ACLU

Women's Rights Report

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Crystal Eastman: ACLU Co-Founder

Crystal Eastman lived an extraordinary life as a feminist, a pacifist and a civil libertarian. She was dedicated to a future society that guaranteed economic security and full dedevelpment for men and women on the basis of absolute equality; she was a herald of free speech and human rights. A skilled speaker, a writer and an organizer, she was, her contemporaries said, "a great leader."

Born in 1881, she received her master's degree in social work from Columbia University in 1904 and earned a law degree from New York University in 1907. From there she was appointed a staff member on the first investigation of worker safety in the United States, writing a book entitled Worker Accidents and the Law. Then, as the first woman appointed to New York state's Employer Liability Commission, she drafted this country's first workers' compensation law.

Married and the mother of two children, Crystal Eastman (she retained her birth name) early joined the suffrage fight. In 1913, she united with Alice Paul and others in founding the Congressional Union for Suffrage, forerunner of the National Women's Party. A feminist of long standing — at fifteen she had read a paper on women's rights to a local study group — she never, unlike some of her contempoaries, lost her friendly respect for men. For her, the feminist struggle was part of a larger fight for human freedom. She supported the abolition of all laws favoring women as well as those discriminating against them.

Crystal argued that the struggle for women's rights was harmonious with the workers' quest for equal rights. "The feminist knows," she said, "that the vast majority of women as well as men are without property, and are of necessity bread and butter slaves to be privately owned by a few." She saw, though, that the feminist, while participating in the class struggle, must also engage in the separate sex struggle for her rights. Crystal envisioned a woman's movement that advocated legal, educational and legislative means to obtain the desired goals.

Early on she agreed to work for the Equal Rights Amendment in order to "blot out of every law book in the land, to sweep out of every dusty courtroom, to erase from every judge's mind that centuries old precedent as to women's inferiority and dependence and need for protection; to substitute for it at one blow the simple new precedent of equality; that is a fight worth making if it takes ten years." But Crystal failed to rally the ACLU to her point of view.



"...a symbol of what the free woman might be."

Crystal considered birth control "as important as equal pay." She vigorously supported "freedom of choice in occupational and individual economic independence for women," a legacy which lives today in the work of the ACLU Women's Rights Project. Her belief in peace led to her early leadership in the activist Women's Peace Party.

Crystal's commitment to peace and civil liberties was highlighted in her work as executive secretary of the American Union Against Militarism. In that position, she brought young Roger Baldwin to New York in 1917 to assist her with the defense of wartime dissenters and conscientious objectors. When a policy tug threatened to disrupt the AUAM, the two activists together established the new and separate National Civil Liberties Bureau. According to Roger Baldwin, while the Bureau was "completely liberated, the rebellious infant was cozily housed right next door to its parent organization at 70 Fifth Avenue." Crystal served as a founding Board director. Three years later, in 1920, the organization was renamed the American Civil Liberties Union.

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ACLU'S 36 YEAR FIGHT FOR WOMEN'S RIGHTS



THE KENYON YEARS 1944-1970

1944

- ACLU establishes Committee on Discrimination Against Women in Employment. Dorothy Kenyon, a lawyer and feminist who devoted her life to the cause of working women and the rights of all women to control their own reproduction, is elected Chair, a position she retains for 26 years.
- ACLU successfully challenges Massachusetts law prohibiting married women from teaching in public schools.
- Among ACLU's priority issues pending before Congress is a bill to "provide equal pay for women for equal work" 6th among a list of 16 ACLU lobbying issues.

1945

• Under Kenyon's direction, the renamed Committee on Women's Rights focuses on three issues: defeat of the Equal Rights Amendment on the basis that it would "nullify protective labor laws;" support for legislation granting equal pay for equal work; defeat of state and federal laws prohibiting use of contraceptives and distribution of birth control information.

1954

- ACLU leads lobbying effort against limitation of child care deductions to widows, widowers, legally separated persons, but not married couples except where husband is "incapable" of self support. Kenyon testifies, "It is a denial of civil liberties to women because it places them under a special disability based on their sex."
- Women's Rights Committee merges with Race Relations Committee to become Equality Committee Emphasis shifts dramatically to race discrimination and continues through the civil rights era to mid-1960 when reproductive choice issues again become critical for women.

An Interview with Roger Baldwin

Roger Baldwin — the mention of his name in ACLU circles evokes unqualified expressions of admiration, respect and love. From 1920 to 1950, Roger served as ACLU's executive director. Today, more than 60 years since he came to New York to work with Crystal Eastman in the American Union Against Militarism, Roger remains the standard-bearer for the ACLU. We are honored to have this gentle man of truly awesome courage and dedication share his insight into the contributions of the early ACLU women.

by Betsy Brinson, Director
ACLU Southern Women's Rights Project

Brinson: What part did women play in the early ACLU?

Baldwin: ACLU was born out of the interest of women who were concerned with the problems of war and peace. The earliest leaders in the movement were Miss Lillian Wald of Henry Street Settlement House and one of the most prominent social workers in the country, and Jane Addams, who was the leader of the Women's International League for Peace and Freedom. They and other well-known women, mostly social workers, banded together to form the American Union Against Militarism when they saw that the U.S. was being drawn into World War I. This organization became very active and well-known throughout the country by its demonstrations, its parades and public activities against the war. By 1917, it was a strong organization headed by Miss Wald.

Brinson: What role did Crystal Eastman hold within the AUAM?

Baldwin: Crystal Eastman was a social worker and an industrial relations expert to the New York governor. She was well-known in the circle of reformers. She was the executive secretary of the AUAM. It was when she was ill that I came on to the AUAM to temporarily take her place. Even with her illness, though, she gave quite a little time to it — on and off — mostly on right then. We had offices at 70 Fifth Avenue. I was in charge of political work — trying to get Wilson to declare what we were fighting for. Crystal was in command but she and Miss Wald didn't see eye to eye on things, so she eventually resigned her AUAM post.

Brinson: Who was Agnes Brown Leach?

Baldwin: Agnes Brown Leach was on our AUAM Civil Liberties Bureau as well as the early ACLU executive committee. She was a wealthy member of the Brown banking family from Philadelphia. She was also a birthright Quaker and a very determined woman who later became a member of the Democratic National Committee and an organizer of the Foreign Policy Association.

Brinson: Who were some of the other early women in the ACLU?

