Virginia statehood generally ignored the role of gender and any legislation that may have affected women.⁴ Some analysis was done on West Virginia legislators' pro-Southern or pro-Northern views through the lens of race, but none considered gender.⁵ Additionally, prior research on gender and West Virginia during this period focused on the impact of legal rights on the lives of women in the new state and not the motivations of the legislators themselves.⁶ While one historian claims that "the best analyses of West Virginia history emphasize the evolution of state government, thereby omitting any kind of meaningful study of the female population," research on politics can still involve study of statehood leaders' ideas about gender relations.⁷

Specifically, this article focuses on the period of Republican control from 1861 to 1870, as Republicans outlined women's rights in the new state by overseeing the passage of the constitution and the development of the West Virginia Code. By analyzing a sample of these Republican state leaders, this article uncovers the personal motivations, political considerations, and regional sensibilities that informed these men as they considered the changes, demonstrating how their border backgrounds influenced their legal philosophy toward women's rights and gender roles. In so doing, it will begin to explain why the laws were accepted (or not), how gender was understood in a border area, and shed light on the changes in women's rights during the period. In addition, while women's historians have addressed the cumulative achievements or losses in women's rights over the Civil War period, the legal actions of West Virginia lawmakers show no clear linear movement in one direction. The contradictions of the debates and their motivations expose the extreme complexity of these evolving perceptions of gender roles, as the end of the Civil War led to both forward and backward steps in women's rights.

Consequently, this article also contributes to the burgeoning field of border-state (and borderland) analysis. While, thus far, historians have mostly focused on either North or South during the era of emancipation, studying a border state like West Virginia shows how nineteenth-century Americans absorbed and processed a variety of influences to form a complicated sense of gender roles. Carved out of a Southern state, but lacking Virginia's legacy of plantation slaveholding, West Virginia had economic and cultural ties to the North *and* the South. A study of West Virginia's leaders, and the women's rights laws passed during the first years of statehood, reveals these dual regional influences, highlights the varying arguments about and changes to women's roles in the two sections, and shows a clear connection between the legal interpretation of women's rights and the border-state status of West Virginia.

In the antebellum period, women in the North and South experienced social restrictions and regulations as befitted their different cultures, although neither regional group lived without the presence of patriarchal control. In both worlds, ideology reinforced their gender roles in society and within the household. Scholars studying northern society during this period focus on the transition from the "private sphere" to the "public sphere." Women's perceptions and use of their notions of true womanhood allowed them to form sisterly bonds, which led them increasingly to advocate ideas of women's rights.⁸ Meanwhile, the patriarchal power within the household evolved with the change from the "American farm family" to the nineteenth-century urban household, allowing women some level of control in their lives.⁹

Antebellum Southern women experienced a different set of social forces outlining their role. There, the patriarchy of the household was connected to the Southern slave system, creating a society in which the dependence of women and slaves legitimized the "independence" of yeoman farmers.¹⁰ Women in the South were often isolated from other women by the nature of the plantation economy and confined by a patriarchal system to a lesser role in the household, discouraging the changes that gave some women in the North a sense of sisterhood and helped move them into the "public

sphere."¹¹ At the same time, many Southern white women embraced patriarchy as a system that supposedly guaranteed them protection in return for their submission and obedience to their husbands.¹² Forming a closer network and experiencing shifts in their prescribed gender roles much sooner than their plantation counterparts, women in Southern urban centers such as Petersburg, Virginia, were more atypical.¹³

The era of emancipation brought the issues of freedom and contract to the fore in American life. Historians have interpreted the impact of these discussions upon women in a number of ways. Although the war may have temporarily allowed women to move outside their prescribed gender roles through their involvement in the war effort, some historians argue that women after the war reverted to an older model of femininity and domesticity to help reestablish the concept of traditional Southern masculinity.¹⁴ Similarly, elite white women in the South during the postwar period embraced domesticity as a way to elevate and distinguish themselves from lesser elements of society.15 Conversely, others have asserted that white Southern women's gender roles and rights from the antebellum to postbellum periods showed continuity, not "retreat." For example, the use of separate estates prior to the war meant that women had pre-established access to property, which they maintained even without formal property laws.¹⁶

The transitions in relationships brought about by the era of emancipation meant that society had to find new methods of social negotiation, thereby moving from bondage to contract. With the advent of industrialization, the North viewed contract as the more enlightened and less restrictive method of social interaction, a change which had divergent meanings. On the one hand, marriage increasingly became a "bargain between contracting parties," an arrangement which led to a more equal standing for the two parties and growing recognition of the different assets of each.¹⁷ On the other hand, feminists saw marriage as "a descent through contract into bondage," since women were still often subjugated to their husbands.¹⁸

As a product of the Civil War, West Virginia's early lawmakers

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had to address the pressing questions of the era of emancipation. Yet, although West Virginia achieved statehood during the Civil War, in many ways the movement had begun decades prior to the official split.¹⁹ Increasingly during the antebellum period, the Trans-Allegheny region found itself isolated from the planter-dominated "Old Dominion," an isolation borne of physical, cultural, and economic factors, which, by the secession crisis, had reached the breaking point.

Western Virginia was a mountainous area, not conducive to the plantation-style farming and slave society that formed the backbone of the eastern Virginia economy.²⁰ Instead, western Virginians relied on small farming and industrialization, which strengthened their ties with neighbors in Ohio, Pennsylvania, and Maryland.²¹ With these closest cultural attachments to the North, it is not surprising that these northwestern regions were the most reluctant to secede and some of the most active in the move to divide the state. In their own words, northwestern Virginians had "no desire to adopt any course that would be destructive of our best interest," pointing to their need for these states' markets and their connection by both water and rail. Still, it was not simply economically that the two regions had diverged. The same document argued that their differing "pursuits and habits" had also led to the separation.22 What may have begun as an economic separation had become a cultural one, a change that can be seen in the legal adaptations made during the statehood period-especially those pertaining to women. Lawmakers, many influenced by northern connections, broke from the pattern of informal and lax regulations on women's marital rights by the state of Virginia. The changes in women's rights legislation are but a window into a statewide discussion about West Virginia's relationship with the South and the feasibility of adopting various Northern practices, the classic example being the New England township system.

