CRYSTAL EASTMAN:
NYU LAW GRADUATE

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INTRODUCTION

This Essay celebrates the centennial of the graduation of women from New York University School of Law (NYU Law) by examining the early experiences of an illustrious graduate, Crystal Eastman.1 I first learned of Eastman in the 1970s when, as a torts professor, I read her lucid, passionate analysis of workplace accidents written in 1909.2 Over the years, my torts students have educated me on other aspects of her career.3 When the Law Review asked me to contribute to this celebratory issue, it seemed a propitious opportunity to learn more about this woman who had played such an essential role in securing workers’ compensation, advancing feminist and pacifist ideals, and founding the precursor to what we today know as the American Civil Liberties Union (ACLU).


The copyright to Crystal Eastman’s letters, upon which this Essay relies, is owned by Yvette Eastman, widow of Crystal’s brother Max. Many of the letters are located in the Schlesinger Library at Radcliffe College. I am grateful to Yvette Eastman for permission to read and to quote from these materials, as well as for her personal insights and comments on an earlier draft.

Many people experienced in writing histories and biographies have provided generous support, guidance, and comments on earlier drafts. While many others have been helpful, I especially thank: Barbara Allen Babcock, author of many articles and a forthcoming book on Clara Shortridge Foltz; Ellen Chessler, author of a forthcoming book on Margaret Sanger; Linda Kerber, Professor of History at the University of Chicago and a leading historian of the women of the Revolutionary Era; and John Reid, a preeminent historian of the American frontier and a wonderful colleague.

1 Surprisingly, no full biography of Crystal Eastman exists. Blanche Wiesen Cook has collected many of Eastman’s writings, see Crystal Eastman: On Women and Revolution (Blanche Wiesen Cook ed. 1978) [hereinafter On Women], and has written an introductory essay to this collection. See Blanche Wiesen Cook, Introduction, in On Women, supra, at 1 [hereinafter Cook, Introduction]. When citing to Eastman’s work throughout this Essay, I provide parallel cites to this more accessible anthology. For other works describing Eastman, see Allen F. Davis, Crystal Eastman, in 1 Notable American Women 543-45 (Edward T. James et al. eds., 1971); Blanche Wiesen Cook, Biographer and Subject: A Critical Connection, in Between Women (Carol Ascher, Louise DeSalvo & Sarah Ruddick eds., 1984); Blanche Wiesen Cook, Female Support Networks and Political Activism, 3 Chrysalis 43 (1980).

2 See text accompanying notes 145-224 infra (discussing Eastman’s research on workplace death and accidents culminating in her book entitled Work-Accidents and the Law).

I assumed that there would be a number of biographies of Eastman’s life upon which I could comment. However, no such biography exists. And in conversations about this Essay, I have learned that many educated people, whose lives today are touched directly by Crystal Eastman’s work, have never heard of her.

Born in 1881, Eastman graduated from NYU Law in 1907. Her achievements until her death in 1928 at the age of forty-seven were remarkable not only for their scope, but also for their durability. A lifelong feminist, pacifist, civil libertarian, and champion of working people, Eastman played an instrumental role in achieving social reforms and creating institutions that remain influential today.

As a feminist, Eastman led the unsuccessful 1911 campaign to win women the vote in Wisconsin. Undaunted by the campaign's failure, Eastman helped resurrect the lobby for a federal suffrage amendment the following year. She later founded and served as head of the Woman's Peace Party of New York, an effort that contributed to securing the federal constitutional franchise for women in 1920. Eastman also demonstrated her feminism through drafting and organizing support for the Equal Rights Amendment, promoting access to birth control, urging economic support for mothers and children, and striving for equality in personal relationships.

As World War I brewed, Eastman’s focus shifted to pacifism and
civil liberties. She served as executive secretary of the American Union Against Militarism (AUAM), an organization that was founded in 1914 and quickly gained a large popular membership and an elite leadership with access to national decisionmakers.\textsuperscript{13} In 1916, Eastman helped organize a bold "people's diplomacy" campaign that helped avert an invasion of Mexico by the United States.\textsuperscript{14} A year later, when America entered the European war, Eastman, Roger Baldwin, and Norman Thomas created a new AUAM committee—the Civil Liberties Bureau—to represent conscientious objectors and to defend the free speech of those who criticized the war effort.\textsuperscript{15} This committee eventually evolved into the ACLU we know today.\textsuperscript{16}

Eastman saw feminism, peace, and economic justice as integrally connected.\textsuperscript{17} From a young age she expressed sympathy for socialism,\textsuperscript{18} and strove to further the cause of the nation's workers. This endeavor comprised one of Eastman's most lasting contributions—shaping programs for workplace safety and compensation for workplace accidents.\textsuperscript{19}

As these brief paragraphs show, Eastman had a tremendous impact on American society. This Essay begins to explore the many factors that contributed to Crystal Eastman's success. Because writing about the lives of women is a relatively new enterprise,\textsuperscript{20} as evidenced by the absence of any biography of Eastman,\textsuperscript{21} this Essay is only the beginning of

\textsuperscript{14} See id. at 17. On June 26, 1916, newspapers reported an early American charge on Mexican troops that resulted in the deaths of 12 Americans. While President Wilson was not eager for war, it was the AUAM that took action. The report was taken up by the American Union Against Militarism, a pacifist organization, which printed it and a fervent plea against war in full-page advertisements in all the metropolitan newspapers. As a result, Wilson was immediately overwhelmed with a flood of telegrams, letters, and petitions; and from the replies [Wilson] made to the appeals for peace it is evident that he was shaken and deeply moved. Not slowly, but almost at once, good sense returned to official circles in Washington. Arthur S. Link, Woodrow Wilson and the Progressive Era 1910-1917, at 142 (1954).
\textsuperscript{15} See S. Walker, supra note 13, at 11-12.
\textsuperscript{16} Id. at 17, 23.
\textsuperscript{17} See Cook, Introduction, supra note 1, at 21-23.
\textsuperscript{18} As early as 1902, when she was a college student at Vassar, Eastman wrote to her brother Max that she was thinking about becoming a socialist, to which he responded: "I've often wondered what a socialist is. Maybe I'll join you." Max Eastman, Enjoyment of Living 186 (1948).
\textsuperscript{19} See text accompanying notes 145-224 infra.
\textsuperscript{21} See note 1 supra.
what eventually may be a long journey. It first documents Eastman's early years, prior to her move to Greenwich Village. It then takes a close look at her life in law school, both inside and outside the classroom. Finally, this Essay examines the beginning of Eastman's career, in which she labored to improve workplace safety and develop workers' compensation. This brief glimpse reveals a woman who took and transformed the male-dominated world of the early twentieth century into her own. It describes an unusual upbringing that combined powerful family and community ties with periods of poverty and hard work, strong female role models, and a series of vibrant environments that nourished and exposed Eastman to unconventional ideas and humanistic values.