Baldwin: Well, there was Emily Greene Balch. She was a Wellesley College history teacher, a determined pacifist and AUAM leader too. She won the Nobel Prize for peace, as did Miss Addams. Then there was Vida Scudder, another Wellesley teacher and a socialist. Our only socialist leaders then were Vida and Crystal Eastman.

I would say that in the early months of the ACLU that women were the dominant influence because ACLU origins were in the determination of women to fight for peace. And peace and civil liberties went right along together.

Brinson: Would you describe Crystal Eastman and the other women as "feminists?"

Baldwin: Oh, yes. And I married one of them too. Madalyn Doty was a close friend to Crystal. Madalyn was a writer interested in prison reform so she went to prison herself to find out about the conditions inside.

Crystal was also a lawyer. Quite a number of women activists in New York at the time were lawyers. They were all on the side of angels.

Brinson: What about Jeannette Rankin?

Baldwin: Jeannette Rankin was our stalwart supporter in Washington. As you know, she was the only Congressperson to vote against World War I. She said, "I love my country but I cannot vote for war." She was on the ACLU executive committee after the war and served as vice-chair. She attended ACLU meetings all during Congress. She was an outstanding personality of great independence. She was a star in Congress.

Brinson: Who was Lucille Milner?

Baldwin: Lucille was a faithful adherent from the beginning. She and I both were from St. Louis. She was a widowed social worker with considerable means. She came with me from St.

It was for the most part the women who raised the money, organized the affiliates and staffed the committeess. They did the day-to-day, nuts and bolts work to build the ACLU.

Roger Baldwin

Louis to New York and worked as the ACLU field secretary. She generously contributed \$2,000 every year.

A large part of our early money came from women. Agnes Brown Leach and Emily Taft Douglas in Chicago each gave \$5,000. In fact, women were our heaviest contributors. Helen Phelps Stokes, member of a wealthy New York family whose money came from mid-west mining, also contributed regularly.

Helen was a maiden lady of rather frail health — well, I think not since she got around all right. She was a socialist from a millionaire family. Helen went to prison for a speech she made.

Brinson: Did the ACLU handle her case?

Baldwin: Oh, yes. She was one of our prime cases. In Carson City, she said that profiteers were making money from the War. She was tried and convicted under the Espionage Act and served a short time.

Another ACLU activist who went to jail was Kate Richards O'Hare. She was an old St. Louis friend of mine and probably the most prominent socialist woman in the country. Kate was a regular columnist to *The Ripsaw* which was the socialist daily paper. I was told it had a million circulation although I don't believe it.

Brinson: Wasn't she involved in the ACLU Children's Crusade in 1922?

Baldwin: I'm glad you mentioned that. Kate organized the Children's Crusade in Oklahoma. Socialist rebellion erupted there and the boys took to their guns. They were arrested and imprisoned. The Children's Crusade was to help get them out. There were a few IWW boys involved too. Kate didn't care who they were as long as they were in prison. She had a great sense of drama. The Crusade came east from Oklahoma for publicity. They were nice kids around 9 or 10 years old coming to get their papas out of jail. Kate asked me to take care of them in Washington, so we rented a house there and cooked for them.

Brinson: How many children were there?

Baldwin: About twelve to fifteen, and mothers with them. They picketed the White House every day for months while we tried to get the Pardon Attorney's office to recommend release. Finally they did. Kate gave up though after a while and we hired a woman from Cincinnati. Mary Brite was a powerhouse. We paid her expenses. She was very devoted and later headed our Cincinnati group for a long time. She had money too.

Brinson: What about Mary McDowell?

Baldwin: Mary was a prominent social worker who was on our national committee. She along with Jane Addams, Edith Abbott and Sophonisba Breckenridge were all very active in our Chicago chapter.

Brinson: Who was Sophonisba Breckenridge?

Baldwin: Sophonisba came from an aristocratic Kentucky family. She too was a social worker. She was good friends with Jane Addams. We also had some prominent New York labor women. One was Rose Scheiderman of the Women's Trade Union League. And there was Julia O'Connor with the telephone operators.

Brinson: What kind of woman was Rose Schneiderman?

Baldwin: She was a spellbinder when she got up on her feet and addressed workers and meetings. Otherwise she was very sweet, friendly and humorous. I remember she always like to crack a joke.

Brinson: Would she have called herself a feminist?

Baldwin: They were all feminists. You see, this was the time when women got the vote. Women's suffrage had been very active from 1910 on. We had the spectacle during the War of women picketing the White House and going to jail. There were over 100 women jailed in 1917. Many were prominent social organizers. The so-called true feminists of course were backers of the Woman's Party and the ERA. There were comparatively few of them at the time. Most had a limited view of women's rights. Even the ACLU did not come out for the ERA until very late.

Brinson: But didn't Crystal Eastman early on urge support for a federal ERA?

Baldwin: She did.

Brinson: Was there discussion about ERA within the ACLU at that time?

Baldwin: Yes, and the people who won out in the discussion were people like Dorothy Kenyon, a lawyer, a judge and a very active ACLU member for many years. She believed that

1956

 ACLU Annual Report states: "The denial of opportunity for women to serve on juries is one of the last remaining specific inequalities before the law." (Emphasis added.)

1957

 Maryland ACLU successfully challenges state law which makes it a crime for a white woman to bear the child of a Negro man.



1961

• Kenyon testifies on behalf of ACLU in favor of federal legislation to provide equal pay for equal work for women: "This is a simple question of fair play... Women have suffered from this evil long enough. They are in industry to stay. They deserve to be treated like all other human beings in a land of freedom and equality."

1963

 ACLU works in numerous states to prevent state social workers from making "mid-night raids" on homes of welfare mothers. Successfully challenged as a violation of privacy under 4th Amendment.

1964

• Kenyon and Harriet Pilpel urge ACLU Board to recognize civil liberties aspects of restrictive abortion laws. Kenyon states: "That women should be forced by the government to bear children against their will (is) a mockery of democracy."

1965

- ACLU calls for the right of all women to obtain abortions, the first organization to do so.
- ACLU joins Planned Parenthood in Griswold v. Connecticut, challenging the state's prohibition of prescription, sale or use of contraceptives, even for married couples. Griswold is the first ACLU challenge of restrictive birth control laws as a violation of the right to privacy guaranteed by the 14th Amendment. Previous ACLU arguments dealt exclusively with First Amendment rights of those convicted under obscenity statutes for distributing information about contraception. Supreme Court's favorable ruling sets the

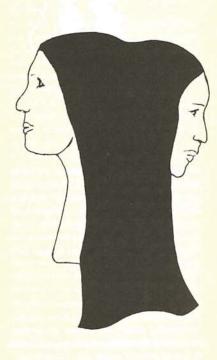
precedent upon which ACLU later successfully challenges restrictive abortion laws.