In the years preceding the state's division, eastern and western Virginia disagreed over a wide array of issues, many related to the balance of power within the state. A number of conventions in the antebellum period attempted to address such concerns and reach a compromise. Until the 1850 Reform Convention, Virginians consistently denied the need for change, causing some westerners to demand the state's separation. In addition, though the compromises of 1850 led to some changes in suffrage and election reforms, the convention installed new tax laws highly favorable to the eastern part of the state, and as the decade came to a close, western Virginians once again found themselves burdened by their relationship with the planter elite.²³

Following South Carolina's secession from the Union, Governor John Letcher called for a special session to consider Virginia's options. Despite sentiment in eastern Virginia, western Virginians remained wary of the effects of secession. Political activist Waitman T. Willey, for one, warned against "madly rush[ing] into the perils of disunion." He stated that if secession did come, he would "be ready to accept the only alternative"–division.²⁴ In early 1861, it initially seemed as though moderates might carry the day at the Virginia Secession Convention, but the events at Fort Sumter led to adoption of the secession ordinance, eighty-five to fifty-five, on April 17, 1861.²⁵ The western delegates, seeing their interests ignored for one last time, walked out on the convention.

A convention of westerners met in Wheeling in May 1861 to discuss the repercussions of Virginia's secession, agreeing to reconvene after a public vote on the secession ordinance. In June, a second Wheeling convention "disavowed the act of secession" and unanimously elected Francis H. Pierpont governor of the Restored State of Virginia.²⁶ Moderates argued that because Virginia had seceded, they forfeited the legitimacy of the Richmond government, giving the new Wheeling government the power to recognize the creation of a new state from its territory. The Second Wheeling Convention drafted a dismemberment ordinance, which the public ratified in October, despite some minor resistance.²⁷ With this action, a new state was on its way to formation, and the men in charge had the opportunity to revise their former state's legal legacy toward women.

Throughout the early United States, lawmakers based most statutes related to gender roles on English precedents. Women, upon marriage, attained the status of *feme covert*. Under this condition of coverture, wives experienced a sort of "civil death" as their legal identity was subsumed to that of their husbands.²⁸ They had few rights to any property they brought into the marriage, giving up control and any profits to their husbands. Married women could not keep their own wages; they could not sue or be sued. Curtesy also provided that, upon a woman's death, her husband could still maintain power over her property for the rest of his life, as long as the marriage had produced a child. In return for this power, the husband was expected to support his wife and provide her dower (one third of his real property) if she survived him.²⁹

During the early part of the nineteenth century, the development of equity slightly altered the interpretation of common law. With the advent of equity, women, or the men in their lives, could establish separate estates through "antenuptial agreements and trusts."³⁰ While an earlier generation of historians argued that this change was more critical to women's rights than the later married women's property acts, more recently women's historians have pointed out the flaws in such a claim.³¹ Women still relied on men to obtain a separate estate. Husbands had to give permission for antenuptial agreements, and estates were often managed by an appointed third party, usually a male relative. In the end, married women did not have "clear title and direct control over property."³²

By the 1830s, many states began to pass married women's property laws, formalizing women's rights to property before, during, and after marriage. Southern states were among the first to do so, led by wealthy planters who saw a way for men to shift financial assets to their wives or secure wives' property in order to protect themselves from debt. Indeed, the passage of such laws often coincided with economic crises.³³ Legislators behind the initial married women's property laws did not seek to empower women, a fact which explains many of the acts' southern origins. By the end of the Civil War, twenty-nine states had a formal married women's property law on the books.³⁴ At the same time, though the first married women's property, a push by women's rights advocates in the 1850s led Northern states to expand their laws "beyond the simple ownership of property to questions of its control, guardianship, earnings, and inheritance." The South, on the other hand, had no women's movement, and as such, did not pass these changes. In fact, in the year 1860, though thirty-three percent of Northern states had an earnings act, giving women control over their wages, not a single Southern state had one.³⁵

While Virginia's laws for the most part followed the common law model, there were inconsistencies. In Petersburg, for instance, women made use of separate estates and even wrote their own wills to pass down property. Even though Virginia did not pass its married women's property act until 1877, "women's ownership of property through the separate estate had become accepted in law and practice."³⁶ Yet it was not formalized in the legal code.

Property laws were not exclusive to any region, although they differed in substance. Though West Virginia passed its married women's property act during the Reconstruction period, the groundwork was being laid during the debates at the constitutional convention prior to the end of the war. Additionally, the content of those debates reveals that many legislators knew of the economic thrust behind the early married women's property acts and specifically moved to ensure that their laws were not exclusively for the protection of male assets from creditors.³⁷

On January 8, 1862, the Constitutional Convention debated and passed the forty-second section of the proposed West Virginia constitution, which stated that "the legislature shall pass laws to protect the property of the wife against the acts and debts of the husband."³⁸ The discussion raised various issues which typified many of the debates both before and after the war surrounding women's rights to property and their roles within the household. One of the major arguments made on both sides was that women were the "weaker" sex and therefore needed protection from the men in their lives (ironically, *by* the men in their lives). Abraham Soper from Tyler County used repeated examples of situations in which women would be left bankrupt and vulnerable because of intemperate, financially irresponsible, or misfortunate husbands.³⁹ In many ways, this was an argument common throughout the country in the antebellum period as other states passed women's property laws, and one especially popular in the South, where wealthy planters saw the need to protect their daughters' property from fortune-hunting men. Still, because these arguments upheld the notions of protection due women, such laws fell within a pattern acceptable within the patriarchal system.

