

## Women & the Death Penalty in Victorian San Francisco

BY HOLLY COLE

*The Spring/Summer 2005 issue of the CSCHS Newsletter included "Saved from the Gallows: Nellie Madison, Stanley Mosk, and the Death Penalty in Mid-Twentieth Century California," by Kathleen Cairns, recounting the case of the first woman in California to have her death penalty upheld by the California Supreme Court. A companion to that article, this piece recounts the story of the first Anglo woman in California to be sentenced to death, in the nineteenth century.*

On November 3, 1870, Mrs. Laura Fair, dressed in black and heavily veiled, boarded the El Capitan ferry on San Francisco Bay. After the boat had gone only a short way, she approached Alexander Crittenden, a prominent lawyer who was aboard with his wife and children. Mrs. Fair pulled out a pistol and shot Mr. Crittenden in the chest, whereupon he slumped into his wife's lap. A few days later, he died.

The shooting was the culmination of a long and tempestuous relationship between Laura Fair and Alexander Crittenden, both well-known figures in San Francisco society. When Mrs. Fair, a notorious beauty, was charged with first-degree murder, the trial became one of the most famous of its time (catching the attention of even east coast newspapers), not only because of the melodramatic facts, but also due to the novel gender-based arguments advanced by both the prosecution and the defense.

The prosecution presented Mrs. Fair as an aggressive seductress, a common female stereotype in the Victorian era. Laura Fair's attorneys countered with a temporary insanity defense, blaming Mrs. Fair's incapacity on "female problems." This argument echoed an idea popular at this time, that women were susceptible to madness because of the instability of their reproductive systems. The trial lasted thirty days and ended in a guilty verdict and sentence of death. Followed closely by the press, the case became a rallying point for the burgeoning women's rights movement in California, providing a stark morality play about the sexual double standard.

### THE PLAYERS

At the time of the shooting, Laura D. Fair, by her own accounts, had been married four times. Laura was reputed to be a great beauty, with golden blonde curls and clear slate blue eyes. Born Laura Ann Hunt in Holly Springs, Mississippi, at age sixteen she entered



Laura Fair

into the first in a series of marriages that the prosecution would use to paint her as a "seductress." Laura's first husband, a much older man, died leaving her "without a farthing." As a result, she entered a convent to complete her education in order to support herself.

Her second marriage, to Thomas Grayson, a "terrible drunkard" by Laura's testimony, faltered after only six months. Leaving Grayson, Laura moved to San Francisco with her mother and brother. It was here that she met Colonel William Fair, an attorney. After Fair helped Laura obtain a divorce decree, the two were married.

The couple then moved to Yreka, California, where Laura gave birth to a daughter, Lillie. A few years later, in 1861, the Fairs moved back to San Francisco. Just a few weeks after the couple reestablished themselves in the city, Colonel Fair died in a friend's office of a gunshot wound to the head. During Laura's trial for Crittenden's murder, some newspapers reported that William had committed suicide out of jealousy over Laura's affairs with a mystery man, but Laura implied that her husband instead was killed over a land dispute.

After Colonel Fair's death, Laura spent some time in Sacramento and San Francisco, appearing on stage in several plays to good reviews. In 1863, during the Silver Rush, she moved to Nevada to open a lodging house. It was here that Laura met Alexander Crittenden.

Alexander P. Crittenden was, by all reports, an extremely well-respected and influential lawyer in San Francisco. In fact, on the day of his funeral, the federal, state, and municipal courts in the city all adjourned. Mr. Crittenden came from a well-known Kentucky family; his uncle was a United States Senator. Quite a bit older than Laura, he married his wife Clara the year that Laura was born. Alexander and Clara Crittenden had six children together.

Crittenden was one of the first boarders at Laura Fair's newly established lodging, the Tahoe House, in 1863. Laura testified that Alexander presented himself as a single man and began to court her soon after they met. Thus began an affair that would last for seven years and culminate in Crittenden's death.

According to Laura, she and Alexander were

engaged within six months of their initial meeting and she did not discover that he was married until 1864. When confronted with his deception, Alexander assured Laura that he would obtain a divorce. This promise may have appeased Laura, but her mother demanded that Crittenden move out of Tahoe House so that Laura could salvage her reputation. Crittenden did indeed move out – to a small house that Laura owned – and Laura and Lillie went to live with him.