In navigating the early years of the life that Crystal's brother Max characterized as "a big river," one cannot help but notice Eastman's personal magnetism. Almost fifty years after meeting her, the ex-socialist writer John Spargo, who detested her brother Max, remembered Crystal as a "superb creature, who could have modeled for the 'perfect American woman.'" Wherever you met her, Spargo continued, "she was the most intelligent person in the room." The black poet Claude McKay called her "the most beautiful white woman I ever knew. She was of the heavy or solid type of female, and her beauty was not so much of her features, fine as they were, but in her magnificent presence." And an obituary recounted:

Her strength, her beauty, her vitality and enthusiasm, her rich and compelling personality—these she threw with reckless vigor into every cause that promised a finer life to the world. . . . In her personal as in her public life her enthusiasm and strength were spent without thought; she had no pride or sense of her own power. When she spoke to people—whether it was to a small committee or a swarming crowd—hearts beat faster and nerves tightened as she talked. She was simple, direct, dramatic. Force poured from her strong body and her rich voice, and people followed where she led.

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22 M. Eastman, supra note 18, at 319. Law students are most likely to be familiar with Max Eastman as the defendant in Masses Publishing Co. v. Patten, 244 F.Supp. 535 (S.D.N.Y. 1917), in which Judge Learned Hand articulated an alternative to the then-prevailing view that it was constitutional to suppress speech if it had a "tendency" to encourage bad acts. See id. at 542-43. For a discussion of Hand's relations with Max Eastman, see Gerald Gunther, Learned Hand and the Origins of Modern First Amendment Doctrine: Some Fragments of History, 27 Stan. L. Rev. 719, 722-24 (1975).

23 See, e.g., M. Eastman, supra note 18, at 319 ("the papers were full of Crystal's beauty and intelligence, and our apartment was full of her friends").


25 Id.

26 Id.


28 Kirchwey, supra note 5, at 371-72.
As a tribute to this impressive NYU Law alumna, this Essay examines her early years, which provide a useful perspective on her remarkable life.

I

EASTMAN'S ROOTS

Crystal Eastman's immediate and extended family, as well as her larger church community, created a childhood environment of mutual support and imbued her with intellectual curiosity, moral concern, and a passion for fun. Her parents, Samuel Eastman and Annis Bertha Ford, met at Oberlin College, where Crystal's father was studying to be a minister and her mother was training as a teacher. They married in 1875 and, in the next eight years, had four children, Crystal being the third. Her eldest brother Morgan died of scarlet fever when Crystal was only three. The second child, Anstice Ford, was outgoing, athletic, mischievous, and precocious. The youngest child, Max, was two years younger than Crystal and her constant companion. He was painfully shy, frail, and seemingly slow to learn.

During the first eight years of the Eastmans' marriage, they lived in four different towns, moving to meet the demands of the parishes that Samuel Eastman served. However, two years after the death of his eldest son, Samuel Eastman's health began to fail. Family history recounts that he was never again sufficiently well to assume the full responsibilities of a minister, although he did work as a farmer, a grocery clerk, and eventually as a co-pastor with his wife.

As a result, Crystal grew up with a strong female role model. Annis Eastman supported the family, first as a teacher, then as a minister. Ordained as the first woman Congregational minister in 1890, Annis was

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29 All of the details of this section can be found in Max Eastman's autobiography of his early years. See M. Eastman, supra note 18. As noted, some of the details are also reported in William L. O'Neill's biography of Max Eastman. See W. O'Neill, supra note 24.
30 M. Eastman, supra note 18, at 19.
31 Id. at 37–41.
32 Id. at 48.
33 Id. at 41, 85.
34 Id. at 40–41, 85.
35 Id. at 85, 89.
36 Crystal Eastman, Mother-Worship, The Nation, Mar. 16, 1927, reprinted in On Women, supra note 1, at 41.
37 M. Eastman, supra note 18, at 51; W. O'Neill, supra note 24, at 4.
38 M. Eastman, supra note 18, at 58, 68, 72.
39 M. Eastman, supra note 18, at 72; W. O'Neill, supra note 24, at 3. Max believed his mother to be “the most noted woman preacher of her time.” M. Eastman, supra note 18, at 96. While not an unbiased source, he may have been correct. See Jill Kerr Conway, Annis Bertha Ford Eastman, in 1 Notable American Women 542, 543 (Edward T. James et al. eds., 1971) (“Her fame as a preacher... depended... less upon the originality of her ideas than
called on four years later, she was invited to be an associate of the elderly Thomas K. Beecher as the pastor of the Park Church in Elmira, New York and Samuel was invited to serve as co-pastor. There the family settled until Annis's death in 1910.

One source of Crystal Eastman's wisdom and empathy might have been her family's humble life and the generosity they received from friends and neighbors. In her early years, Crystal's father peddled chickens at the backdoors of his former parishioners or clerked in the grocery store. Later, Annis Eastman's salary as pastor of the Park Church was modest. Throughout Eastman's life, correspondences with family and friends were filled with pleas and thanks for small sums lent and given for special items like singing lessons and clothing. Parishioners, admirers, and friends provided financial assistance, particularly directed toward the children's education.