James Brown of Kanawha County was the legislator most strenuously opposed to the measure allowing the state to protect married women's property. In the measure, he saw the un-sexing of the female gender, for women gained their femininity from their submissive role in the marital relationship. If such a measure were passed, he argued, why not give women the vote? Why not allow them to join the military? And finally, he stated, "Why not make a man of a woman at once?"⁴⁰ He argued that the new provision would lead to a situation where the woman "wears the 'breeches'" and that the very foundation of society was based on the unity and structure of marriage. His conservative view retained many elements of Southern beliefs, which saw independence as rooted in a wife's dependence.⁴¹ In fact, arguments that married women's property acts would alter the relationship between husband and wife were at the heart of the law's defeat in antebellum Georgia.⁴²

Others criticized this notion. One legislator wondered aloud who would consider a "man degraded because his wife happened to be on an equality with him?" Some argued that the new motion would actually strengthen the marital relationship, by making each member more content financially and obligating the husband to be more "humble" and "amiable" toward his wife.⁴³ Legislators even disputed the legitimacy of the *feme covert* doctrine. Daniel Lamb of Ohio County argued that property was "made common by transferring everything to the husband and leaving no right to the wife" and that "a wife ought to have some rights." He rejected the very core of the *feme covert* ideal when he stated: "When the law assumes that a wife is nobody I take the liberty of saying it is not a fact."⁴⁴

The delegates recognized that their motion to formalize married

women's property rights was not a novel one. In fact, one man used that argument to advocate its passage, saying that many other states "in this Union" had already done so. Others urged delegates to progress past what Virginia's laws already allowed. When one man argued that the provision should be optional, another shot back that he supposed "the legislature would have the right at any time to pass laws for the protection of the married woman" but that "it has never been done, I think in this State."⁴⁵

Since all the delegates at the constitutional convention were Union sympathizers, the vote cannot be analyzed upon secessionist or Unionist lines. On the other hand, of the men who voted to allow the legislature to protect married women's property, four times as many were from outside the state of Virginia–from areas like Pennsylvania, Ohio, and New York.⁴⁶ The influence of these non-Virginians upon West Virginia's women's rights policy will be further assessed using the example of specific state leaders later in this article. West Virginia's status as a borderland between North and South created an area where men of both backgrounds interacted and shaped policy.

Despite its initial acceptance by the convention, this amendment was defeated nearly a month later, though the historical record shows no debate or reason why an amendment so acceptable at the beginning of January should be found unacceptable by February. Oddly enough, Chapman Stuart of Doddridge County, who made the move to strike this section, had not only voted for the proposition a month earlier but had fought for its existence as a measure for the "protection of the female portion of our country."⁴⁷ Stuart's arguments were not as progressive as others, and his moderation may have caught up with him. Perhaps he realized that giving married women power over their property would liberate them in some ways. Still, it is a perplexing move by one who had supported married women's property rights. It shows the uncertainties that men felt in this era as women's roles changed.

Although this section of the constitution was defeated in 1862, eight years later West Virginia would pass a formal married women's property law as part of the new West Virginia Code. In order to do so, the codifiers had to look past the South, and especially Virginia, for an example. In this case, the model was New York, an unusual circumstance in a series of laws often based on the Virginia Code.48 The new property laws reflected many of the arguments surrounding the passage of the section of the constitution on women's property. For example, "all real and personal property, heretofore conveyed directly to a married woman . . . by any person other than her husband, as her sole and separate property, and the rents, uses, and profits thereof shall be and remain her sole and separate property, as if she were a single woman; and the same shall in no way be subject to the control of her husband, or liable for his debts" (emphasis added).⁴⁹ As stated in the debates in the constitutional convention, legislators did not want the married women's property acts to be used as protection against male debt. This was a debate that had occurred as early as 1839, when Mississippi passed the first married women's property act.50

However, there were limitations. The new property laws did not allow women who lived with their husbands to sell their property without their husband's permission, giving only married women living apart from their spouses this privilege.⁵¹ This is not surprising given the amount of conservatism prevalent even in the New York statutes. Still, in framing new laws, West Virginia leaders chose to look northward, to a state where the push for married women's property laws came through a combination of male legislators and the budding women's rights movement. In general, married women in West Virginia experienced a change in their former status as *feme covert*. They could now sue and be sued.⁵² By allowing women to sue their own husbands, the courts and the legislators of West Virginia subtly acknowledged that women did indeed have their own legal identity. Women also received control of their earnings, something which Southern states had hesitated to allow before the war, and only about twenty percent would permit by 1870.53

Whereas, during the 1862 Constitutional Convention, West Virginia's leaders had immediately rejected the idea of following too closely Virginia's constitution, the legislators in the period following the war were much more willing to model many legal precedents upon their former state, especially when it came to divorce. Possibly this was because of the differences in time period and state status. In 1862, the break from Virginia was still fresh, and West Virginians had to prove that there was validity in even forming a new state. By the postbellum period West Virginia was, as one senator said, a "fixed fact," and as such, the legislators may have felt more comfortable adapting laws from Virginia.⁵⁴ At the same time, their work to revise the laws shows that they were not merely returning to the prewar mentality of their Virginian and patriarchal Southern heritage.

Recent scholarship has shown that the change from "'feudal' husband-headed household to 'modern' companionate" marriages was not as consistent or simple as previously thought. Husbands and wives in the antebellum period were able to manipulate the legal system in such ways to obtain separation in a multitude of circumstances. Still, marriage during this period was still interpreted as a lifelong commitment, and the law was most often construed to prevent its dissolution.⁵⁵ Inheriting this part of Virginia's legal system, West Virginia leaders had to contend with the complications of nineteenth-century divorce laws, choosing how closely to follow the pattern laid down by their former state.

Though legislators modeled the new divorce laws, codified in the late 1860s, upon Virginia precedent, they quickly moved to modify some aspects of the law. In 1867, the legislature passed a bill that expanded the number and type of reasons one could give to attain a divorce. Whereas before, Virginia's laws had given divorce upon the basis of adultery, impotency, or "confinement in any penitentiary for life or for seven years or more," the additions allowed divorce if the "husband without the knowledge of the wife, had been a notoriously licentious person." Legislators also decreased the number of years after which a person could sue for divorce after desertion from five to three, and the new West Virginia code allowed full divorce, rather than just divorce from bed and board, for desertion. (Divorce from bed and board gave the woman rights to property, business, and contracts, as if *feme sole*, and released her husband from his responsibility to maintain her. Neither party could remarry.) Finally,

the bill voided the fourteenth section of the Virginia code, which had stated that "in granting a divorce for adultery, the court may decree that the guilty part shall not marry again."⁵⁶ The power to prevent remarriage had been a powerful legal tool in antebellum society; in fact, before the American Revolution, one could obtain the right to remarry only in New England. In giving it up, West Virginia moved past Virginia's precedents to ones first set by Northerners.⁵⁷