By this time, Clara Crittenden had become aware of the illicit relationship. Laura traveled with Alexander to San Francisco in December, 1864, where they stayed in adjoining hotel rooms and Laura was introduced to Clara. In January, 1865, Clara traveled to Nevada and stayed with Alexander at “his” house. When Laura considered revealing the affair to Crittenden’s wife, Alexander threatened to kill Laura and himself. Laura testified that Crittenden even pointed a small pistol at his head as he left Laura and Clara alone in a room. Instead of confronting Clara, Laura blamed her agitation on a broken engagement with another man. The affair continued.

Over the next few years, Laura Fair traveled east, breaking up and reuniting with Crittenden. Alexander repeatedly persuaded Laura that he would leave his wife and marry her, even promising to meet her in Indiana where he could obtain a divorce more easily.

While Laura lived in San Francisco, the lovers had frequent fiery exchanges regarding the subject of Alexander’s marriage. On one occasion, Laura followed him home after a heated argument, but was intercepted at the front door by Alexander’s son, Howard. Crittenden refused to see Laura and a policeman was summoned. According to the testimony of Crittenden’s wife and daughter, Laura threatened “bloodshed” as she left their house. A few days after this incident, Alexander went to Laura’s home. While he stood in her hallway, Laura fired a gun at him from the staircase, although she claimed later that these were only “warning shots.”

Alexander continued to insist on seeing Laura, sending her urgent notes and messages delivered through third parties. He promised he would mostly stay away from her until he was divorced, so long as they could occasionally rendezvous at the hotel where they had once shared adjoining rooms. Alexander did not keep his promise, and soon the lovers were again seeing each other regularly.

In February, 1870, following two previous trips east on Alexander’s promises, Laura and Alexander made plans to travel to Indiana so that Crittenden could obtain a divorce. By this time, Clara and the



Alexander Crittenden

younger children were living in the east, and Alexander assured Laura that the move was permanent. He then canceled the trip to Indiana, pleading financial hardship.

This turn of events brought Laura to a breaking point. Less than a month later, she married another man, Jessie Snyder. At the trial, Laura testified that she had married Snyder in part to end her mother’s constant harping that she was a ruined woman. When Alexander heard about the marriage, he convinced Laura that it was a mistake. He demanded that she stay away from her new husband and arranged a scheme involving another woman and a couple of police detectives to create adultery grounds for a divorce. In September, 1870, Laura and Jessie Snyder signed a mutual separation agreement.

For the next two months, Alexander Crittenden and Laura Fair remained in close contact, seeing each other nearly every day and frequently taking meals together. At some point, Laura learned the awful news that the Crittenden family would be returning to San Francisco. On the day of the shooting, the pair met around 4:30 p.m. and discussed Alexander’s plan to meet his wife and children at the train depot in Oakland and accompany them across the Bay. According to Laura, Alexander promised that he would not kiss his wife at this meeting and would kiss no other than Laura.

Later that afternoon, her identity hidden behind a veil, Laura followed the Crittenden family onto the ferry. As Mrs. Crittenden took her husband’s arm, Laura approached. According to some reports, she exclaimed to Alexander, “You have ruined me and my child!” as she took the fatal shot.

Laura then briefly disappeared into the crowd. Crittenden’s son, Parker, along with a member of the harbor police, found her in the ferry’s saloon. When Parker identified her as the shooter, Laura reportedly replied, “Yes I did it, and I meant to kill him. He ruined both myself and my child.” Laura Fair was taken into custody as soon as the boat arrived in San Francisco.

#### THE PRESS

At first, leading San Francisco newspapers seemed to blame Laura Fair and Alexander Crittenden equally for the killing, but as time went on the story became more one of the seduction of an upstanding citizen by a man-

hungry murderess, and the reporting came to fit hand-in-glove with the prosecution's strategy of portraying women, and especially Laura, as a source of hidden passion, a potential evil.

For example, the *Examiner* was initially circumspect, stating that it "[did] not care to publish any of the many rumors afloat concerning this most distressing event," but later reported that Crittenden was "not the first or second victim of her unbridled passion," painting Laura as a black widow who lured her victims into relationships and then destroyed them. The San Francisco *Chronicle* characterized Laura as a woman "notoriously of bad antecedents and violent disposition."

While the typical story line played on the sexual double standard, newspapers creatively invoked other double standards as well. Endorsing popular Victorian morality and ideals, an editorial in the *Chronicle* acknowledged the unfair effect of the sex-based double standard on women who engaged in these affairs. However, the newspaper also bemoaned the development of a class-based double standard, blasting what it claimed was a common practice of "concubinage" among the wealthy members of San Francisco society.