1966

 ACLU challenges Alabama exclusion of Blacks from juries; Kenyon and Pauli Murray amend complaint to challenge exclusion of women as well. Favorable ruling from U.S. District Court, Alabama.

1969

 ACLU Board endorses proposal for national ACLU project on women's rights, the goal of which is "to obtain equal protection of women's rights under the 14th Amendment."



1970

- Kenyon and Pauli Murray urge ACLU Board to reverse its position on ERA: "There comes a time when you cannot wait any longer, when you must find new tools for the tools that have failed you." On September 26, 1970, the ACLU Board agrees, stating, "Since the 14th Amendment has been available to the Supreme Court for 102 years and still has not been applied against sex discrimination, the ACLU believes it is time to fashion a new method... designed specifically to end discrimination against women... The Equal Rights Amendment is such a method."
- ACLU is instrumental in persuading New York State legislature to repeal all restrictions on abortions, the first such action by a state legislature.



THE ACLU SISTERHOOD

Today we call it "networking" — the bringing together of women who work on similar or complementary issues to share expertise, to offer support, and to stimulate organizing among and between our constituents. There may or may not have been a word for it in the 1920's, but the recently-emerging women's history of the U.S. clearly documents that the women who helped build the ACLU also worked together in many other spheres of social reform: women's suffrage, settlement houses, worker's rights and safety, and above all, peace. The following portraits of the ACLU Sisterhood reflect that early networking.

Jane Addams (1860-1935)

Influenced by her father's abolitionist beliefs, Jane resisted her father's plans for her to become a missionary and instead enrolled in the Women's Medical College of Pennsylvania. Poor health forced her to withdraw. But by 1889 she determined to pursue her philosophy of social activism by renting a house to provide services to Chicago's immigrant population. For the rest of her life, Jane traveled throughout the U.S. and many parts of the world but Hull House remained her home and the reflection of her thought and personality. Under her leadership, Hull House leaders were active in political battles for child welfare laws, limitation on working hours of women, improvement in welfare procedures, recognition of labor unions, protection of immigrants, compulsory school attendance and industrial safety. A popular lecturer, Jane further espoused her philosophy through public speaking and publication of articles and books. She spoke widely for women's suffrage and served as vice-president of the National Woman Suffrage Association from 1911-1914.

When war broke out in 1914, Jane turned her attention to persuading the U.S. against involvement. The next year she was elected chair of the newly organized Women's Peace Party and of the International Congress of Women at The Hague.

Her continuous opposition even after U.S. entry in 1917 found her villified on all sides. The Daughters of the American Revolution expelled her and few social workers, even those at Hull House, shared her view. The war's end, though, brought no slackening in her work for peace. In 1919, she was elected first president of the Women's International League for Peace and Freedom, an outgrowth of the 1915 Hague gathering. She held this post for twenty-six years.

Disturbed by the widespread pressure for intellectual and political conformity, she helped in 1920 to found the ACLU. She served on the National Committee throughout the decade and was also active in the Chicago Civil Liberties League. Deteriorating health in 1931 slowed her activism until her death of cancer in 1935.

Sophonisba Breckenridge (1866-1948)

A founding member of the ACLU, "Nisba" served on the National Committee for several years. She was also active in the Chicago Civil Liberties League.

Nisba was the daughter of a Kentucky lawyer who was also a Confederate colonel and a Congressman. Educated at Wellesley College, she taught high school math until she decided to work in her father's law office and read for the bar. She was the first woman to successfully pass Kentucky's bar examination, but her law practice did not prosper. In 1895, she accepted a fellowship in political science at the University of Chicago where she received both her Ph.D. and a law degree. She became an instructor in the university's new Department of Household Administration where she taught courses on the economic and legal aspects of family life and published articles on the employment of women in industry. In 1908, she became dean of the Chicago School of Civics and Philanthropy and began to train social workers. As a resident of Hull House, she observed first-hand the squalid life of Chicago's West side which led to her writing The Delinquent Child and the Home (1912) and Truancy and Non-Attendance in the Chicago Schools (1917). She was quite emphatic in wishing to maintain the independence of social work from sociology, but to put into the hands of social workers the raw materials of their discipline.

Her life became a hectic round of meetings, conferences, interviews, campaigns and causes. She shunned vacations and social diversions. "I would rather have a good fight any afternoon, even if I get beaten, than to go to a party any time," she once told the New York Times.

Nisbas's activities exemplify the close relation between social reserach, philanthropy and reform in the Progressive period. She investigated tenement conditions as a city health inspector,

While violence has been the ultimate weapon of resistance to racial desegregation, its psychic counterpart - ridicule - has been used to resist sex equality.

- Pauli Murray

prepared a report on the first ten years of Chicago's pioneering juvenile court movement, and played an active role in the early NAACP. She was elected vice-president of the National American Woman Suffrage Association in 1911, but she insisted on the importance of economic equality for women as well. She consistently supported women's trade unions, and as a lawyer she helped draft bills regulating wages and hours of employment. As a national officer of the AAUW, she advocated activism and reform for the woman's club movement. In 1915, she helped organize the Women's Peace Party. Among her other publications, she authored Women in the 20th Century and Marriage and the Civil Rights of Women. In 1934, she was elected president of the American Association of Schools of Social Work.

Elizabeth Gurley Flynn (1890-1964)

Elizabeth described herself as a "professional revolutionist and agitator." She gave her first public speech at the age of fifteen on the rights of women, and she was arrested for the first time a year later when she and her father, a Socialist, were accused of speaking without a permit. Free speech was to be an issue for which she fought all her life. From listening to street-corner speakers like Rose Schneiderman, Elizabeth learned how to cope with hecklers and how to answer such typical comments as "go home and wash your dishes" and "who's taking care of your children?" During the economic recession of 1907-08, she organized the New York Propaganda League which attempted to get help for unemployed workers. She traveled widely for the International Workers of the World (IWW) and in 1912 played a leadership role in the famed Lawrence, Massachusetts strike in which some 20,000 textile workers went out on strike over reduced wages. As a result of the Lawrence success, wage increases were won for over 200,000 mill workers throughout New England and the seeds planted for futher union organization.