The reports of court cases in the Supreme Court of Appeals of West Virginia show how justices applied the revisions to divorce laws and married women's property laws. In January 1866, the courts upheld the notion that a husband could not abuse property laws for married women to evade his creditors, stating that "a gift of choses in action from a husband to his wife although void at law, will be sustained by a court of equity, when it is not unreasonable in its provisions nor in fraud of creditors."⁵⁸ In 1869, the court argued that a woman whose husband had squandered her inheritance should not be "bound by the fraudulent acts of her husband" and had not "in any other way lost or surrendered her right to a fair and equitable portion of the land in question."⁵⁹

A study of the Republican men who spearheaded the early statehood period can provide insight into both acceptance of and hesitation toward substantial changes in women's rights in West Virginia. Peter Van Winkle, Chester Hubbard, Waitman T. Willey, and Francis H. Pierpont demonstrated a multiplicity of opinions on women's roles in the age of emancipation, due to differing backgrounds, regional influences, and experiences with personal relationships.

A member of the convention that formed the state and one of West Virginia's first senators, Peter Van Winkle was highly influential in the state's development and in establishing the substance of its legislation. His background was Northern, having been born and raised in New York, and until the party's dissolution, he had been a longtime Whig. He moved to Parkersburg, Virginia, in 1835, where he was admitted to the bar and quickly became involved in state politics. Van Winkle opposed secession and was an early supporter of the movement to form a new state.⁶⁰

Van Winkle married Juliet Rathbone, also of New York, in 1831. The marriage was generally described as a happy one, and Van Winkle was distraught at her death just nine years later. In his diary, he described her as "literally my better half." He never remarried.⁶¹ During his marriage, he began work on an essay on "some views of the origin and structure of society." In it were chapters devoted to such subjects as the relations of the household and its members.62 His essay represented many of the conflicting views of West Virginians, and Americans in general, during the early statehood period as they sought to reassess the role of women in their society. In his treatise, Van Winkle stated that there were basic differences between the sexes, referring to women as "timid and retiring," and arguing that a woman made decisions not "so much upon her intellect as upon her emotions."63 One can trace these beliefs to both sides of the Mason-Dixon Line. In fact, in the North, notions of women's morality and emotional power led to the formation of benevolent societies and only strengthened their common ties and women's power.64

While Van Winkle saw definite distinctions between men and women, he did not believe their relationship to be one exclusively of master and dependent. Drawing from the Biblical tale of Adam and Eve, he contended that the marital relationship was one based first and foremost on companionship. It was a "mutuality" one could only achieve with another "endowed like himself with those emotional as well as intellectual capabilities." This is not to say that Van Winkle rejected the role of the husband as head of the household. However, he believed a wife was entitled to a certain amount of power and input in the household, and that any use of a man's power when not to aid the household was "tyrannical."65 As with many other West Virginians, moderation was a key to Van Winkle's views on gender relations. His views on women's rights moved past patriarchal southern traditions, albeit cautiously. Though he may have been born in the North and influenced by this heritage, he also understood that his new society was more conservative towards women's rights. At the constitutional convention, he proudly proclaimed how well he knew his adopted constituents, for whom "he spoke and acted."⁶⁶

Another influential Republican legislator during this period was Chester D. Hubbard. Like Van Winkle, he was born a Northerner but, unlike Van Winkle, had come to western Virginia as a child of four. Still, his family had many ties to the North, and he returned to Connecticut to attend Wesleyan University.⁶⁷ He served in the Virginia legislature from 1852-1854, and was a member of the Virginia secession convention, voting against the ordinance of secession. Upon West Virginia's recognition as a state, the people elected Hubbard to the West Virginia state senate and soon to the U.S. House of Representatives, where he served "with marked distinction" until 1869.⁶⁸

Hubbard found an amiable match in marriage. He married Sarah Pallister in 1842, and their correspondence reflects their strong feelings for one another. Soon after their marriage, Sarah wrote to her husband, "It is enough for me to possess the consciousness that the love which is above all earthly gifts to me, and shall outlast all is mine."⁶⁹ Sarah was involved in public works, such as advocating for a subscription for a statue of Henry Clay. Describing having "strained every muscle at the time of the convention doing what little I could towards the wished for result," she also asserted that it was because she had "*wanted* to."⁷⁰ It may have been her affinity for women's public work that encouraged his feelings on the subject.⁷¹

Hubbard's influences lay in many realms. He was a founding member of the Wheeling Female College and actively involved in reform movements, such as temperance. In fact, it was in front of a temperance meeting that he gave a speech directly addressing the issue of women's role in public life. He recognized the victimization of women as a result of intemperance, saying that "more of your happiness is involved in this enterprize [*sic*] than ours." He tread carefully, cautioning that he was "no admirer of Mary Wollstoncraft [*sic*]," but that he did "admire that woman who sympathizes with her fellow creatures, and who is neither afraid to be seen nor heard pleading the cause of the sons and daughters of misery and misfortune." According to Hubbard, women did not desire to be a "mere toy or plaything" but to take part in life and show her "effect on the destiny of our race."⁷² Still, he was not yet prepared to accept all aspects of Northern society, especially the radical elements. He wrote of his dislike for the "fanatical doctrines" and "maddening schemes" of abolitionists in Connecticut.⁷³

Like so many other Unionists and Republicans of the period in West Virginia, he felt the pull of Southern forces but was also strongly inclined toward a progressive view of gender, which indicated his attachment to the North. In the end, he wrote that he felt a part of neither faction, saying that his political career might end with the 1866 Congress, "as my position will probably not suit either party."⁷⁴ He could not "strike hands with those, who have been in rebellion," but neither was he willing to support wholeheartedly the movements of the Radical Republicans and the North.⁷⁵

Of the many men involved in the statehood movement and the political development of the state, Waitman T. Willey, U.S. senator from West Virginia, was arguably the most prominent and influential. At the beginning of the secession crisis, he was one of the few who possessed name recognition outside the region, and he was instrumental in steering West Virginia's statehood bill through the national government. Willey, a Whig until the party's dissolution, served at the 1850-1851 Virginia Constitutional Reform Convention, and was even a candidate for lieutenant governor of Virginia during the antebellum period. He was seen as a solid Unionist and, as such, was elected to serve at the Virginia Secession Convention.⁷⁶

Willey exemplified many of the uncertainties and complications felt by his state as it formed. Having been born and raised in western Virginia, Willey had more ties to the South than many of the leading advocates for the new state. Before the war, he was deeply suspicious of abolitionists and was a slaveholder himself.⁷⁷ However, Willey was still a Unionist, and, as one friend described him, "a new state man body, soul, and briches [*sic*]."⁷⁸

Willey had a close relationship with his wife, Elizabeth, and the pair were devoted to each other from the start. In one particularly revealing letter, Elizabeth chided Willey for lending money so easily and frequently to friends saying, "You will think that you made your money and have a right to do as you please with it, but I think I have an interest in the matter. I helped to make your money at least took care of it which is the same thing."⁷⁹ Could her advocacy of women's rights to property within the marriage have influenced Willey to accept the new married women's property laws? Perhaps.