The Eastman home both benefited from and served as a source of responsibility that extended beyond the immediate family to distant relatives and the community at large. During the first year of Annis's marriage to Samuel, her best friend, Mary Landen, from Oberlin, joined the family. For fifteen years, "Aunt Mary" helped with the children, contributed to family finances, and provided a second role model for Crystal. She also served as "a friend of [Annis's] intuitions and her wit."
Cousin Adra also lived with the family for many years, and the Eastmans treated her as they did their own children. In addition, according to Crystal, "There were always clever, interesting, amusing women coming in and out of our house." Eastman’s exposure to unconventional, progressive ideas throughout her childhood supplemented her formal education. A primary source of these ideas was the Park Church, a nationally known center of progressive, nondenominational Christianity. Founded by the in-laws of Samuel Clemens (a.k.a. Mark Twain), abolitionists who split off from a more conventional Presbyterian Church in 1846, the Church, through its minister, Thomas Beecher, preached only "the fatherhood of God and the brotherhood of man." When Beecher’s congregation grew so large that it had to meet in a nearby theater, the move so scandalized the Elmira clergy that they expelled Beecher from their ministers’ union. The congregation supported Beecher and raised money to build Park Church, which extended through an entire city block and included parlors, a free library, pool and billiard tables, a dancing hall, a playroom, and other facilities rarely found in churches. Eastman’s childhood also instructed her on the value of industry. The Eastman parents expected their children to work and distributed tasks on a gender-neutral basis; the boys took their turns at making beds and washing dishes, and the girls helped hoe the garden and clean the stable. Her brother Max later commented, "I was allowed to know from my earliest years that life consists largely of doing what you don’t want to, and for that privilege I am profoundly thankful." Even more than their commitment to the work ethic, the Eastmans’ lives were characterized by an exuberant capacity for fun. Each year the

48 Id. at 38.
49 The Eastman family paid for Cousin Adra’s schooling. See id. at 117.
50 Eastman, supra note 36, at 45. During the summers, Crystal’s mother “organized a system of cooperative housekeeping with three other families . . . . At first it was only the mothers who took their turn at housekeeping. But as the children grew older they were included in the scheme, boys as well as girls.” Id. at 43.
51 W. O’Neill, supra note 24, at 6–7.
52 Id. at 7. Thomas Beecher’s brother and sister-in-law were Henry Ward Beecher and Harriet Beecher Stowe, leading feminists and abolitionists of their day. See M. Eastman, supra note 18, at 108.
53 See M. Eastman, supra note 18, at 109. Clemens commented in the Elmira Advertiser: “Happy, happy world that knows at last that a little congress of congregationless clergymen, of whom it never heard before, have crushed a famous Beecher and reduced his audiences from 1500 down to 1475 in one fell blow!” Id. at 110.
54 See M. Eastman, supra note 18, at 109; W. O’Neill, supra note 24, at 7.
55 M. Eastman, supra note 18, at 94; Eastman, supra note 36, at 45. Historian William L. O’Neill remarks, “Crystal was probably the only middle-class girl in Elmira accustomed to cleaning stables.” W. O’Neill, supra note 24, at 6.
56 M. Eastman, supra note 18, at 94.
church closed for July and August. Starting in Crystal's thirteenth year, family and friends gathered for those months on the shores of Seneca Lake to swim, boat, play tennis, and picnic, as well as to plant, pick, can, and market fruits and vegetables.\textsuperscript{57} Annis Eastman organized Sunday evening concerts in their living room and a twice weekly "Supposium" [sic] at which anyone could present an idea and respond to questions about it.\textsuperscript{58}

One particular anecdote recounted in Max's autobiography illustrates the liberated atmosphere of the Eastman home. One summer, Max and a friend, calling themselves The Apostles of Nakedness, encouraged open discussion of sexuality and birth control and urged the girls to remove their stockings for swimming.\textsuperscript{59} Crystal prepared a sixteen-point brief in support of the stocking proposal.\textsuperscript{60} Their father, once persuaded of the rationale for swimming without stockings, defended Crystal from protesting neighbors.\textsuperscript{61} Years later, Crystal commented: "I think it shocked him to his dying day. But he himself had been a swimmer; he knew he would not want to swim in a skirt and stockings. Why then should I?"\textsuperscript{62} Thus, the family commitment to gender equality prevailed in play as well as work.

Another anecdote from two years earlier reinforces this conclusion. When Crystal was eleven, Samuel bought his son Max a mustang, which promptly threw the boy.\textsuperscript{63} So the horse was given to Crystal, who "careened around the town and country on a man's saddle in fluttering vast brown bloomers—very shocking to the public."\textsuperscript{64} Crystal reports that when a deputation of ladies from the church called to protest the shortness of Crystal's skirts, her mother thought that something must be done.\textsuperscript{65} However, her father insisted: "No, let her wear them short. She likes to run, and she can't run so well in long skirts."\textsuperscript{66}

In 1899, when Crystal left home to attend Vassar, her family, particularly her mother and her brother Max, continued to be an important source of intimacy, support, and motivation. Throughout her years there, at NYU Law, and in her first job, she wrote to her mother several times a month and to her brother Max nearly as often. These letters

\textsuperscript{57} Id. at 127-30.
\textsuperscript{58} Id. at 276.
\textsuperscript{59} Max later reflected that the Apostles of Nakedness "seems an extreme term now for legs bare up to the knee." Id. at 296.
\textsuperscript{60} Id.
\textsuperscript{61} Eastman, supra note 36, at 45.
\textsuperscript{62} Id.
\textsuperscript{63} M. Eastman, supra note 18, at 82.
\textsuperscript{64} Id.
\textsuperscript{65} Eastman, supra note 36, at 45.
\textsuperscript{66} Id. at 45.
provide a richly detailed portrait of her life. For example, while at Vassar the letters to her mother report on Crystal’s work and health, her impressions of other girls and adventures with them, her long walks in the Hudson Valley, the logistics of finances, reunions, and even her laundry. (Through college, graduate school, and even her work in Pittsburgh, both she and Max sent their laundry home for their mother to wash and return.) These letters, filled with flowery expressions of love, portray an extraordinarily close and open relationship between mother and daughter. By contrast, Crystal rarely wrote to her father, and her letters mention him only occasionally.

Crystal’s letters to Max, like those to her mother, are filled with intense expressions of her love. In them, Crystal bemoans the absence of men at Vassar, urges Max to encourage particular male friends of his to write to her, tells him of various girls who admire his picture, and proposes that he and his friends come to Vassar to visit, invite her to Williams, or join her in an adventure in New York. Crystal and Max

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67 See, e.g., Letter from Crystal Eastman to Annis Eastman (Jan. 14, 1900), Schlesinger Library Collection, supra note 43, Box 6, Folder 165; Letter from Crystal Eastman to Annis Eastman (Oct. 1, 1906), Schlesinger Library Collection, supra note 43, Box 6, Folder 168; Letter from Crystal Eastman to Annis Eastman (Nov. 14, 1906), Schlesinger Library Collection, supra note 43, Box 6, Folder 168; Letter from Crystal Eastman to Annis Eastman (Feb. 18, 1907), Schlesinger Library Collection, supra note 43, Box 6, Folder 169; Letter from Crystal Eastman to Annis Eastman (Mar. 18, 1907), Schlesinger Library Collection, supra note 43, Box 6, Folder 169; Letter from Crystal Eastman to Annis Eastman (Apr. 1, 1907), Schlesinger Library Collection, supra note 43, Box 6, Folder 169.