A charter member of the ACLU, Elizabeth played an active role on the National Committee for over 20 years. She was a major participant in the ACLU defense of Italian anarchists Sacco and Vanzetti. In 1937, when she joined the Communist Party, the ACLU Board responded that it made no difference and indeed in 1939, the Board re-elected her unanimously to a 3-year term. In 1940, with the country affected by Communist hysteria, the ACLU changed its mind and asked Elizabeth to resign. Her refusal led to expulsion by the ACLU Board, and action resulting in protest and resignation by some ACLU members. Ironically, only one month earlier the ACLU had issued a pamphlet entitled "Why We Defend Free Speech for Nazis, Fascists and Communists: An Answer to Critics Who Would Deny Liberty to Those They Characterize as Enemies of Democracy." During her "trial," Elizabeth argued not only was she denied her right to free speech, but that the ACLU Board violated her right to due process in terms of "trial" procedure. After 6 hours of deliberation, the vote was 10 against, nine for allowing Elizabeth to remain in the ACLU. For many years, the expulsion remained a black mark on the annals of the ACLU.

Elizabeth continued her work for the Communist Party and produced pamphlets which attempted to convince American women of their potential role in bringing peace to the world. Supporting Franklin D. Roosevelt's 1944 bid for re-election, she reminded women that they outnumbered men voters and should use their political power accordingly.

At age 62, she was tried under the Smith Act for conspiring to advocate the overthrow of the U.S. government and sentenced to the women's reformatory at Alderson, West Virginia for 28 months. Here she wrote poetry, took notes on prison life for a later published book, and participated in the desegregation of a cottage which housed black women. Upon release, Elizabeth worked for repeal of the Smith Act and to ease restrictions imposed on the Communist Party. Her only success was the Supreme Court decision to grant passports to the Soviet Union. In 1964, she died at age 74 on visit to Russia.

In 1976, the ACLU Board rescinded Elizabeth Gurley Flynn's expulsion in a lengthy resolution which in part affirmed Flynn's charge that she was denied due process in the 1940 hearing. The resolution concluded: "Therefore, it is the sense of this Board that Ms. Flynn should not have been expelled... This Board recognizes the great service rendered by Elizabeth Gurley Flynn to American labor and reiterates the recognition by an earlier Board...of Elizabeth Gurley Flynn's long service to the cause of civil liberty.'"

"ACLU has the reputation in women's rights that it has today because Ruth Bader Ginsburg directed her efforts to the ACLU."

Isabelle Katz Pinzler, Director ACLU Women's Rights Project

THE GINSBURG YEARS 1971-1980

As the re-born feminist movement began to demand legal rights for women, ACLU's Marvin Karpatkin located the blockbuster: Reed v. Reed. Ruth Bader Ginsburg, then a professor of law at Rutgers, volunteered to write ACLU's Supreme Court brief. She deliberately chose the ACLU rather than a women's organization as the vehicle for her expertise on women's rights for three reasons, she told the Report: "First, because I wanted to educate people on women's issues. When you're working with a group of people who all share the same ideas, you can't do much education. Secondly, the ACLU affiliate set-up allows us to find cases from all over the country, and conversly, our staff lawyers are available to work with affiliates. Finally, I wanted to be a part of a general human rights agenda. Civil liberties are an essential part of the overall human rights concern - the equality of all people and the ability to be free."

1971

• ACLU files for jurisdiction in Supreme Court appeal of Reed v. Reed challenging automatic preference of men over women as administrators of estates of decendents. Ginsburg's brief results in landmark decision that treatment of men and women differently based solely on sex is a violation of the equal protection clause of the 14th Amendment. However, Court fails to declare sex a "suspect classification" as it had with race discrimination.



- ACLU Board declares women's rights its top legal and legislative priority.
- Ginsburg and Faith Seidenberg urge ACLU Board to fund a women's rights project. In unanimous agreement, Board appropriates \$50,000 from general funds; Ginsburg works half-time in national office to establish Project. Priorities are twofold: to challenge specific gender-based discrimination under the law and to establish legal recognition of women's unique role with respect to child-bearing to eliminate discrimination based on pregnancy.

- ACLU general counsel wins first Supreme Court decision against restrictions on abortion in U.S. v. Vuitch.
- Women's Rights Project files Struck v.
 Secretary of Defense, first challenge to pregnancy discrimination on behalf of Air Force lieutenant discharged because she is pregnant. Supreme Court moots the claim after Air Force revises its policy and readmits Struck to service.



1972

- Congress passes ERA; Hawaii becomes first state to ratify.
- Dorothy Kenyon dies of cancer at age 84.

ACLU Board unanimously adopts resolution of tribute proposed by Pauli Murray: "Her vivacious presence at Board meetings will be greatly missed, and the wisdom she brought to all ACLU deliberations will not easily be replaced. Our country, and the Union, is much the better because of what Dorothy Kenyon gave to the cause of civil liberties in her long and distinguished career."

1973

 ACLU wins Doe v. Bolton, one of two Supreme Court decisions which legalize aborton for all women.



FIGHTING FO

When women are expected to be agile, they be they develope courage; and when they have

Mary Ware Dennett

In 1915, Mary Ware Dennett wrote "The Sex Side of Life," a pamphlet which she originally wrote to teach her two sons about human sexuality. Later reprinted in the *Medical Review of Reviews*, it distributed widely. In 1930, when the pamphlet was in its ninth printing, Mary was convicted of sending "obscene literature" through the mails, fined \$300 and sentenced to 300 days in prison. The ACLU defended her, raised money, publicized the cause at stake, and eventually secured a reversal of the conviction.

Born in 1872, Mary was trained at the Boston Museum School of the Arts as a professional house decorator. During her career, she served as the head of Drexel Institute School of Design in Philadelphia, director of the Boston Handicraft Shop, and director of the Boston Arts and Crafts Society. From 1910 to 1913, she was the corresponding secretary of the National American Woman Suffrage Association. In 1915, she was one of three organizers of the National Birth Control League. She also served on the board of the Women's Peace Party and in 1941 helped to found the World Federalists. She died in 1947.

Printed below are reproductions of the original introductory texts to "The Sex Side of Life" and the ACLU Mary Ware Dennett Defense Committee's pamphlet "Sex Education or Obscenity?" which publicized her case.

THE SEX SIDE OF LIFE FIRST APPEARED IN THE Medical Review of Reviews FOR FEBRUARY, 1918. THE FOL-LOWING IS QUOTED FROM THE EDITOR'S FOREWORD.