The *New York Times*, commenting from a distance, wondered whether men and women killers were beginning to receive different treatment, and warned of a "dangerous laxity . . . creeping into our Courts concerning the application of the rules of evidence to female murderers." The newspaper also sarcastically poked fun at Laura's temporary insanity defense, commenting that her "episodes" seemed to come on only when "it is desirable to put somebody out of the way."

#### THE TRIAL

The trial of Laura Fair became a highly anticipated event. Her arraignment was the subject of so much public interest that the judge, Samuel H. Dwinelle, changed the time of the hearing in order to outwit newspaper reporters. Judge Dwinelle was a seasoned jurist; he had been appointed to the bench of the Fifteenth District Court at its founding in 1864, and served until the constitutional reorganization of California's courts in 1879.

Attorneys on both sides of the case were well known in San Francisco legal circles. Laura Fair was represented by Elisha Cook and Leander Quint. Cook was a leading member of the San Francisco bar, who arrived in San Francisco at the height of the gold rush and then served as counsel for the first Vigilance Committee. The district attorney, Henry H. Byrne, practiced criminal law exclusively. Over time he had built a lucrative private practice and by 1871 was serving his fourth term as a prosecutor. One observer

remarked, "He was perhaps the most popular man who ever lived" in San Francisco. Byrne was assisted by Crittenden's law partner, Alexander Campbell, a former municipal judge who practiced primarily criminal law.

The courtroom was filled to the rafters every day of the month-long trial. At first the general public was banned from entering; only attorneys and members of the press were to be allowed. However, this rule went unenforced, and before long there were a number of regular attendees.

The most notorious was a group of suffragists led by Emily Pitts Stevens, a prominent San Francisco activist who owned and edited *The Pioneer*, a weekly whose masthead declared the newspaper "Devoted to the Promotion of Human Rights." Pitts Stevens used her paper not only to lobby on Laura's behalf but also to link Laura's cause to the furtherance of women's rights. The case provided Pitts Stevens with a perfect opportunity to rail against the double standard, and she predicted in an editorial that Laura would not get a fair trial in a legal system run entirely by men.

Indeed, at this time women in California were excluded from the bar and were not permitted to sit on juries. (Admission to the bar would come only a few years later, in 1878, but women were not qualified for jury service until 1917, six years after winning the vote.) Laura Fair's jury, chosen "[a]fter considerable difficulty" over the course of a day, consisted of a group of Euro-American men who were mostly small-time entrepreneurs.

Not only the suffragists, but also both the prosecution and the defense teams, framed the case in terms of Victorian notions of gender and sexuality. Drawing on an accepted belief that women's reproductive systems could wreak havoc with their rational control, the defense team asserted that female maladies caused Laura to suffer from a form of mania at the time of the fatal shooting. Elisha Cook maintained that delayed menstruation, insomnia, and extreme stress had rendered Laura insane, and that, in her fragile condition, the impulse to shoot Crittenden overtook her. To bolster his argument, Cook suggested that Laura must have been crazy to shoot Alexander in public. After all, she had had plenty of private opportunities to hurt him had she wanted to do so.

In order to prove Laura's temporary insanity, the defense called several witnesses, including the nurse who attended to Laura in the wake of the shooting and at length thereafter. Jane Morris testified that, upon arrest, Laura fell unconscious and then became hysterical when she came to, even taking a bite out of a glass from which she was drinking.

*Continued on page 17*

## *The Laura Fair Affair*

*Continued from page 7*

Dr. John Trask, who treated Laura for several months afterwards, reported that he had diagnosed her with “hysteria mania” as a result of irregular menstruation.

The defense then called its key witness, the accused herself. Laura testified that she suffered from periodic states of “semi-consciousness” after each menses, from which she would emerge remembering nothing. She also testified at length about her tortured relationship with Alexander Crittenden, declaring that, on the day of the shooting, she loved him deeply but only because she believed that he loved her too. Laura stated that the last thing she remembered before the shooting was the “disagreeable” sound of Clara Crittenden’s voice. She then described having only shadowy memories until she awoke in prison. As for the pistol, Laura explained that she always carried one for self-protection, as directed by Crittenden himself.