68 For example, at the beginning of her law school year, Eastman wrote her mother, “[W]henever my courage fails I think of you, and I can’t be anything but brave.” Letter from Crystal Eastman to Annis Eastman (Sept. 30, 1906), Schlesinger Library Collection, supra note 43, Box 6, Folder 168. After her mother’s visit that fall, Crystal described the end of a relationship with a male friend and concluded, “[Y]ou are the greatest possible joy to me, as well as my wisest and sweetest counsellor.” Letter from Crystal Eastman to Annis Eastman (Dec. 3, 1906), Schlesinger Library Collection, supra note 43, Box 6, Folder 168. A few weeks later, she wrote describing changes in her feelings towards her brother Max and concluded: “As for you, my ‘darlingest’, you are very near and dear. The feeling that you are there, so strong and sympathetic and silent, that is the greatest comfort. But I don’t need comfort. I am happy.” Letter from Crystal Eastman to Annis Eastman (Jan. 21, 1907), Schlesinger Library Collection, supra note 43, Box 6, Folder 168.

69 Crystal commented that she felt sad for her father and wondered if he would ever be able to preach regularly again. Letter from Crystal Eastman to Annis Eastman (Oct. 16, 1899), Schlesinger Library Collection, supra note 43, Box 6, Folder 164. In an undated letter to her father from Vassar, she commented that they had never corresponded. Letter from Crystal Eastman to Samuel Eastman (undated), Schlesinger Library Collection, supra note 43, Box 6, Folder 166.

70 See, e.g., Letter from Crystal Eastman to Max Eastman (Jan. 20, 1900) (urging Max to ask “Mr. Reddig” to call, and complaining, “I don’t speak to a man for weeks together.”), Schlesinger Library Collection, supra note 43, Box 6, Folder 173; Letter from Crystal Eastman to Max Eastman (Feb. 4, 1900) (again urging him to ask Mr. Reddig to call and telling him about girls who like his picture), Schlesinger Library Collection, supra note 43, Box 6, Folder 173; Letter from Crystal Eastman to Max Eastman (Mar. 25, 1900) (describing her trip to a
corresponded on the nature of love, romance, and lust as well as the dangers of dancing too close.\textsuperscript{71}

Even through periods of separation, the Eastman bonds remained sturdy. Each sibling agreed to deal with financial constraints through mutual support and sacrifice. When Crystal graduated from Vassar in 1903, she longed to pursue a Master's degree in sociology at Columbia.\textsuperscript{72} But, Max was about to enter his final year at Williams, and family finances were tight.\textsuperscript{73} As a resolution, Crystal obtained her Master's in sociology at Columbia in 1904,\textsuperscript{74} while Max lived in Elmira and tutored a child of old family friends.\textsuperscript{75} Then from 1904 to 1906, Crystal lived in Elmira and worked as a high school English and history teacher, while Max completed his tenure at Williams and then sought help for chronic back pain in a sanitarium.\textsuperscript{76}

During these early years, then, Crystal’s relationships provided her with an education on humanistic and community values. Not surprisingly, Greenwich Village soon attracted her attention. With no visible signs of hesitation, Crystal dove into this new world, which included “grand concert” at the Metropolitan Opera and urging Max to go with her to New York some Thanksgiving vacation: “We really ought to, if we can possibly manage it, while we are young. Because you enjoy those things so much more then.”\textsuperscript{77}

\textsuperscript{71} Eastman wrote to her brother:

\textquote{The excitement of a dance is that very intoxicated feeling you say it's 'the lights and the lateness and unnatural conversation.' All those things add to the intoxication, but they aren't the real reason. You may not like to admit it—I don’t—but it is really the attraction of the other sex—being near them—with the added delight of rhythm in motion and music. The first is more or less animal in us probably, and it's only the rhythm—our love of it—that makes it civilized, or fine or uplifting in any way. . . . [Some people] don't care much about dances. . . . But I don't think they are perfectly \textit{natural} people, normally developed on all sides. Do you?}

\textsuperscript{72} Letter from Crystal Eastman to Max Eastman (Jan. 19, 1903), Schlesinger Library Collection, supra note 43, Box 6, Folder 167. But, she wonders whether the intoxication of the dance means, “We ought never to go to a dance unless we are sure we can keep calm and in control of ourselves. Do you think so?” \textsuperscript{73} Id.

\textsuperscript{73} Id.

\textsuperscript{74} Davis, supra note 1, at 543. I do not understake intentionally Eastman’s Columbia experience. Max says little about his own life and nothing about Crystal in the academic year 1903-1904. The Schlesinger Library collection has no correspondence between Crystal and her mother during her time at Columbia and only three letters to Max from Crystal that do not contain particularly noteworthy material.

\textsuperscript{75} M. Eastman, supra note 18, at 205.

\textsuperscript{76} M. Eastman, supra note 18, at 240-54 (giving account of his sanitarium stay); see Letter from Crystal Eastman to Max Eastman (Sept. 17, 1904) (describing her teaching experience, remarking how “the house often seems empty and lost without you,” expressing the “good news that you are better,” and asking when work begins), Schlesinger Library Collection, supra note 43, Box 6, Folder 167.

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NYU Law, and it, like Elmira, furnished an environment in which Crystal could flourish.

II

EASTMAN'S LIFE IN GREENWICH VILLAGE

A. The Attraction of Greenwich Village and NYU Law

By 1906, at the age of 25, Eastman had obtained a Bachelor's degree at Vassar and a Master's in sociology at Columbia and had lived with her parents for two years in Elmira to help support them and her brothers. Her next venture was to move to New York and study at New York University School of Law, located in the heart of Washington Square. This neighborhood had charmed many an observer from Eastman's era. For example, Henry James said of Washington Square:

> It has a kind of established repose which is not of frequent occurrence in other quarters of the long, shrill city; it has a riper, richer, more honorable look than any of the upper ramifications of the great longitudinal thoroughfare [Fifth Avenue]—the look of having had something of a social history.77

Dignified Georgian houses gave the north side of the Square a European feeling. And in 1906 the only large buildings on the south side were the Judson Hotel and the Judson Memorial Church, both designed by Stanford White.78 Otherwise, the south side was occupied by rooming houses, known as the Genius Houses, providing inexpensive accommodations for impecunious artists and writers.79