From his correspondence, it is clear that, as a lawyer, Willey was experienced with cases involving issues of women's rights that would come up during the early statehood period. In 1861, a man from Tucker County, Virginia (later West Virginia), wrote to Willey to ask if he had "the right to sell my wife's land and Bank stock without her consent." From the letter, it seems that the man's wife would not part with her property willingly, property she had brought into the marriage.⁸⁰ In another case, it appears that another lawyer recommended him to work with a woman on a case of property.⁸¹ He was also familiar with the property laws of the northern state of Pennsylvania after dealing with a case there in 1846.⁸²

Throughout his life, Willey was active in the temperance movement, especially through the Sons of Temperance organization. Like Hubbard, his contact with these reformers exposed him to women outside the domestic sphere.⁸³ Still, in his opinion, when women moved into the public realm, it was an action taken because of their characteristically virtuous natures. From temperance activity to the erection of monuments to Henry Clay, all were a "tribute to virtue."⁸⁴

A glance at Willey's record on race demonstrates that he achieved a sort of personal transformation through the Civil War period, but did he do the same with gender? It appears he did not. Though receiving some influences from his wife and through court cases, he still maintained a conservative view of gender roles within the household. In fact, he worried that modern divorce laws might "relax the gospel rule" and "imperil domestic happiness." Still, he believed Christianity "elevat[ed] her to an equality with men in all marital and social relations," stating that this was the "great charter of woman's rights." Women, he argued, could find more equality and satisfaction in the domestic sphere than they ever could hope for in the "civil and political relations" upon which they were now venturing. $^{85}\,$

Willey was nothing if not complex. At the beginning of the war, one historian has described him as "true to border traditions," supporting more mild reforms like temperance and universal white manhood suffrage. He did not initially support the Republican Party, considering it the creation of "spasmodic excitement on an isolated incidental question."⁸⁶ By the end of the war, he had argued for emancipation in a fiery speech in which he stated that if the Bible supported slavery he would, "following the example of the Patriarchs of old, curse God and die."⁸⁷ The border traditions of only minor reforms may have increased his apprehension toward too radical a change in women's rights.

Francis H. Pierpont, the governor of the Restored State of Virginia, was also born in western Virginia. In fact, he and Willey had attended the same college in Pennsylvania. Upon graduation, Pierpont moved south to Mississippi to teach; there, already influenced by his education in the North, his experience only made him more strongly opposed to the institution of slavery and its impact on Southern society.⁸⁸

Pierpont's relationship with his wife, Julia, was complicated. At times, she exerted pressure upon him. In 1854, she encouraged him to get involved in benevolent societies because she "could neither love or place confidence in any man, who could withhold his money & influence when able to give them from the many benevolent societies which stretch out their arms upon every side of us."⁸⁹ After one early fight, Pierpont contemplated the possibility of divorce if Julia felt unsatisfied by his "ability to appreciate [her] feelings." In the end, he told her to decide and "take the responsibility."⁹⁰ Still, at other times, Pierpont seemed to rein in his wife. When, after the war, she wrote to Senator Willey about her husband's predicaments in Reconstruction-era Virginia, she warned that if her husband knew of her actions "he would probably amend my amendment by putting it into the fire."⁹¹

After working with legislators to form the new state, Pierpont quickly became involved in the restoration of Virginia's government. Through his leadership, the Restored Government of Virginia passed a new constitution in 1868 which abolished slavery.⁹² Yet, the constitution never mentioned women, and the only reference to a matter that might concern them was in giving courts the "power to grant divorces."⁹³ In an environment less receptive to change, Pierpont's hesitations did not lead to evolution in gender roles.

It is no coincidence that the Republicans were the most progressive in their views on women's rights and also the group with the most ties to the North. In fact, there seems to be a correlation between the level of attachment with the North and the extent of these progressive ideas. Willey and Pierpont, born and raised in western Virginia, retained much more conservative views than their fellow politicians like Hubbard and Van Winkle who had stronger associations with the North. Van Winkle, though integrated into western Virginia society, had only moved to the state as an adult. Hubbard was educated in Connecticut and felt so strongly about Northern education that he sent his son to the same school. Each reflected the contradictions of a border state, and a nation that was unsure of how many rights women should receive.

It is important to remember that the Republican Party throughout the North was a conglomeration of many political factions, tenuously held together during the war. In West Virginia, this was especially true. West Virginians had converted from both the Whig and the Democratic parties, and the state Republican party ran the gamut from liberal to conservative. Many before the war defended themselves vehemently against charges of "Republicanism" or, worse yet, "Black Republicanism."⁹⁴ For many, the Republican Party, as the party in control of the Union, held the power to approve or disapprove of the formation of West Virginia; as such, it was only good political sense to join with them. In some ways, this may explain the extreme contradictions and variety of views held by many of the Republican legislators. However, West Virginia legislators did achieve more than their Virginian counterparts on women's rights during this period, despite the reservations they had.

Because of critical aspects of West Virginia's postbellum political and cultural position, many of the traditional theories of how

women's roles changed or adapted to new situations after the Civil War do not apply to the new state of West Virginia. LeeAnn Whites, for example, argues that women embraced their traditional roles and sense of domesticity in the postbellum era in an attempt to reaffirm their men's masculinity, shaken by defeat.95 Because of their split with Confederate Virginia, the leaders and citizens of West Virginia did not have to cope with these same feelings of loss. In her study of Virginia women, Suzanne Lebsock theorizes that women were "pressure[d]... to follow conventional paths" in the postbellum era. Virginia, for one, may not have been open to "experimentation" because of the profound feeling that society was changing rapidly enough with the loss of the slave system.96 West Virginians already knew that their society was changing; some even welcomed the end of slavery specifically.97 The process of statehood may have given some legislators the psychological boost to comprehend multiple changes throughout society.