To shape its case, the prosecution relied on a different Victorian stereotype of women. Lead prosecutor Henry Byrne set out to represent Laura Fair as an evil, over-sexed seductress who would stop at nothing to get what she wanted. This strategy relied on the widely-held notion that women were essentially sexual creatures whose desires were held in check only through religious and moral pressure. If these moral restraints were absent (as they must be, Byrne argued, in an independent, twice-divorced adulteress like Laura Fair), a woman could become dangerous.

The prosecution was presented with a number of opportunities to make this point. Cross-examining Dr. Trask, Byrne implied that Laura’s medical condition, whatever it was, actually resulted from “excessive indulgence in sexual passion.” Byrne also got Trask to admit that he had initially believed Laura was faking her symptoms.

Co-prosecutor Alexander Campbell cross-examined Laura, eliciting testimony of numerous incidents of violence in her past, including stabbing a coal man in the hand with a pair of scissors when he tried to enter her house to collect the bill. Campbell also repeatedly questioned Laura about her sources of income, implying at once that she was too interested in money and investments (a man’s concern) and that she had been financially dependant on Crittenden.

When Alexander Crittenden’s widow was called to the stand, the prosecution undoubtedly thought that Clara would appear as a sympathetic witness. However, her zeal to have Laura convicted made her somewhat less effective. She accused Laura of being a cold and calculating mistress who was so involved with men that she was incapable of having female friends, and

she claimed that she would never have acquiesced in a divorce.

The prosecution then presented a string of witnesses, all men, who testified to Laura’s reputation as being a loose woman, yet none of these witnesses could point to any specific acts.

In their closing arguments, the prosecutors attacked Laura Fair’s character and her insanity defense. Alexander Campbell asserted that Crittenden had been blinded by his infatuation for Laura, and that he didn’t see her for the gold-digging, calculating woman she was. He used several of the hundreds of love letters exchanged by Alexander and Laura to show how she was constantly scheming to get him away from his wife. More largely, connecting Fair to the woman suffragists who had come to her support, Campbell branded all of them free lovers whose actions endangered the home.

Byrne took two days to make his closing remarks, during which time Cook caught him repeatedly misstating the evidence. Nevertheless, one supporter concluded, Byrnes’ speech was “argumentative, forcible, convincing.” He quoted the Bible and Shakespeare, throwing in the chestnut “hell hath no fury like a woman scorned,” and noted that Laura’s gender had actually bought her special treatment in the courtroom, including a rocking chair, a lounge, and foot baths. Byrne warned the jury that if Laura’s insanity defense were to be successful society would virtually crumble and finished by admonishing the men that any verdict other than guilty would be an insult to the intelligence of the age.

Quint’s and Cook’s closing arguments, sandwiched between those of Campbell and Byrne, also proved colorful. Cook began by asserting that women were more susceptible to insanity because of their relatively weaker minds, and then provided an alternate version of the relationship between Laura and Alexander, characterizing Crittenden as the aggressor who drove Laura to desperate acts through his broken promises and lies. Meanwhile, according to Cook, Laura’s delayed menstruation caused blood to rush to her brain, pushing her to madness. Relying on the most fashionable explanation for female insanity, Cook concluded by reciting statistics of women in a nearby asylum, asserting that most had been committed due to mental illnesses brought on by reproductive system problems.

After a thirty-day trial, it took the jury only forty-five minutes to reach a verdict. On April 26, 1871, Laura Fair was found guilty of murder in the first degree. Laura’s attorneys immediately made a motion for a new trial based on juror incompetence, which was denied. On June 3, 1871, Laura was sentenced to die by hanging less than two months later.

Reaction to the verdict and subsequent death sentence was mixed. The *Chronicle* reported “satisfaction” upon the announcement of the verdict. However, noting that the jury had been sequestered during the month-long trial, the *Examiner* editorialized that the guilty verdict was the result of the wretched conditions under which the jury labored. The *New York Times*’ prediction – that Fair would escape the gallows because, “in these times of persuasive mania and promiscuous affection,” a jury would refuse to overlook any doubt regarding a woman’s mental state in order to levy a sentence of death – proved inaccurate.

In July, 1871, just as Laura’s attorneys succeeded in gaining a stay of execution, Susan B. Anthony and Elizabeth Cady Stanton arrived in San Francisco on a cross-country suffrage campaign. They joined local supporters in visiting Laura in jail, and both women commented upon the Fair case in speeches delivered over the next two days. Focusing on the all-male jury, Stanton repeated Pitts Stevens’ complaint that Laura had been denied a trial by a jury of her peers. But it was Anthony’s assertion, that situations like the Crittenden-Fair tragedy could be avoided if “all men” fulfilled their duty to protect “all women,” that aroused such a furious reaction from her audience as to leave the noted suffragist quite shaken.