Washington Square was only the most showy feature of the Village. Stretching out from it was a glorious maze of streets, laid out over old footpaths and lined by small houses, some well-kept and others decrepit, "all bearing the cozy, slightly raffish look of the Left Bank in Paris."80 Twelve Charles Street, where Eastman eventually lived as a law student, was almost rural, since Seventh Avenue had yet to be extended below Fourteenth Street.81 While an elevated train ran along Ninth Avenue, the subway did not reach the Village until 1917.82 It was a neighborhood of "quietness and quaintness," "neighbors who knew each other," and "sauntering in the streets."83 But the allure of the Village was more than a matter of geography. Rents were cheap,84 and the neighborhood's peo-

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77 Henry James, Washington Square 22 (1950).
79 Id.
80 Id.
81 M. Eastman, supra note 18, at 265.
82 W. O'Neill, supra note 24, at 16.
83 M. Eastman, supra note 18, at 266.
84 A. Churchill, supra note 78, at 22. NYU Law now occupies the land where John Reed, Walter Lippman, and Lincoln Steffens shared an apartment described by Reed in a poem...
pie were creative and vibrant. Many of those who made the Village special were artists. Yet the Village's character was more than artistic. As one commentator remarked, "New York had an ethical, where Paris has an aesthetic, Bohemia."

Not surprisingly, this environment nurtured a unique intellectual life. As early as 1890, NYU Law had demonstrated a receptiveness to women, beginning what has come to be a proud progressive tradition. Along with Brooklyn, NYU was the only law school in the New York area to admit women in 1906. Karen Berger Morello's history of women lawyers in New York suggests that up until the 1920s many of the NYU women were of middle- and upper-class background and at-

entitled, Forty-Two Washington Square:
In winter the water is frigid,
In summer the water is hot;
And we're forming a club for controlling the tub
For there's only one bath to the lot.
You shave in unlathering Croton,
If there's water at all, which is rare—
But the life isn't bad for a talented lad
At Forty-two Washington Square!

The dust it flies in at the window
The smells they come in at the door,
Our trousers lie meek where we threw 'em last week
Bestrewing the maculate floor.
The gas isn't all that it should be,
It flickers—and yet I declare
There's pleasure or near it for young men of spirit
At Forty-two Washington Square!

But nobody questions your morals,
And nobody asks for the rent—
There's no one to pry if we're tight, you and I,
Or demand how our evenings are spent.
The furniture's ancient but plenty,
The linen is spotless and fair,
O life is a joy to a broth of a boy
At Forty-two Washington Square!

John Reed, Forty-Two Washington Square, reprinted in A. Churchill, supra note 78, at 37.

85 In 1907, Gertrude Vanderbilt Whitney remodeled a stable in MacDougal Alley, began her artistic career, and, with her great wealth, financed the careers of other artists. She exhibited their works in her studio and eventually created the Whitney Museum. A. Churchill, supra note 78, at 26. By the 1913 Armory Show, the avant-garde in art had made a home for itself in the Village. Steven Watson, Strange Bedfellows: The First American Avant-Garde 67-84 (1991).

86 Max Eastman attributes this characterization to Arthur Bullard. See M. Eastman, supra note 18, at 266.


88 See Mary Siegel, "Crossing the Bar": A "She" Lawyer in 1917, 7 Women's Rts. L. Rptr. 357, 358 (1982).
tended law school to advance social reform. Eastman knew many of these reform-oriented women, and was aware of their work; this knowledge combined with the politically and socially progressive atmosphere of Greenwich Village attracted her to the school.

Eastman’s attraction to the neighborhood was powerful and immediate. While working as a high school teacher in Elmira, Eastman had traveled to New York City to take an exam for a settlement-house job that would support her while studying law at NYU. During her visit, she saw three good plays, visited with old friends, and “had a man at hand all the time.” She characterized the trip as “one of the most royal good times” of her life. The exam she had to take proved “easy and hard enough to enjoy.” Eastman landed the job, and then found a place to eat at the Greenwich Settlement House where the “cranks,” “reformers,” and “every really interesting up and doing, radical” gathered. While the energy of New York attracted Eastman, the city’s biggest draw was its inhabitants. She wrote her brother Max:

I love [New York] so for the people that are there and the thousands of things they do and think about. Of course I don’t mean the rich ones that drive up and down Fifth Ave., nor the very poor ones, who merely make me sad. But all the interesting between ones who really know how to live,—who are working hard at something all the time; and especially the radicals, the reformers, the students,—who really live to help, and yet get so much fun out of it,—because they are open-minded, and eager over every new movement, and because they know when it is right for them to let go and amuse themselves and because they can laugh, even at themselves. It seems to me there are so many more of such people in New York than anywhere else.

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See K. Morello, supra note 87, at 83. However, descriptions of the type of women who attended NYU Law vary. One of these reform-minded women recounted that most of her female classmates were even more conservative than the men. Jessie Ashley, Shall We Reverence the Law? Women Law. J., May 1912, at 37. Certainly some working class women studied law, particularly in the night school. See Siegel, supra note 88, at 358 (of three women out of 150 students in class of 1917, two were law office stenographers during day and one worked in a sweatshop).

See Eckhaus, supra note 3, at 198. During this time, cities were a frontier of freedom for rural and small town people, especially women. See, e.g., Rosalind Smith Rosenberg, Beyond Separate Spheres: Intellectual Roots of Modern Feminism 27 & n.55 (1982) (comparing man’s independence in wilderness of frontier with woman’s independence in city).

Letter from Crystal Eastman to Max Eastman (Feb. 18, 1905), Schlesinger Library Collection, supra note 43, Box 6, Folder 168 (“[H]it was all I could do not to have them overlap each other.”).

Id.

Id.

Id. (describing Greenwich House as “the place of all places where I want to get next year,” and predicting, “If I can get in there and make them like me, I shall consider my future made as far as real living goes.”).

Id.
Elinor Byrns, class of 1907, was one of Eastman's classmates at NYU Law.
B. Life Outside Law School

Upon arriving in New York City in the fall of 1906, Eastman’s first priority was to find a place to live. Within days, she found a roommate, Madeleine Doty, a 1902 NYU Law graduate who had left the law to work as a social worker. Doty and Eastman rented six sunny rooms at Twelve Charles Street for thirty-six dollars a month, far roomier than the “little room over on Washington Square near to the Law School” that she had once envisioned. Ida Rauh, another 1902 NYU Law graduate, was a frequent visitor at the Eastman/Doty apartment.