We have come across so much rubbish on this subject that we drifted into the conclusion that an honest sex essay for young folks would not be produced by this generation.

Recently there came to this desk a manuscript bearing the title The Sex Side of Life and the sub-title An Explanation for Young People, written by Mary Ware Dennett. No editor ever confesses that he reads an article with prejudice, but we will admit that we expected this MS would be "returned with thanks." It was reasonable to suppose that a laywoman would not succeed where physicians had failed. Even after we had read the introduction we were not convinced, for we have met several books whose texts do not fulfill the promises made by the preface. But after reading a few pages of the essay itself, we realized we were listening to the music of a different drummer. Instead of the familiar notes of fear and pretense, we were surprised to hear the clarion call of truth.

Mary Ware Dennett's Sex Side of Life is "on the level." In the pages of the Medical Review of Reviews, her essay will reach only the profession, but we sincerely hope that this splendid contribution will be reprinted in pamphlet form and distributed by thousands to the general public. We are tolerably familiar with Anglo-American writings on sexology, but we know nothing that equals Mrs. Dennett's brochure. Physicians and social workers are frequently asked: "What shall I say to my growing child?" Mary Ware Dennett, in her rational sex primer, at last furnishes a satisfactory answer.

V. R.

FOREWORD

MRS. DENNETT'S conviction places parents, educators and physicians at the mercy of the arbitrary power of Post Office officials to brand as "obscene" any attempt to impart to young people the knowledge of sex which is essential to their moral, mental and physical health. The right of the physician to transmit vital information to his patients is challenged. The responsibility of social and medical educators to parents and of parents to children is so seriously interfered with by this conviction that its reversal is essential, if we in this country are to achieve a sane and decent attitude and enlightened practice in this vital matter of sex education.

The members of this Committee, composed of physicians, educators, social welfare workers, publicists, business men, and other representative people, ask you to join them: first, in supporting Mrs. Dennett's appeal; and, second, in encouraging the movement to place sex education in competent hands beyond the reach of arbitrary official censorship.

OUR RIGHTS



ome agile; when they are expected to be brave, endure, their endurance breaks all records.

_ Crystal Eastman

Rosika Schwimmer

An early feminist, Hungarian-born Rosika Schwimmer had, in 1904 with the founding of the Feminist Association there, campaigned hard for women's suffrage. In 1914, while at work in London for the International Women's Suffrage Alliance, war broke out, and along with other suffrage leaders, Rosika began to devote her energies to a peace campaign. On behalf of the Hague Congress of Women, she traveled to the U.S. where she urged President Wilson to play an active role toward ending the European war. Through these peace activities, she came to know Jane Addams and Crystal Eastman with whom she organized the Woman's Peace Party whose platform "sorrowed for the misery of struggles among warring nations" but "demanded that war be abolished."

Rosika returned to Hungary to care for her invalid mother, and in 1918 was appointed the new republic's minister to Switzerland. A Communist takeover of Hungary occured in 1919, and Rosika was ordered home where her outspoken criticism of the new government made life difficult. In 1920, using a forged passport, she escaped through Vienna to the U.S. only to find herself characterized in the press as a "German agent in the U.S." Similar attacks were published in the Congressional Record.

Undeterred, Rosika applied for U.S. citizenship the following year. Her application papers were returned with the demand that she answer whether she would bear arms for this country. Her reply: "I would not take up arms personally." Her application was denied.

She gave her reasons for wanting American citizenship in a 1926 radio address: "...First of all because America is a democratic republic which recognizes women as free citizens. Its sense of individualism, its love of liberty appealed to me."

In 1927, Rosika took her case to federal court. Judge George Carpenter in the 7th Cicuit said, "I can tell you that unless you are willing to give the last drop of your blood to this country, you will not get citizenship in this court." Carpenter's decision was overturned on appeal. The decision read: "Women are considered incapable of bearing arms. A petitioner's rights are not to be determined by putting connundrums to her." The U.S. Justice Department appealed and in 1928, the Supreme Court, with a 5-3 vote, denied Rosika's citizenship on the basis "that it is the duty of citizens by force of arms to defend our government against all enemies whatever necessary is a fundamental principle of the Constitution."

In a dissenting opinion, Oliver Wendell Holmes defined the principle of free thought: "Some of her answers might excite popular prejudice, but if there is any principle of the Constitution that more imperatively calls for attachment it is the principle of free thought — not for thought for those who agree with us but freedom for the thought that we hate."

Civil libertarians rallied to the support of dissenting judges. "Among all the decisions of the Supreme Court since the war adverse to civil liberty, none violates the traditions more than this decision," stated the ACLU. Editorial opinion was also sharply critical.

Congressional legislation was introduced to nullify the Supreme Court decision. The Griffin Bill, named after Congressman Anthony Griffin of New York, sought to assure that "no person mentally, morally and otherwise qualified should be barred from citizenship by reason of his or her religious views of philosophical opinions with respect to the lawfulness of war as a means of settling international disputes." The bill died in committee.

The defeat of her effort to gain American citizenship left Rosika in a limbo of statelessness. The attacks on her integrity made it impossible for her to find work as a lecturer and a writer. The only book she managed to sell was a charming collection of Hungarian folk tales.

In 1948, Rosika was nominated for the Nobel Peace Prize by the parliaments of Great Britain, Hungary, Sweden, France and Italy. She died in August, 1948 before the prize was awarded. Consequently, no prize was awarded that year.

Using the Schwimmer decision, the courts continued for 17 years in a host of cases to chip away at the First Amendment guarantees to those whose religious beliefs made them conscientious objectors.

Finally, in 1946, the Supreme Court reversed the Schwimmer decision in a case brought by a Seventh Day Adventist who was denied C.O. status because he refused to bear arms for his cont d. p. 10

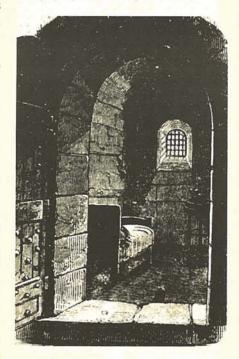
- ACLU and Southern Poverty Law Center win Frontiero v. Richardson in which Supreme Court rules unconstitutional a spousal "dependency" test for husbands of servicewomen to receive military benefits when no such test is required of wives of servicemen.
- In response to refusal of Court in Frontiero to declare sex a suspect classification under 14th Amendment, ACLU intensifies ERA ratification efforts, assigning full time staff to work in unratified states.