West Virginia may have been willing to adopt formal property laws because of peculiarities in Virginia's treatment of women's rights. Jane Turner Censer discovered that the separate estate was more popular in Virginia than in many other states, and she theorizes that it may "help to explain why the Old Dominion was the slowest among southern states to enact a married women's property act."98 Yet, because women's property rights were not formalized, they remained subject to the whims of male relatives and also neglected to protect women's wages, which were a growing concern in industrializing centers such as Wheeling. Perhaps this would explain many West Virginia leaders' arguments that the legislature be empowered to protect women's property rights. Additionally, in West Virginian's eyes the separate estates preferred by the wealthy of Virginia may have seemed merely relics of the aristocracy and elitism of their former state. In the midst of a national debate over contract and its role in a free society, West Virginia's formation and new legislation on women's rights would give rise to discussions of feme covert, property rights, and women's abilities to contract as equals, once again demonstrating an influence from the industrializing North. Married women's property acts would allow

married women to keep their wages earned outside the home; thus verifying their contractual rights, while, in some ways, stifling the husband's contractual rights to his wife.⁹⁹ In the period following the Civil War, the debate over contract and the move from bondage to contract was a change many West Virginians wanted to see implemented.

West Virginia leaders may also have been influenced by national political factors. West Virginians needed to prove to a somewhat skeptical federal government that there was some justification for the formal separation of Virginia and West Virginia. As late as 1862, many still feared that the statehood movement would not succeed.¹⁰⁰ One man warned Waitman T. Willey that "any apparent advocacy of Southern feelings . . . might seriously, if not fatally damage our New State project."¹⁰¹ To break from and then merely pattern themselves after their parent state would be useless and appear unnecessary. Perhaps because of these political factors, the amount of legislation passed by West Virginia far surpassed that of Virginia, which would be the last state to pass married women's property acts in 1877.¹⁰²

Though the changes in West Virginia during this period may share striking similarities with those that the Radical Republicans enacted in other Southern states after the war, research into the background and rhetoric of those involved and the earlier date of many of the proposed changes (beginning with the 1862 constitution) show that they were not merely part of the pattern of Southern changes. Many men were influenced by Northern views and progressive in their understanding of gender roles.¹⁰³ West Virginia reforms were also more reflective of the state's culture than those passed in other Southern states because they were proposed and enacted by legislators from within the state. With no formal Reconstruction, there was less outside pressure to change.¹⁰⁴ It was the impact of their sudden (and voluntary) split from Virginia, and not the forced reconstruction of their state, that led to the acceptance of this evolution.

West Virginia's record on gender was complex and contradictory. There is evidence of ambiguity on both sides of the political aisle, and, in fact, when Democrats came into power in the early 1870s, they did not dismantle the legislation on married women's property or divorce. In addition, their newly revised constitution included the passage that the "legislature shall pass such laws as may be necessary to protect the property of married women from the debts, liabilities, and control of their husbands," which had failed to be incorporated into the first constitution.¹⁰⁵ Of course, by this point, formal legislation on property rights had already been passed in West Virginia and most Southern states, so the implications of such actions were not as unusual for the era. Whereas West Virginia's earlier actions on women's rights may have stemmed from a genuine desire to change Virginia's model, the new legislators felt less need to distinguish themselves from their former state, having been firmly established as a legal government.

In West Virginia, changing perceptions of gender roles did lead to advancement for women in terms of married women's property laws and, to some extent, in divorce statutes, but it was a slightly unsure beginning that showed contributions from both Northern and Southern models and from a variety of social, political, and economic factors. By using West Virginia as an example, one can see that the changes throughout the country cannot be attributed to any one source. Conventional explanations may also overlook areas such as the border states where the lawmakers felt a multiplicity of influences due to their regional identities. The evolution of gender roles and women's rights throughout the nineteenth-century United States, and especially during the Civil War era, was a multifaceted one, a development that often occurred in fits and starts and even with minor retreats.

NOTES

This article was previously published in *West Virginia History*, Vol. 3, No. 1, 2009.

- 1. Waldo P. Hitchcox v. Aveline V. Hitchcox, 2 W.Va. 435 (1868).
- 2. Joan Hoff, *Law, Gender, and Injustice: A Legal History of U.S. Women* (New York: New York University Press, 1991), 132.