Cook and Quint appealed to the California Supreme Court on Laura Fair’s behalf for a new trial, citing three instances of error. First, they argued that Laura should have been granted a new trial on the basis of juror incompetence, when it was discovered that one of the jurors had expressed an opinion as to her guilt prior to the trial and called for her execution. Second, the attorneys argued that prosecution evidence regarding Laura’s chastity (or lack thereof) had been improperly admitted. Third, they contended that the defendant had been improperly denied her statutory right to have the final closing argument made by one of her attorneys rather than by the prosecution.

Due to the confluence of calendaring, the November election, and illness, only two out of a possible five justices of the Supreme Court took part in deciding the appeal: Associate Justices William Wallace, who would become Chief Justice upon Royal T. Sprague’s death the following month, and Joseph Crockett, who by then was blind and having case materials read to him by family members.

Justice Wallace, writing the opinion, and Justice Crockett, providing a concurrence, were essentially of one mind regarding the outcome of the appeal. Relying on statutory analysis, the Court determined that juror incompetence was not an allowable ground for a new trial (overturning precedent in the process), but agreed

with the appellant that the sequence of closing arguments had violated procedural requirements.

The admissibility of evidence to prove Laura’s (lack of) chastity was a more complicated question, turning as it did on an intrinsic understanding of Laura’s “novel” temporary insanity defense. Both the prosecution and defense agreed that Laura had not, in the traditional way, put her character generally at issue. Instead, the focus was on Laura’s testimony that she became insane upon her realization that Alexander would not leave his wife to marry her.

According to the prosecution, the insanity was grounded in Laura’s belief that her prospects for marriage (to another man) were now ruined because of her adulterous affair with Alexander. Thus, the prosecution argued, the character evidence had been admitted properly to rebut the implication that she actually believed that she had the possibility of marrying someone else. The defense claimed that the record did not support the prosecution’s characterization of its case, and thus the evidence had been improperly admitted for no other purpose than to impugn Laura’s reputation.

Justice Wallace’s discussion of this issue was relatively restrained, lacking the gendered stereotypes that fueled Laura’s trial. He was clear that Laura was on trial for murder, not for a violation against the norms of Victorian womanhood, and that a reputation for chastity was irrelevant to a murder charge. Justice Wallace demonstrated considerable deference to the presumption of good character to which the law entitled every criminal defendant, and noted that the prosecution’s position, if accepted, would constitute the sort of exception that would eventually swallow the rule.

Justice Crockett was not in disagreement with his fellow jurist, but perhaps was concerned that Wallace’s reasoning on the character evidence might be read too broadly, or that Laura did not deserve to get off so easily in print. Justice Crockett carefully explained that Laura’s claim of insanity did not result from “a sense of shame or mortification occasioned by any damage to her good name,” and that she did not “pretend” that her insanity resulted from a loss of a “previously good reputation.” He wanted to be understood that, had the prosecution’s characterization of Laura’s defense been accurate, he would have found the evidence of lack of chastity to have been properly admitted.

On the basis of these two errors, the Supreme Court reversed the murder conviction and ordered a new trial.

The publicity surrounding the case made it extremely difficult to empanel a jury for the second trial. Laura’s attorneys were unsuccessful in their effort

to gain a change of venue. Over four hundred potential jurors were summoned, and the official reporter noted that those eventually chosen were exceptionally unintelligent. In sharp contrast to the first trial, the second lasted only ten days (eight of which being devoted to jury selection). The jury deliberated for three days before returning a verdict on September 30, 1872, finding the defendant not guilty by reason of insanity. The general opinion in San Francisco was that the second trial had been a farce.

A change of attorneys may also have affected the outcome. Before the Supreme Court overturned the verdict, Elisha Cook died suddenly on December 31, 1871. His opponent, Henry Byrne, had already been succeeded in office by D.J. Murphy, who played a limited role in the appeal. Neither was Byrne available to advise on the retrial. He had suffered from a degenerative brain disease for a number of months, and passed away on March 1, 1872, before the new trial got underway. The two second chairs remained, Quint now leading the defense and Campbell assisting the new district attorney.