1974

- ACLU establishes Reproductive Freedom Project in national office.
- Women's Rights Project legal docket lists over 300 sex discrimination cases in affiliate and national offices.

1975

• ACLU wins Taylor v. Louisiana in which Supreme Court overrules systematic exemption of women from juries as a violation of defendant's 6th Amendment right to jury representative of community.



- In Weinberger v. Wiesenfeld, Supreme Court upholds ACLU challenge, led by Ginsburg, to Social Security provision of benefits to wives, but not husbands, of deceased wage earners who had primary child care responsibility.
- ACLU wins Bigelow v. Virginia in which Supreme Court holds that abortion clinics may advertise in the press.
- Major grant from Ford Foundation enables Women's Rights Project to expand staff to four full time attorneys, thus making WRP the major women's rights litigation unit in the country.
- In ACLU sponsored Kahn v. Shevin, Supreme Court establishes exemption to

equal protection claims by upholding a tax exemption for widows which is not allowed for widowers "to compensate for past discrimination against women."

 ACLU wins Turner v. Utah Division of Employment Security in which Supreme Court rules unconstitutional denial of unemployment benefits to pregnant women.



1976

• Ginsburg's ACLU amicus in Craig v. Boren is instrumental in assisting Supreme Court to enunciate "middle tier" standard for equal protection analysis in gender discrimination cases.

1977

- Supreme Court, Congress and President Carter severely restrict Medicaid abortion funding for indigent women.
- ACLU Board declares the right of all women to obtain abortion its top priority, launches national Campaign for Choice.
- Ginsburg's argument on behalf of ACLU in Califano v. Goldfarb persuades Supreme Court to rule unconstitutional a Social Security provision restricting widower's benefits to men who received at least half their support from wives when no such test is required of widows of male wage earners.

There can be no doubt that our Nation has had a long and unfortunate history of sex discrimination. Traditionally, such discrimination was rationalized by an attitude of "romantic paternalism" which in practical effect, put women, not on a pedestal, but in a cage.

U.S. Supreme Court Frontiero v. Richardson

Sisterhood, cont'd.

Mary Eliza McDowell (1854-1936)

Mary's introduction to social service came at sixteen with the great Chicago fire of 1871. The fleeing crowds halted near the McDowell house, and Mary worked with her Methodist pastor to coordinate relief forces. By 1887, she was serving as national organizer for the young women's division of the Woman's Christian Temperance Union. Through the WCTU, she became interested in the kindergarten movement and taught for a period. In 1890, she joined Jane Addams at Hull House where she started a kindergarten. Shocked by the violent Pullman strike in 1894, she determined to start a settlement house in an industrial, immigrant neighborhood, choosing a site in the midst of Chicago meat-packing plants. Ringed by open garbage pits, the neighborhood had the worst health record in the city. Enlisting her fellow members of the Woman's City Club, Mary launched a campaign which forced the city council to appoint a Waste Commission which recommended reduction plants to replace the open pits, and the "Garbage Lady" finally had the satisfaction of seeing them closed.

Later she helped to organize the first women's union in the Chicago stock yards. She helped found the National Women's Trade Union League and played a major part in its efforts to inform public opinion about the problems of working women. Bringing pressure from women's clubs, churches and organized labor to bear on Congress, she secured an appropriation which financed an important study of women in industry in 1911. She played a major role in securing a Women's Bureau with the Department of Labor in 1920.

Mary McDowell's deep faith in democracy was bolstered by a keen interest in politics. In 1923, she was appointed Chicago commissioner of public welfare. Handicapped by lack of funds, she nevertheless made the department a clearinghouse for the city's social agencies and established a Bureau of Employment and a Bureau of Social Surveys which carried out research on migratory labor, women offenders and housing.

Like the Pullman strike, the Chicago race riots served as a revelation to Mary, and during the last decade of her active life the betterment of race relations became a compelling interest. In 1919, she organized an Interracial Cooperative Committee composed of representatives of 80 white and colored women's clubs which met to confer on legislation and civic activities concerning both races. She was active in the NAACP and the Chicago Urban League. She was an early advocate of woman suffrage and served on the League of Women Voters' national board. She shared Jane Addams' interest in peace and opposed U.S. entry into World War I.

Mary served on the ACLU National Committee from 1924 until her death in 1936. She was active, too, in the Chicago Civil Liberties League.

Kate Richards O'Hare (1877-1948)

Raised in the mid-west, Kate briefly attended normal school in Nebraska and taught one winter in a rural sod-house school. In 1894, she became a machinist's apprentice in her father's shop and joined the International Order of Machinists, a union which did not normally admit women. At this time, she was also a temperance worker and active in the Florence Crittendon mission in Kansas City. Deeply religious, she planned to enter the ministry, but upon hearing a apeech by "Mother" Mary Jones, she became instead a socialist evangelist. In 1912, she became co-editor with her husband of the *National Ripsaw*, a socialist weekly magazine. She was active on the Socialist Party national executive committee and on one occasion ran for Congress on the Socialist platform.

Opposing U.S. involvement in World War I, Kate traveled from coast to coast giving some 140 lectures on "Socialism and the War." In Bowman, North Dakota, she was reported to have said "...the women of the U.S. (are) nothing more than brood sows, to raise children to get into the army and be made into fertilizer." Although she vigorously denied having used these words, she was indicted under the Espionage Act, found guilty and sentenced to five years imprisonment. After appeals failed, she entered the Missouri State Penitentiary in 1919. One year later, her sentence was commuted, and President Coolidge later granted her a full pardon.

cont'd. next page

How shall we explain to them the meaning of democracy if the same Congress that voted to make the world safe for democracy refuses to give this small measure of democracy to the women of our country?

Jeannette Rankin

Her imprisonment spurred Kate to spend much of the rest of her life on prison reform. While still incarcerated, she published *In Prison*, a powerful indictment of prison life. One of the principle targets of her later writing was the contract-labor scheme under which private manufacturers of work clothes hired prison workers at slave wages. She conducted a national survey of contract labor for the United Garment Workers which was useful in the later elimination of the worst abuses of the system by Congress. She was appointed assistant director of the California Department of Penology where she worked to ease overcrowding and to eliminate the placement of youths and adult offenders together. Her contributions were acknowledged by a later governor, Earl Warren, who invited her to attend sessions of the California Crime Commission, an opportunity the aged reformer availed herself of until her death at age 70.