- 3. Hoff, Law, Gender, and Injustice, 135-43.
- 4. Otis K. Rice, West Virginia: A History (Lexington: University Press of Kentucky, 1985); John Alexander Williams, West Virginia: A Bicentennial History (New York: W.W. Norton, 1976); Richard O. Curry, A House Divided: A Study of Statehood Politics and the Copperhead Movement in West Virginia (Pittsburgh: University of Pittsburgh Press, 1964).
- 5. Sheldon Winston, "West Virginia's First Delegation to Congress," *West Virginia History* 29 (July 1968): 275.
- Donna J. Spindel, "Women's Legal Rights in West Virginia, 1863-1984," West Virginia History 51 (1992): 29-42; Amanda Ray, "The Impact of Statehood and Republican Politics on Women's Legal Rights in West Virginia, 1863-1872" (master's thesis, West Virginia University, 2001).
- 7. Spindel, "Women's Legal Rights in West Virginia," 29.
- 8. Nancy Cott, *The Bonds of Womanhood: 'Woman's Sphere' in New England, 1780-1835* (New Haven: Yale University Press, 1977), 1-4, 160.
- Mary Ryan, Cradle of the Middle Class: The Family in Oneida County, New York, 1790-1865 (Cambridge: Cambridge University Press, 1981), xii-xiii, 3-5, 20, 61, 102, 142, 217.
- Stephanie McCurry, Masters of Small Worlds: Yeoman Households, Gender Relations, and the Political Culture of the Antebellum South Carolina Low Country (New York: Oxford University Press, 1995), vii-viii, 16, 19, 87-89, 159, 171, 215, 224.
- 11. Catherine Clinton, *Plantation Mistress: Woman's World in the Old South* (New York: Pantheon Books, 1982), xi, 14-17, 35, 109.
- Elizabeth Fox-Genovese, Within the Plantation Household: Black and White Women of the Old South (Chapel Hill: University of North Carolina Press, 1988), 38-39.
- 13. Suzanne Lebsock, Free Women of Petersburg: Status and Culture in a Southern Town, 1784-1860 (New York: W.W. Norton & Co., 1984), xiii-xv.
- 14. Lee Ann Whites, *The Civil War as Crisis in Gender: Augusta, Georgia,* 1860-1890 (Athens: University of Georgia Press, 1995), 13-14, 48, 126, 222.
- 15. Laura Edwards, *Gendered Strife and Confusion: The Political Culture of Reconstruction* (Urbana: University of Illinois Press, 1997), 110-11. Both Whites and Edwards disagree with previous assessments of women's roles after the war, such as Anne Firor Scott's contention that women received more rights and moved past their antebellum roles after the Civil War. See Scott, *The Southern Lady: From Pedestal to Politics, 1830-1930* (Chicago: University of Chicago Press, 1970).
- 16. Jane Turner Censer, *The Reconstruction of White Southern Womanhood,* 1865-1895 (Baton Rouge: Louisiana State University Press, 2003), 1-2, 7, 99. Suzanne Lebsock delineated the high use of separate estates in Petersburg, Virginia, before the war but has also argued that women lost property rights after the war. Censer disagrees with these findings. See Lebsock,

Free Women of Petersburg, and Virginia Women: 1600-1945 (Richmond: Virginia State Library, 1987).

- 17. Norma Basch, *In the Eyes of the Law: Women, Marriage, and Property in Nineteenth-Century New York* (Ithaca, NY: Cornell University Press, 1982), 71.
- 18. Amy Dru Stanley, *From Bondage to Contract: Wage, Labor, Marriage, and the Market in the Age of Slave Emancipation* (Cambridge: Cambridge University Press, 1998), 1, 186.
- Charles H. Ambler, Waitman Thomas Willey: Orator, Churchman, Humanitarian (Huntington, WV: Standard Printing & Publishing Co., 1954), 77, 86.
- 20. Rice, West Virginia, 90
- Randall Gooden, "The Completion of a Revolution: West Virginia from Statehood through Reconstruction" (PhD diss., West Virginia University, 1995), xi.
- 22. "Preamble and resolutions containing the objections of North Western Virginia to the withdrawal of Virginia from the Union and its adoption of the provisional Government of the Confederate States," in John J. Davis Papers, box 4, West Virginia & Regional History Collection, West Virginia University Libraries, Morgantown, WV (hereafter cited as WVRHC); *Wheeling Intelligencer*, Jan. 25, 1861.
- 23. Rice, West Virginia, 91-92, 96-98.
- 24. Undated letter to *Clarksburg National Guard*, in Waitman T. Willey Diary, Waitman T. Willey Papers, WVRHC.
- 25. Rice, West Virginia, 116.
- 26. Curry, *House Divided*, 2; Francis H. Pierpont to Julia Pierpont, June 20, 1861, Francis H. Pierpont Papers, box 1, WVRHC.
- 27. Curry, House Divided, 2; Rice, West Virginia, 140.
- 28. Ray, "Impact of Statehood and Republican Politics," 15; Hoff, *Law, Gender, and Injustice*, 119.
- 29. Spindel, "Women's Legal Rights in West Virginia," 29; Carole Shammas, "Re-Assessing the Married Women's Property Acts," *Journal of Women's History* 6:1 (Spring 1994): 9-10; Basch, *In the Eyes of the Law*, 9, 17-20, 52-53.
- 30. Basch, In the Eyes of the Law, 21.
- Mary Ritter Beard, Women as a Force in History (New York: Macmillan, 1946), v, 113-21, 155-69.
- 32. Basch, *In the Eyes of the Law*, 27, 72, 104-5; Shammas, "Re-Assessing the Married Women's Property Acts," 13.
- 33. Shammas, "Re-Assessing the Married Women's Property Acts," 24; Elizabeth Bowles Warbasse, *The Changing Legal Rights of Married Women: 1800-1861* (New York: Garland Publishing, 1987), 137-81.

- 34. Basch, In the Eyes of the Law, 27-28.
- 35. Hoff, Law, Gender, and Injustice, 134, 377.
- 36. Censer, Reconstruction of Southern White Womanhood, 99.
- Charles H. Ambler, ed., Debates and Proceedings of the First Constitutional Convention of West Virginia, 1861-1863 (Huntington: Gentry Brothers, 1939), 2: 54.
- 38. Ambler, Debates, 2: 51.
- 39. Ibid., 53.
- 40. Ibid., 64.
- 41. McCurry, Masters of Small Worlds, 60, 72, 89.
- 42. Warbasse, Changing Legal Rights of Married Women, 176.
- 43. Ambler, Debates, 2: 51, 61-62.
- 44. Ibid., 51, 56.
- 45. Ibid., 52, 61, 63. Historians such as Suzanne Lebsock have argued that men passed these acts without fully realizing the implications they would have on women's positions in society; this cannot be said of West Virginia. The records of the contentious discussion show that legislators were well aware of the impact of these laws upon women's place in the household and society. See Suzanne Lebsock, "Radical Reconstruction and the Property Rights of Southern Women," *Journal of Southern History* 43 (May 1977): 204.
- 46. Ambler, Debates, 1: 59-60; 2: 67.
- 47. Ibid., 2: 65-66; 3: 387.
- 48. Code of West Virginia, chap. 66, secs. 1-13 (1870).
- 49. Code of West Virginia, chap. 66, sec. 1 (1870).
- 50. Warbasse, Changing Legal Rights of Married Women, 144-49.
- 51. Code of West Virginia, chap. 66, sec. 3 (1870); Barbara J. Howe, "Patient Laborers: Women at Work in the Formal Economy of West(ern) Virginia," in Neither Lady nor Slave: Working Women in the Old South, edited by Susanna Delfino and Michele Gillespie (Chapel Hill: University of North Carolina Press, 2002), 137-38.
- 52. Code of West Virginia, chap. 66, secs. 12-13 (1870).
- 53. Hoff, Law, Gender, and Injustice, 377.
- 54. Waitman T. Willey Diary, Mar. 31, 1863, in Willey Papers, WVRHC.
- 55. Hendrik Hartog, *Man and Wife in America: A History* (Cambridge: Harvard University Press, 2000), 3-5, 63.
- 56. *Code of West Virginia*, chap. 64, secs. 1-6 (1870); *Code of Virginia*, chap. 109, sec. 14 (1849); Acts of the Legislature of West Virginia, chap. 17 (1867).
- 57. Hartog, Man and Wife, 64, 70.
- 58. Fox, Adm'r v. Jones and Wife, 1 W.Va. 209 (1866).