Eastman’s year in New York turned out to be a natural extension of her childhood, equally unconventional and eclectic. Continuing correspondences with her family and a group of new friends created an environment that nurtured Eastman’s innocent but tenacious expectations of success. Curiously, these letters made few references to her academic pursuits, a notable absence given the clarity with which the letters portray other features of her life.

Eastman came to New York hoping to pursue singing, as well as the law, and after securing a place to live, she turned to finding a singing teacher and buying a piano. Many friends discouraged her, but others, including her friend Paul Kellogg, editor of Charities and the Com-
mons, supported her singing ambitions. Eastman found a teacher who thought "law and singing" a "most interesting combination," and she signed up for two singing lessons a week. Throughout her year at NYU, Eastman studied singing intensively and improved steadily.

Eastman also maintained a full and varied work life. Her primary job, supervising children four evenings a week at the Greenwich House recreation center, paid sixteen dollars a week, a wage she characterized as "comfortable." In addition, she tutored two students in history. Finally, she volunteered to lead a girls club at the Greenwich House, explaining to her mother that it gave her: "a chance to do some one thing every week which is not for the immediate personal advancement of C. C. Eastman. I know that this is valuable to me for the softening of my whole attitude to life."

Following her childhood teachings, Eastman tempered her work and studies with fun. She filled her year with theater, opera, and long weekends in the country—on the Hudson and Long Island—accompanied by a variety of male friends. Eastman's companions had both the money and social connections to provide her with a remarkably rich social life. For example, mid-October brought an invitation from Dr. Vladimir Simkhovitch to a dinner at the Philosophical Society where Crystal was seated between Felix Adler, one of the first disciples of Sigmund Freud in the United States, and "a charming big Scotchman who [was] a teacher at the Union Theological Seminary."

Eastman's relationships were as many and varied as her occupations and social engagements. It seems that many men were in love with her. Within a period of weeks in her first year of law school, she ended an affair with one man, who remained her close friend, told another that

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101 See text accompanying note 145 infra (discussing Kellogg's part in Pittsburgh survey).
102 Letter from Crystal Eastman to Anns Eastman (Sept. 30, 1906), Schlesinger Library Collection, supra note 43, Box 6, Folder 168.
103 In January, she increased her singing lessons to four times a week. Letter from Crystal Eastman to Anns Eastman (Jan. 15, 1907), Schlesinger Library Collection, supra note 43, Box 6, Folder 169.
104 Letter from Crystal Eastman to Max Eastman (Apr. 8, 1905), Schlesinger Library Collection, supra note 43, Box 6, Folder 168.
105 Letter from Crystal Eastman to Anns Eastman (Oct. 11, 1906), Schlesinger Library Collection, supra note 43, Box 6, Folder 168.
106 Letter from Crystal Eastman to Anns Eastman (undated, probably late Nov. 1906), Schlesinger Library Collection, supra note 43, Box 6, Folder 168.
107 See, e.g., Letter from Crystal Eastman to Anns Eastman (Oct. 4, 1906), Schlesinger Library Collection, supra note 43, Box 6, Folder 168.
108 Letter from Crystal Eastman to Anns Eastman (Oct. 19, 1906), Schlesinger Library Collection, supra note 43, Box 6, Folder 168.
109 Letter from Crystal Eastman to Anns Eastman (Sept. 27, 1906), Schlesinger Library Collection, supra note 43, Box 6, Folder 168. A month later, Crystal wrote: "He would take me to everything in town if I would let him. But I have made a rule that he can't see me more
she did not love him while dancing close to the waves on a moonlit beach at Coney Island, and declined another's proposal of marriage. In addition, she developed an intense and ambiguous relationship with Vladimir Simkhovitch, who, like several of her male companions, was married. A letter from Simkhovitch in the spring of 1907 proposed "to share the best of myself in memory and honor of 1906-07 and to the glory of Crystal. I am happy today, happy because there is in this world such a woman as yourself."

As her responses indicate, Eastman found none of these relationships ultimately fulfilling. She wrote: "I'd love to be in love with somebody someday, hard so there wouldn't be any doubt about it." Yet she did not seem to mind having people fall in love with her. In a letter to her mother, Eastman recounts that a new man "is falling in love with me. I don't know what to do about it. This is a funny world. But I have decided that it does not hurt people to fall in love. I think it makes them bigger and more wise and kind." While Eastman's relations were intensely emotional, it is not clear whether they were sexual. All the men were friends and colleagues in work, some remained friends for life. None, it seems, was the man she wanted.

Instead, the most important man in Eastman's life remained her brother Max, who finally joined her in New York in January 1907. In than once a week. He is awfully good to me." Letter from Crystal Eastman to Annis Eastman (Nov. 5, 1906), Schlesinger Library Collection, supra note 43, Box 6, Folder 168.

110 Letter from Crystal Eastman to Annis Eastman (Sept. 30, 1906), Schlesinger Library Collection, supra note 43, Box 6, Folder 168.

111 Letter from Crystal Eastman to Annis Eastman (Oct. 30, 1906), Schlesinger Library Collection, supra note 43, Box 6, Folder 168.

112 In January, 1907, just after her brother Max arrived in New York, Crystal wrote to her mother:

Dr. Simkhovitch took Max and me to the theatre . . . . It solves a good many things to have Max here. By the way please don't say anything to Max about it. Will you? It is a little too sacred to let anyone but you know. As for you, be at rest. It is solving itself.

Meanwhile a good deal of wonderful history is being made in three lives.

Letter from Crystal Eastman to Annis Eastman (Jan. 6, 1907), Schlesinger Library Collection, supra note 43, Box 6, Folder 169.

113 Letter from Vladimir Simkhovitch to Crystal Eastman (undated), Schlesinger Library Collection, supra note 43, Box 6, Folder 197.

114 Letter from Crystal Eastman to Annis Eastman (Sept. 30, 1906), Schlesinger Library Collection, supra note 43, Box 6, Folder 168.

115 Letter from Crystal Eastman to Annis Eastman (undated, probably late June 1907), Schlesinger Library Collection, supra note 43, Box 6, Folder 169.

116 Throughout the fall of 1906, Crystal urged Max to abandon his back cure program and move to New York, assuring him that he would be able to find work through her friends.

Letter from Crystal Eastman to Max Eastman (Dec. 1906) (discussing friends who could help Max find work), Schlesinger Library Collection, supra note 43, Box 6, Folder 180. When he arrived, Crystal found him a room nearby for $3 a week, and he ate his meals at her apartment.