Jeannette Rankin (1880-1973)

Influenced by the writing of Jane Addams, Jeannette received a degree in social work from the New York School of Philanthropy in 1908 after spending her girlhood on a Montana ranch. Support for women's suffrage followed with her participation in the New York Women's Suffrage Party where she worked with activists Rose Scheiderman and Rosika Schwimmer. For five years she devoted full time to suffrage and traveled extensively across the country as a national suffrage leader. In 1914, suffrage was voted through in Montana. Clearly, she saw, since women could now vote in Montana, they could also be represented by a woman in Congress. In 1916, Jeannette, running on the Republican ticket, became the first woman elected to Congress. Disturbed with the prospects of American entry into World War I, she spoke extensively for peace all across the country. During House debate on American involvement against Germany, Jeannette voted no. "I love my country, but I cannot vote for war," she announced.

Although a pacifist, she was always on the alert to the cause of women's rights — even in routine war bills in which she advocated equal employment opportunity for women. Visited by Crystal Eastman, who was about to marry an Englishman, she was successful in sponsoring a bill enabling women to retain their nationality after marriage to a non-citizen. Her concern over reproductive freedom led her to sponsor legislation to provide instruction in "female hygiene, venereal disease, maternity and child care as well as birth control." Although unsuccessful, her bill laid the ground-work for passage several years later of the Sheppard-Towner Act which included these programs. Her public visibility on such controversial issues however, led to her defeat after only one term.

In 1920, the Palmer raids on radicals and dissidents, their arrest without warrants and their imprisonment without trial, led Jeannette to join the ACLU, of which she later became vice-president. Simultaneously, she accepted the post of field secretary for the National Consumers League where she lobbied Congress for worker's compensation, factory reform and prohibition of child labor. Four years later she established the Georgia office of the National Council for the Prevention of War where she began to campaign against compulsory military training in Georgia schools and colleges, an undertaking on which she spent many years without success. Always a controversial target, the *Macon Evening Journal* in 1935 published an article calling Jeannette a Communist for her peace activity. She successfully sued the paper for libel, winning a \$1,000 settlement and a retraction. She asked the ACLU to handle her case but the ACLU refused, taking the position that there should be the widest latitude in publishing, even of "untrue statements in the press."

Returning home to Montana, she was in 1941 re-elected to Congress. The nation was again headed toward war. This time Jeannette would cast the only vote against war in both Houses. "As a woman I can't go to war, and I refuse to send anyone else," she said.

In later years, she viewed President Kennedy's dispatch of American advisors to Vietnam with misgivings. By 1968 she became once more an anti-war activist. On January 15, 1968, she marched in Washington at the head of the Jeannette Rankin Brigade. As planned, the women were to rally at the U.S. Capitol steps, where a delegation would present petitions calling for an end to the war. Capitol police vetoed the plan by claiming that the marchers were violating the U.S. Code in which it was forbidden "to parade, stand or move in processions or assemblages cont'd. next page

 ACLU establishes Southern Women's Rights project, the only ACLU project focusing on organizing and education rather than litigation, and the only staffed regional women's project of any organization.



1978

- ACLU instrumental in persuading Congress to pass Pregnancy Disability Act establishing that discrimination based on pregnancy is sex discrimination for the purposes of Title VII of the Civil Rights Act, thereby nullifying disastrous Supreme Court decisions in Geduldig v. Aiello and Gilbert v. General Electric.
- WRP amicus in Los Angeles Water and Power Company v. Manhart is important in persuading Supreme Court to grant equal pension rights to women workers.
- WRP successfully challenges federal statute prohibiting assignment of Navy women to Navy ships. Navy declines to appeal to Supreme Court.
- Reproductive Freedom Project files scores of lawsuits and affiliates lobby to continue Medicaid funding for abortion. RFP files numerous suits to stop harassment of abortion clinics; begins major effort to halt call for Constitutional Convention for the purpose of making abortion illegal.



1979

- As co-counsel in Duren v. Mississippi, ACLU wins further extension of equal rights on juries with Supreme Court decision over-ruling option for women to decline jury duty when no such option is aavailable for men.
- WRP amicus in Orr v. Orr persuades Supreme Court to establish equal responsibility for alimony based on salary of primary wage earner rather than on sex.

 Supreme Court denies WRP challenge to veteran's preference policies as sex discrimination in Personnel Administrator of Massachusetts v. Feeney.

1980

- WRP files suit against American Cyanimid for forcing women workers to be sterilized in order to avoid potential damage to fetus from exposure to hazardous chemicals in the plant. Project declares priority litigation status to complaints of discriminatory treatment of workers exposed to reproductive hazards; begins search for test case to challenge prohibition of women from working with lead or cadmium, as the reproductive hazard of exposure to these substances is as great or greater for men.
- RFP, Planned Parenthood and Center for Constitutional Rights win landmark victory in McRae v. Harris federal district court ruling that Hyde Amendment restriction on Medicaid abortion funds is unconstitutional.
- ACLU vows to challenge any maleonly draft — will ask that draft be invalidated altogether because it is based on gender discrimination.
- WRP establishes new priority issues in addition to reproductive hazards: nontraditional jobs for women, discrimination in fringe benefit plans, and military issues.
- President Carter nominates Ruth Bader Ginsburg as judgeship candidate for prestigious Court of Appeals in Washington, D.C. Ginsburg resigns as WRP General Counsel; her farewell statement is characteristic in its humility: "The ACLU has given me much more than I've given the ACLU."



Sisterhood, cont'd.

of more than 10 to 15 persons on Capitol grounds." This time the ACLU came to Jeannette's defense and in 1972 secured a Supreme Court opinion against the ruling for violation of the First Amendment.

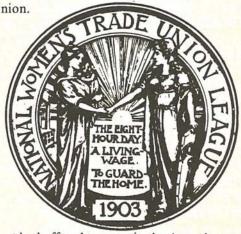
In May, 1973, Jeannette Rankin died in her sleep at age 93.

Rose Scheiderman (1882-1972)

A Russian Jewish immigrant, Rose began her career in a department store where she worked for \$2.75 a week. She later became a capmaker and participated in the waist-maker's strike in 1907. Seeing the evils of sweatshop conditions and exploitation of women workers, she became an organizer in 1908 for the Women's Trade Union League. Active too for women's suffrage, she ran for the U.S. Senate in 1920 on the Farmer-Labor Party ticket. Her platform included agitation for the 48 hour week and equal pay for equal work. In 1928, she became president of WTUL and remained in that position for the next 20 years.

