

Caste Society

We associate a caste system with India, not with the United States. But during the late 19th century, the United States had become an increasingly stratified, hierarchical society, in which peoples' place in the social order was heavily influenced by gender and race.

The word "caste" itself comes from the Portuguese term "casta."

Myra Bradwell

Myra Bradwell was a native of Vermont who moved to Chicago in the mid-1850s. Not long after the ratification of the 14th Amendment, she applied for a license to practice the law. In Supreme Court of Illinois turned her down. No women were allowed in court.

She appealed. In April 1873 the Supreme Court also turned her down. It was within the police powers of Illinois to limit membership in the bar to men only. Only one Justice dissented.

One justice was so shocked by the idea of a woman practicing the law that he wrote a flaming opinion. History, nature, and the common law all argued against the proposition of women practicing the law.

"Man is or should be woman's protector and defender. The natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life."

"The paramount destiny and mission of woman is to fulfill the noble and benign office of wife and mother. This is the law of the Creator. And the rules of civil society must be adapted to the general constitution of things, and cannot be based on exceptional cases."

Myra Bradwell was born quite literally a century before her time. She lived in a world where women were considered almost a separate caste. How this would change is one of the most important themes in modern American history.

The History of Abortion

As late as 1880, there were virtually no laws in the United States restricting abortion. Most forms of abortion were not illegal. The general view was that abortion was not problematic so long as it took place in the first four or five months of pregnancy, prior to what was known as "quickening," when a mother felt the fetus move inside her. It appears that abortion was a major form of middle class birth control in the mid-19th century.

By 1900, almost every jurisdiction in the United States had laws making abortion a criminal offense.

Physicians estimated that there was one abortion for every five or six live births. According to these estimates, two-thirds of the women were married. In 1867 one medical journal wrote:

“Among married persons so extensive has this practice become that people of high repute not only commit this crime, but do not even shun to speak boastingly among their intimates of the deed and the means of accomplishing it.”

A woman had to be desperate to want an abortion. Some of the practices for inducing abortion included:

- jumping off chairs
- falling from heights
- having someone jump on a pregnant woman's belly
- using various kinds of abortion inducing drugs, often containing lead or sulfur.

Abortionists advertised competitively in newspapers. The most successful was an English immigrant named Ann Lohman, who called herself Madame Restell. She spent \$60,000 a year advertising her abortion-inducing drugs.

“Madame Restell's experience and knowledge in the treatment of cases of female irregularity is such as to require but a few days to effect a perfect cure. Ladies desiring medical attendance will be accommodated during such time with private and respectable board.”

Madame Restell committed suicide in 1878 after she was arrested following the discovery of a naked body, dead as a result of a botched abortion, in a railroad station.

At the forefront of the criminalization of abortion was the medical profession. In part, change was the product of new scientific knowledge. It was not until 1827 that the existence of the female egg was established. Before that time it was commonly believed that the sperm contained a miniature person who grew into a baby in the mother's uterus, a word meaning womb or nest. Thus there was no notion of a moment of conception when egg and sperm unite.

Furthermore, there was no reliable test of pregnancy, except for the ending of menstruation. The most obvious time when pregnancy could be determined was when the mother felt movements in her belly. Increasing medical knowledge allowed doctors to determine pregnancy earlier and more precisely.

But another important reason for the medical crusade against abortion was a growing sense of professionalism among male physicians and a desire to eliminate competition from abortionists.

Doctors also frequently quoted the Bible on the need for people to be fruitful and multiply.

Two other groups also contributed to the crusade to criminalize abortion. Nativists worried about the native born population being overwhelmed by immigrants. Teddy Roosevelt accused mothers who had abortions of being guilty of race suicide.

Many 19th century feminists also opposed abortion on the grounds that it revealed the extremes that women were driven to by male sexual exploitation.

The criminalization of abortion demonstrates how a small group people were able to radically alter law and also fundamentally change social values.