It is unclear whether Laura's status as a female defendant hurt her or helped her in the end. On the one hand, her rejection of the role of a proper Victorian woman seemed to override any benefit of the doubt a chivalrous jury might have given her on the insanity defense in the first trial. On the other hand, that the Supreme Court relied partially on a technicality to overturn the verdict suggests that the Court was not prepared to send a woman to the gallows. What was clear, however, was that Laura's case was handled by a legal system made up exclusively of men.

To win her freedom, Laura had amassed significant unpaid legal expenses, which spawned further litigation. With Cook deceased, his widow (left with nine children) brought suit against Laura seeking \$10,000 for the services rendered by her husband. Laura, in turn, sued her mother for \$16,000, allegedly held for her in trust.

Henry Byrne's estate became tied up in litigation as well. Ironically, it appeared that Mr. Byrne had engaged in his own marital irregularities, walking away from a marriage to an actress nearly twenty years earlier without ever securing a divorce. His wife resurfaced, filing suit demanding a share of Byrne's substantial estate, although the executor was able to end the dispute with a relatively small payoff.

After the trials, Laura Fair continued to reside in the Bay Area, despite a somewhat chilly reception by its citizens. Soon after being acquitted, she attempted to rent a lecture hall in San Francisco to present her side of the story, but, according to a newspaper report, there was "much indignation expressed at this woman's

audacity." The proprietors of the hall refused her, so she was forced to give her speech in Sacramento. Entitled "A Wolf in the Fold," it was delivered to a small audience and later published. Her hopes that a lecture tour would allow her to earn enough money to support herself went unrealized. Laura Fair lived to the ripe old age of eighty-two, dying in 1919.

*Because of the publicity surrounding the Laura Fair murder trial, the proceedings are particularly well-documented. "Believing that this report of the proceedings on the trial will prove worth the consideration not only of members of the Bar, . . . but also, to the public generally," court reporters Marsh and Osbourne published an official verbatim transcript of the first trial (see Official Report of the Trial of Laura D. Fair, for the Murder of Alex. P. Crittenden (San Francisco, 1871)), which included a collection of love letters exchanged by Laura and Alexander that had been admitted into evidence. Laura Fair published her speech, "A Wolf in the Fold," in pamphlet form. Extensive reports of the trial can also be found in local and national newspapers of the time, including the San Francisco Examiner, Chronicle, and Bulletin; The Pioneer; and the New York Times. A modern treatment of the trial can be found in Kenneth Lamott, Who Killed Mr. Crittenden? (New York, 1963). In "Women Defenders in the West," 1 Univ.Nev.L.J. 1 (2001), Barbara Allen Babcock focuses on the Fair trial in her discussion of the role of women as spectators in the nineteenth-century western courtroom.*

*The affair and trial spawned a number of fictional and dramatic treatments as well. Wasting little time, Mark Twain drew upon the trial for his book, The Gilded Age, published in 1874, in which Fair was portrayed as the character Laura Hawkins. Alexander Crittenden was portrayed in Jerome Hart's The Golconda Bonanza (San Francisco, 1923). In modern times, broadcast media have also been attracted to the Fair trial, with a television drama airing in 1953 and a radio theatre production (with singer/actress Toni Tennille starring as Laura) airing in 1980. More recently, Karen Joy Fowler explored an alternate history in which Laura becomes a successful lecturer, in the short story "Game Night at the Fox and Goose" (in Black Glass (New York, 1998)).*

*Information about the attorneys involved in the Fair case can be found in two works by Oscar T. Shuck: History of the Bench and Bar of California (Los Angeles, 1901), and Bench and Bar in California. History, Anecdotes, Reminiscences (San Francisco, 1887) (focusing on Henry H. Byrnes' career). Information about Justices Wallace and Crockett can be found in J. Edward Johnson, History of the Supreme Court Justices of California, 1850-1900 (vol. 1) (San*

*Francisco, 1963). The Supreme Court decision is reported at People v. Laura D. Fair, 43 Cal. 137 (1872).*

*Much appreciation to David McFadden, CSCHS Secretary, for editorial assistance with this article.*

*Holly Streeter Cole has a J.D. from Georgetown University Law Center, where she authored an earlier*

*version of this essay for the course Gender and Legal History in America. After graduating from the Law Center, Holly worked for seven years in non-profit organizations assisting battered women. She is temporarily "retired" from the law, raising two young daughters with her husband in Berkeley, California.*

---

---