Under Roosevelt's New Deal administration, Rose became the only woman member of the National Recovery Administration's Labor Advisory Board. She was a close friend to Eleanor Roosevelt who shared her advocacy for working women. In 1937 she began a 7 year position as secretary of the New York State Labor Department. A pragmatic feminist, she believed in working within the democratic structure for reform.

A strong civil libertarian, Rose served on the ACLU National Committee from its founding in 1920 until 1929. She was also active in the ACLU affiliate organization of the New York Worker's Defense Union.



Schwimmer: cont.

country. The defendant had offered to serve in the Army but as a non-combatant. The ACLU filed amicus curiae in the lawsuit.

Quoting heavily from the Schwimmer case and a 1930 ACLU pamphlet, Justice William Douglas wrote the majority opinion: "The bearing of arms, important as it is, is not the only way in which our institutions may be supported. Our country must recognize individual differences even in times of great peril."

The experience of Rosika Schwimmer cannot go unnoticed today. As Congress prepares to once again re-institute the draft, we must look to her brave example in opposing such legislation.

Special thanks to the staff at the New York Public Library for help in researching this article.

Baldwin, from p. 3

the best way to win women's rights was piece for piece. First you begin with equal pay for equal work and then you went on to whatever was the next issue. That was the practical way of doing things. A sweeping constitutional amendment was not the way to accomplish things. We changed our minds later.

Brinson: Who was Anne Martin?

Baldwin: Anne was a candidate to the U.S. Senate from Nevada. I don't think she ever got elected. She was an active feminist. She served on our national committee.

Brinson: Quite a number of the early ACLU women seem to have come from the settlement house movement, didn't they?

Baldwin: That's right. Settlement houses and social agencies. The National Council of Social Welfare, to which I've belonged from the beginning really furnished the manpower for

What, then, is "the matter with women?" It seems to me to be this: how to arrange the world so that women can be human beings, with a chance to excercise their infinitely varied gifts in infinitely varied ways, instead of being destined by accident of their sex to one field of activity — housework and child-raising. And second, if and when they choose housework and child-raising to have that occupation recognized by the world as work, requiring a definite economic reward and not merely entitling the performer to be dependent on some man.

Crystal Eastman

most of our work. They have thousands of members and were always sympathetic. They passed resolutions in defense of peoples' rights.

Brinson: What role did Helen Keller play in the early ACLU?

Baldwin: Not much. Helen was on the original committee. She was always a great defender of the extreme left, especially the labor movement. I remember she came to one meeting. That was the only time I met her. But she lent her name to the ACLU for a long time. She couldn't be very active because she couldn't function in committee meetings. Everything had to be interpreted for her.

Brinson: How active was Jane Addams?

Baldwin: She was very active in the early days in Chicago. She went to all our meetings and we kept up a correspondence. She wrote in her autobiography how she became disturbed over some of our radical statements that she thought unwise. She quietly resigned because she said she couldn't be associated publicly with the left. For a long time we had that reputation, you know.

Brinson: I haven't asked you about Elizabeth Gurley Flynn.

Baldwin: Well, you don't need to.

Brinson: Was she a feminist?

Baldwin: No, she was not a feminist in the sense Crystal Eastman was. She was a working class woman. She was very pleasant, a very thoughtful character and a very useful one too. She was a good friend to all of us. Joining the Communist Party more or less disqualified her because we hadn't any Communists in the ACLU except for one who resigned when he joined the Party.

Brinson: But she played an active role in the ACLU, didn't she?

Baldwin: She was a very active Board member. She was especially helpful in making contacts with the labor movement.

Brinson: Overall, what kind of contributions do you think women made to building the ACLU as an organization?

Baldwin: Women played a very active and useful role all over the country, mostly on our local committees.

Most of the early women were social workers first. The true feminists came later. But in any event, it was for the most part women who raised the money, organized the affiliates and staffed the committees. They did the day-to-day, nuts and bolts work to build the ACLU.



ACLU

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Eastman, from p. 1

Shortly thereafter, Crystal moved to England with her British husband. Her unfortunate death in 1928 at age 47 silenced one of this country's most courageous workers for civil liberties and women's rights. But her contribution to these movements provided a lasting foundation for future generations. Her legacy continues today through the ACLU's work to protect and defend those same basic freedoms.

Though she rejected the formal religion of her childhood Crystal remained, like many reformers of her generation, essentially religious in her approach. In a moving eulogy written for the *The Nation*, Freda Kirchwey remembered Crystal's sincerity, her enthusiasm and the joy she brought to social reform. "Crystal Eastman created the thing she preached," Kirchwey wrote. "When she spoke to people — whether it was to a small committee or a swarming crowd — hearts beat faster... She was for thousands a symbol of what the free woman might be."

To Our Readers:

This special 60th Anniversary issue is an act of love. It s preparation began almost eight years ago when, as an affiliate director and an amateur historian, I began to research the early ACLU records. I wished to determine who were the early ACLU women and what role they played in the building of the ACLU, an organization which has held meaning and purpose not only for myself but for all Americans through its effort to protect and defend the Bill of Rights.

I am indebted to many for the contents: to Nancy Bressler at Princeton University Library where the ACLU maintains its archives; to the various staffs at other libraries and historical collections; to Blanche Wiesen Cook for her encouragement and help in researching Crystal Eastman; to Gerda Lerner whose combined example of social activist and women's historian has been an inspiration to me; to Aryeh Neier, Ira Glasser, and other ACLU staff who shared their knowledge and support; to Roger Baldwin for his personal recollections and direction.

"Re-vision — the act of looking back, of seeing with fresh eyes, of entering an old text from a critical new direction — is for women more than a chapter in cultural history," says author Adrienne Rich. "This drive to self-knowledge, for women, is more than a search for identity; it is an act of survival."

Women have played a major role in the history and development of the ACLU. They have contributed to its internal operations as volunteer leaders, staff and membership. They have contributed, too, to the building of all substantive programs and projects. They have been active in the ACLU at the local, state and national level. Today, women in the ACLU continue to remain steadfast in the eternal vigilance necessary to protect our country's basic freedoms.

I hope you will join with us in celebration of our heritage in this 60th birthday tribute to the ACLU.

Betsy Brinson, Director ACLU Southern Women's Rights Project

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1001 e. main street
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