

Dedication of Clara Foltz Memorial
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COMMEMORATING CLARA FOLTZ

When Clara Foltz joined the Bar in 1878, she was an obscure housewife in San Jose, recently deserted by her husband. Her ambition to be an attorney was driven equally by the need to support her five young children and to strike a blow for women's rights. At her death in Los Angeles in 1934, Foltz was the famous "First Woman of California:" first to be a lawyer; first to attend the first law school (Hastings); first to practice in San Jose, San Francisco, and San Diego, first to hold statewide office (on the Board of Trustees of the Normal School) and first to serve on the Board of Charities and Corrections. She had many other firsts, but most notably for our celebration today—she was the first person to promote the idea of a public defender, and the first woman to be a deputy district attorney in Los Angeles.

Though she was very famous in her day, Foltz has been largely forgotten in modern times—until the good people you see on this platform and many others took on the task of properly honoring her. Six years ago when the courthouse was renamed one paper asked: "Clara Who?" Today as we celebrate the installation of a lasting memorial to her, I want to spend a few minutes to

answer the question of “Clara Who” –to tell something of the personality and the intellect behind the titles and the firsts. To learn more about Foltz and her times and about other women lawyers, please visit the website listed in the program,[<http://womenslegalhistory.stanford.edu>] or Google “Women’s Legal History” and the website will come up first.

Foltz thought of herself as unusually present to history, speaking of “startling points of contact with a world I seek to serve.” Within her lifetime the railroad, the steamship, the streetcar, the telegraph, the telephone, electrical lighting, the motor car, and the moving picture, transformed America from a rural and parochial to an urban, industrial, and cosmopolitan nation. Foltz’s personal story reflected what she called the inventions of “an active age.”

Born in 1849, she grew up in a bucolic Midwestern village, married at fifteen, then moved to an Iowa farm and bore three children in four years. In any other period in history and place in the world, child-rearing and back-breaking labor would have been her permanent fate. Instead like the United States itself, Clara Foltz left the farm and never looked back.

Progressing from small town and farm life, to big-city lawyer, celebrated orator, political reformer and enthusiastic, if never successful, entrepreneur, Foltz criss-crossed the continent many times on lecture tours and law business. She practiced in northern and southern California, in New York City and briefly

in Denver. Foltz was an enthusiastic booster of the places she lived and visited and a believer in everything new, including new politics, new thought and most of all the “new woman.”

Equal Rights for women and constitutional rights for the criminally accused were her two great causes—and in her person and her thinking the movements were joined. Many of her clients were desperate people accused of crime, which Foltz tried to use in their favor. “Do you think this poor innocent man would have applied to a woman to defend him if he had money to pay some distinguished male member of the bar?” she would ask the jury, calling for free justice--a public defender to match the public prosecutor.

When she went to court to represent the accused, Foltz often found herself on trial along with her client—him for his alleged crime and her for doing the dirty, unfeminine work of defending criminals. Prosecutors reacted badly to what they saw as her unsporting advantage with all-male juries. Irrationally, they also experienced it as a peculiar humiliation to lose to a woman. In this context she delivered her personal credo – it was around 1885 in San Francisco. The opposing attorney argued that because she was a woman, Foltz would try to seduce the jury into feeling sympathy rather than doing their hard duty as men:

Clara Foltz responded with the words that became her credo--

I ask no special privileges and expect no favors,
but I think it only fair that those who have had
better opportunities than I, who have had fewer
obstacles to surmount and fewer difficulties to
contend with should meet me on even ground,
upon the merits of law and fact without this
everlasting and incessant reference to sex.

Though Foltz's greatest professional achievement and legacy was the formulation of the public defender idea, and its presentation at the 1893 World's Fair on a platform with the nation's most eminent legal thinkers, she was also deeply interested in the prosecutor's role. Early in her career, she was employed as a special prosecutor in the case of Wheeler the Woman Slayer. To counter the supposed effect Foltz would have on the jury leading them to convict, the defense hired the only other woman lawyer in the state, Laura Gordon. Foltz won that first case in world history to pit two women lawyers against each other.

Over the years, Foltz tried several times to become a regular in the prosecutor's office. In San Diego in the late 80's, she was denied solely, said one paper, because she wore "a bustle instead of a cutaway coat." Finally, early in the twentieth century, as women were on the verge of winning suffrage in California, she was appointed to be a deputy district attorney in Los Angeles.

Foltz used the office to advance her ideal prosecutor: a minister of public justice. “Strong of physique, alert of mind, learned in the law, experienced in practice and ready of speech,” the good district attorney would join the court in “a solemn investigation of crime...laying bare the truth whatever it may be.” She lamented prosecutors who were tempted away from their rightful purposes by the “vanity of winning cases.” And it was partly to counter and correct those who had forgotten their mission as ministers of public justice that Foltz called for a public defender.

For four decades, Foltz worked for constitutional rights for the criminally accused and civil rights for women, while at the same time trying to raise her five children, enlarge her own celebrity, elevate the practice of law, influence public events, and strike it rich. Living at a time when good women were supposed to be self-sacrificing, Clara Foltz was determined to have it all.

Like countless other suffragists, Foltz spent most of her adult life petitioning, lobbying, leafleting, speaking, rallying, writing, pleading and importuning for suffrage. Luckier than most of the pioneers, she lived to cast a legal ballot. She also saw the initial success of her other great cause; the first public defender office in the nation was established in Los Angeles in 1913. It was created by a new city charter passed with women’s support at the polls in the first general election where they voted.

Clara Foltz, who had been the first to publish a public defender proposal, had written a model statute, and two articles in prestigious law reviews supporting the idea, and had seen to the introduction of the Foltz Defender Bill in more than thirty states, could legitimately take considerable credit for the Los Angeles office. In the last years of her life, she received some of the recognition she longed for. She liked being called the “lady lawyer.” It was a “pretty soubriquet” she said, one that helped her “maintain a dainty manner as I browbeat my way through the marshes of prejudice and ignorance.” She also received such other soubriquets as: “sister of men, mother of women lawyers, dean of suffragists, Knight Errantress of Equal Rights, and the Great Pioneer.”

Foltz called an autobiographical column she wrote, “The Struggles and Triumphs of a Woman Lawyer.” But in addition to the triumphs were many disappointments and frustrated ambitions. No woman could be counsel to large corporate interests, hold high elective office, or even be a trusted legal advisor to those who did, though Foltz tried hard to do all these. She longed to be a judge, but by the time a few women were elected or appointed to judicial office, she was well past her prime and was not considered. The first female federal judge took office four years after Foltz died.

If she had been born a man, would she have won the lasting fame and large fortune she sought? She certainly thought so but the answer is complicated. A lot

of the publicity and attention Foltz received was on account of her sex as much as her brilliance and originality. Being an underdog and outsider sharpened her best gifts and enhanced her sympathies, as well as helping her to formulate her unique contribution, the idea of the public defender. In the women's movement, moreover, Foltz found companionship in her struggles and a cause that ennobled her efforts.

Clara Foltz was writing her memoirs when she died, based on the career scrapbooks she kept over the years. Only the scrapbook from 1911 is known to survive. In the front of the book, full of clippings about Foltz's busy days, she pasted a picture of the gothic LA County Criminal Court, on the site where the present building stands. That she was a servant in that earlier courthouse pleased her tremendously; that this Criminal Justice Center would be dedicated to her name is a triumph she would especially treasure.

And now that this place at the crossroad of justice and mercy where so many people pass every day should be warmed, beautified and made more comfortable by original works of art – it is an unsought honor and on Clara's behalf—gratefully received.