Letter from Crystal Eastman to Annis Eastman (Jan. 6, 1907), Schlesinger Library Collection, supra note 43, Box 6, Folder 169. Within weeks, Paul Kellogg and Vladimir
her diary, Eastman wrote of her brother: "I don't believe there is a feeling in the world too refined and imagined for him to appreciate. But it's that very quality in him that I have thought makes him like a girl... If I ever marry a man he must be like Max in those qualities." In comparison, all of her other companions must have seemed traditional and unexciting. Writing to her mother, she exclaimed, "I know I never could love anyone enough to marry him if Max were around for contrast," and "[i]f one lived with him for a year it would be impossible to live without him."

Aside from Max, Eastman's mother continued to be the most significant person in her life, both when she was present in New York for visits and through her letters when she was not. One of Crystal's letters proclaims: "Oh the unhappy people who have not you for a mother! My

Simkhovitch found work for him. Max helped Kellogg with lectures in union halls on the Lower East Side on the prevention of tuberculosis, and, with Simkhovitch's aid, obtained a position teaching "Principles of Science" in John Dewey's department at Columbia University. Eastman, supra note 18, at 268. While Max had no training in science, he found he had a natural gift for teaching. The jobs paid little, but allowed him time for studying and writing. Letter from Crystal Eastman to Annis Eastman (Jan. 24, 1907), Schlesinger Library Collection, supra note 43, Box 6, Folder 169.

W. O'Neill, supra note 24, at 23 (quoting Crystal Eastman, Part I: My Political History 4 (June 9, 1902) (diary)). Eastman's diary is in the possession of Yvette Eastman, who holds the copyright to it and generously has consented to this use. Max returned his sister's love:

I maintained stoutly for some years [as a child] that I was going to marry my sister... My friendship with Crystal was a little one-sided. She poured magnetic streams of generous love around her all the time, and she loved me with especial warmth. I loved her too, and deeply admired her character, but kept up a catlike aloofness about it all through life, receiving more than I gave.

Eastman, supra note 18, at 85.

Letter from Crystal Eastman to Annis Eastman (Jan. 21, 1907), Schlesinger Library Collection, supra note 43, Box 6, Folder 169.

When both Crystal and Max were living in the Village, Crystal wrote to her brother at Columbia:

I thank God for you as I thank God for the sun and wind, for the mountains and the sea,—for all the songs of birds, for green fields,—for moonlight and the wonderful stars; because as it is with all these,—you are very near to my soul.

Letter from Crystal Eastman to Max Eastman (Mar. 8, 1907), Schlesinger Library Collection, supra note 43, Box 6, Folder 169.

During Eastman's year at NYU, her mother came to New York to visit for several days in late November. Letter from Crystal Eastman to Annis Eastman (Oct. 19, 1906), Schlesinger Library Collection, supra note 43, Box 6, Folder 168. In this letter, Crystal detailed the plans for her mother's visit. A later letter recalled, "Your visit was a blessing to me in every way..." Letter from Crystal Eastman to Annis Eastman (Dec. 3, 1906), Schlesinger Library Collection, supra note 43, Box 6, Folder 168. Crystal went home for a few weeks at the end of December, Letter from Crystal Eastman to Annis Eastman (Apr. 1, 1907), Schlesinger Library Collection, supra note 43, Box 6, Folder 169, and for a week in May, probably between law school exams and the Bar. Letter from Crystal Eastman to Annis Eastman (Apr. 28, 1907), Schlesinger Library Collection, supra note 43, Box 6, Folder 169.
heart goes out to them." In this letter, Crystal thanks her mother for clean laundry and reveals the extent to which she relied on her mother as a soulmate. She goes on to describe her disappointment in discovering weaknesses in people and movements with which she was "once altogether in sympathy," her sense of her own "miserable inefficiency," and her longing for a person or cause with whom she can "cast [her] lot,—and feel that [her] whole heart and soul is in the throw." Clean clothes from her mother came "as a visible sign of you, of your realness, of your work, and thought, and love. And suddenly I knew that I belong to you." Thus, it was Crystal's family that gave her strength to endure in her moments of self-doubt.

C. Life in the Law School

Eastman entered law school in 1906, earning an LL.B., the equivalent of today's J.D., in a single year, beginning in November and ending in late May or early June. Eastman, one of sixteen women in a class of 156, selected her courses from a curriculum that was remarkably similar to today's, although it required a student to devote fewer hours to each subject. Her transcript lists her as having taken the following courses:

- Contracts, 4 hours;
- Property, 3 hours;
- Equity, 3 hours;
- Code Civil Procedure, 2 hours;
- Torts, 2 hours;
- Evidence, 2 hours;
- Criminal Law, 1 hour;
- Bills and Notes, 1 and 1/2 hours;
- Corporations, 1 and 1/2 hours;
- Carriers, 1 hour;
- Personal Property, 1 hour;
- Sales, 3/4 hour;
- Agency, 3/4 hour;
- Wills, 1/2 hour;
- Conflicts of Law, 2 hours.

Curiously, Crystal Eastman seldom mentioned law school in her correspondence with her mother and brother. Although she described her weekly schedule as including twelve and a half hours of law lectures.

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121 Letter from Crystal Eastman to Annis Eastman (Mar. 6, 1907), Schlesinger Library Collection, supra note 43, Box 6, Folder 169.
122 Id.
123 Letter from Crystal Eastman to Annis Eastman (Oct. 11, 1906), Schlesinger Library Collection, supra note 43, Box 6, Folder 168.
124 Letter from Crystal Eastman to Annis Eastman (June 3, 1907), Schlesinger Library Collection, supra note 43, Box 6, Folder 169. Harvard Law School's LL.B. program was 18 months long until Dean Christopher Columbus Langdell extended it to two years in 1871 and three years in 1876. Arthur E. Sutherland, The Law at Harvard: A History of Ideas and Men, 1817-1967, at 170 (1967).
125 Class graduation list, New York University School of Law Recording Office.
126 Eastman's transcript lists the following courses that she did not take, either because they were not offered during that year or because she did not select them: Elementary Law, Domestic Relations, Quasi Contract, Partnership, Trusts, Common Law Heading, Constitutional Law, International Law, Mortgages, Insurance, and Patents. Transcript of Crystal Eastman (on file at New York University School of Law Recording Office).
and twice that amount of time for law study, an absorbing schedule that does not differ dramatically from today’s expectations, her letters provided no substantive discussion of the law, or indeed of general social issues. Max and Annis Eastman were intelligent people with wide-ranging concerns and with whom Crystal did discuss contemporary philosophical issues. For example, throughout this year, Eastman and her mother addressed the question that was then burning in Annis’s work: whether rejection of the doctrine of the Trinity necessarily leads to adoption of a Unitarian creed, or whether there is some space for a theology that is neither Unitarian nor Trinitarian. Eastman’s silence about the law also stands in marked contrast to her enthusiastic descriptions of her extralegal life and of her work during her later legal career. Perhaps the formalistic, purely legal analysis that law school demanded did not engage Eastman’s curiosity or sensibilities. Once she confronted a legal task that would have an impact upon people’s lives, her interest and talent manifested themselves.