- 59. Jacob Heavener et al. v. John Godfrey and Wife, 3 W.Va. 426 (1869).
- 60. Charles H. Ambler, *The Makers of West Virginia and Their Work* (Huntington, WV: Gentry Brothers Printers, 1942), 101-2.
- Peter Van Winkle Diary, July 21, 1844, in Peter Van Winkle Papers, box 2, WVRHC; George W. Atkinson and Alvaro F. Gibbens, Prominent Men of West Virginia: Biographical Sketches of Representative Men in Every Honorable Vocation, including Politics, the Law, Theology, Medicine, Education, Finance, Journalism, Trade, Commerce and Agriculture (Wheeling, WV: W. L. Callin, 1890), 162.
- 62. Peter Van Winkle, "Position and Relation of the Household and Its Members," handwritten manuscript in Van Winkle Papers, box 1, WVRHC.
- 63. Ibid.
- 64. Cott, Bonds of Womanhood, 6-9.
- 65. Van Winkle, "Position and Relation," box 1, WVRHC.
- 66. Ambler, *Debates*, 1:40.
- 67. Chester D. Hubbard to Henry Hubbard, Apr. 30, 1840, Hubbard Family Papers (microfilm, reel 1), WVRHC.
- Atkinson and Gibbens, Prominent Men of West Virginia, 258-59; William P. Willey, An Inside View of the Formation of the State of West Virginia (Wheeling, WV: News Pub. Co., 1901), 242-45.
- 69. Sarah Hubbard to Chester D. Hubbard, Dec. 20, 1842, Hubbard Papers (microfilm, reel 1), WVRHC.
- 70. Sarah Hubbard to Hannah List, Jan. 30, 1845, ibid.
- 71. Sarah Hubbard to William Hubbard, Feb. 3, 1860, ibid.
- 72. Chester D. Hubbard to Henry Hubbard, Sept. 4, 1837, ibid.
- 73. Ibid., Nov. 27, 1837.
- 74. Ibid., Jan. 24, 1866.
- 75. Ibid., Apr. 29, 1866.
- 76. Ambler, *Waitman T. Willey*, 25, 37-38; Unidentified newspaper clipping in Waitman T. Willey Diary, Willey Papers, WVRHC.
- 77. T. S. Haymond to Waitman T. Willey, June 29, 1837, Willey Papers, box 1, WVRHC.
- 78. Henry Dering to Waitman T. Willey, May 19, 1862, box 2, ibid.
- 79. Elizabeth Willey to Waitman T. Willey, June 26, 1870, box 4, ibid.
- 80. James Parson to Waitman T. Willey, Jan. 14, 1861, box 8, ibid.
- 81. Rachel Bines to Waitman T. Willey, July 9, 1865, box 12, ibid.
- 82. J. Philan to Waitman T. Willey, Oct. 27, 1846, box 6, ibid.
- 83. Unidentified newspaper clipping in Waitman T. Willey Diary, ibid.
- 84. Ibid.

- 85. Waitman T. Willey, "Christianity as a Civilizer," *West Virginia Educational Journal* 1:7 (Apr. 1873): 231-32.
- 86. Ambler, Waitman T. Willey, 2, 36.
- 87. Unidentified newspaper clipping in Waitman T. Willey Diary, Willey Papers, WVRHC; Ambler, *Waitman T. Willey*, 179.
- 88. Atkinson and Gibbens, *Prominent Men of West Virginia*, 294; "Biographical Sketch of Francis H. Pierpont, Governor of Virginia," Pierpont Papers, box 1, WVRHC.
- 89. Julia Robertson to Francis H. Pierpont, 1854, Pierpont Papers, box 1, WVRHC.
- 90. Francis H. Pierpont to Julia Pierpont, ibid.
- 91. Julia Pierpont to Waitman T. Willey, July 12, 1867, box 3, ibid.
- 92. Anna Pierpont Siviter, *Recollections of War and Peace, 1861-1868* (New York: G. P. Putnam's Sons, 1938), xx.
- J. N. Brenaman, A History of Virginia Conventions with Constitution of Virginia Appended: 1774-1902 (Richmond, VA: J. L. Hill Printing Co., 1902), 113.
- 94. Chester D. Hubbard to Waitman T. Willey, Feb. 4, 1861, Willey Papers, box 1, WVRHC.
- 95. Whites, Civil War as a Crisis in Gender, 222.
- 96. Lebsock, Virginia Women, 101.
- 97. Arthur I. Boreman to Jacob Boreman, Dec. 15, 1864, in Arthur I. Boreman Papers, box 1, WVRHC; Francis H. Pierpont to Julia Pierpont, May 22, 1863, Pierpont Papers, box 1, WVRHC.
- 98. Censer, Reconstruction of White Southern Womanhood, 107, 125.
- 99. Stanley, From Bondage to Contract, xi-xiii, 10, 18, 197.
- 100. Ray, "Impact of Statehood and Republican Politics," 4; Chester D. Hubbard to Waitman T. Willey, Apr. 18, 1862, Willey Papers, box 2, WVRHC.
- 101. H. Hagans to Waitman T. Willey, May 2, 1862, Willey Papers, box 2, WVRHC.
- 102. Lebsock, "Radical Reconstruction," 197.
- 103. Ibid., 195-216.
- 104. Milton Gerofsky, "Reconstruction in West Virginia," *West Virginia History* 6 (July 1945): 299.
- 105. West Virginia Constitution (1872), art. 6, sec. 49.