Eastman’s first description of NYU Law came in a mid-December letter to her mother when, as class vice-president, she described the Class Dinner, writing:

I . . . sat up by the faculty, and I fixed it so that [Professor] Kerneson should sit next to me. We had a perfectly delightful talk. He is simply charming, merry, twinkling eyes and the dearest boyish smile. As usual he made the only worth-while speech, about high ideals in the profession, and urging all those whose only aim was money to stop law right off. We had a glee club and I sang a funny take-off on the faculty, with the rest coming in on the chorus. But the program was three times too long.

The law loomed large in Eastman’s life only at the end of the academic year, when law school exams and the Bar were upon her. On May 1, she set off for her first exam, “with very little knowledge but a clear head.” During May and the last half of June, Eastman’s letters were filled with moans about her workload. “It’s much harder, and there’s more of it.” She even gave up her singing for exam preparation.

127 Letter from Crystal Eastman to Annis Eastman (undated, probably late Nov. 1906), Schlesinger Library Collection, supra note 43, Box 6, Folder 168.
128 See, e.g., Letter from Crystal Eastman to Annis Eastman (Feb. 26, 1907), Schlesinger Library Collection, supra note 43, Box 6, Folder 169; Letter from Crystal Eastman to Annis Eastman (Feb. 1, 1907), Schlesinger Library Collection, supra note 43, Box 6, Folder 169.
129 See text accompanying notes 151-61 infra (describing Eastman’s own work in great detail).
130 Letter from Crystal Eastman to Annis Eastman (Dec. 17, 1906), Schlesinger Library Collection, supra note 43, Box 6, Folder 168.
131 Letter from Crystal Eastman to Annis Eastman (May 1, 1907), Schlesinger Library Collection, supra note 43, Box 6, Folder 169.
132 Letter from Crystal Eastman to Annis Eastman (June 19, 1907), Schlesinger Library
Nonetheless, even at her busiest moments, Eastman seemed to have time for friends and fun. For example, she and Elinor Byrns went to Staten Island to study in deck chairs on a leafy porch.\textsuperscript{134} On another occasion, a classmate’s cousin provided a luxurious house with servants to help them study for an Evidence exam.\textsuperscript{135} And even when in the confines of the Law School, Eastman managed to find diversions. She wrote to her mother:

I was sitting in the library, deep in Langdell’s Equity, when I felt a gentle hand on my shoulder. It was Max and on the other side was Baldwin [her cousin Adra’s boyfriend, later husband, and cofounder, with Max, of the Apostles of Nakedness,\textsuperscript{136}] both so handsome and fine. I felt pretty proud. We went with Adra to 12 Charles, and had lunch together—beans and bread and maple flake and cream. We had much laughter and a long amicable argument.\textsuperscript{137} Finally the exams were over. “I hope I passed but I’m not a bit sure. I forgot many of the maddening little reasonless rules.”\textsuperscript{138} She did receive her degree from NYU Law and passed the Bar.\textsuperscript{139} Thus, as quickly as Crystal Eastman was drawn to New York City, so too did her career at NYU quickly pass. Her next task was to find a job in her newly acquired field.

III

LAUNCHING A CAREER

Few employers were willing to hire women law graduates in 1907.\textsuperscript{140} Fortunately though, few law school students had debt. Many

\textsuperscript{133} “I miss it more than I thought I would. Singing—even practicing exercises is a wonderful ‘vivifier’. Is that a word? It adds sparkle and brilliancy to your days as they go along.” Letter from Crystal Eastman to Annis Eastman (May 4, 1907), Schlesinger Library Collection, supra note 43, Box 6, Folder 169.

\textsuperscript{134} Letter from Crystal Eastman to Annis Eastman (Apr. 19, 1907), Schlesinger Library Collection, supra note 43, Box 6, Folder 169. For five dollars they found a house with an upper porch upon which sat steamer chairs where they could study both very near the woods and ten minutes from a beach. Id.

\textsuperscript{135} Letter from Crystal Eastman to Annis Eastman (May 16, 1907), Schlesinger Library Collection, supra note 43, Box 6, Folder 169.

\textsuperscript{136} See text accompanying note 59 supra.

\textsuperscript{137} Letter from Crystal Eastman to Annis Eastman (May 4, 1907), Schlesinger Library Collection, supra note 43, Box 6, Folder 169.

\textsuperscript{138} Letter from Crystal Eastman to Annis Eastman (June 25, 1907), Schlesinger Library Collection, supra note 43, Box 6, Folder 169.

\textsuperscript{139} Eastman’s transcript shows that she earned 13.25 credits of B, 10.75 credits of C, and 2.5 credits of D. Transcript of Crystal Eastman (on file at New York University School of Law Recording Office). The curve was substantially lower in those days. Max believed that she graduated second in her class and a graduation picture confirms that. Interview with Blanche Wiesen Cook, Dec. 10, 1991.

\textsuperscript{140} See Eckhaus, supra note 3, at 2001.
women studied law to prepare themselves for work in other fields, while others began practices on their own. Eastman reported only one interview, with a Professor Jenlas, whom she described as "a charming, lovable, man" who was involved in creating an immigration commission. She lamented that she did not make "much of an impression on him." She explained to her mother: "I couldn't think of anything I had done or anyone who knew me, or any reason why anyone should think I could do anything, and I told him so quite frankly. . . . Anyhow, it doesn't matter—I'd just as soon go ahead with law and music."

Soon after passing the Bar, Eastman returned to Cherith Farm to spend a month with her family. Then, in the fall of 1907, she left for Pittsburgh to work on a two-month project with her friend Paul Kellogg of the Russell Sage Foundation who was putting together the first major survey of deaths in the workplace.

Workplace safety was becoming an increasingly important social issue. Progressive journalists had been reporting that many more American industrial workers were killed and injured at work than in similar European enterprises. Yet although extensive in Europe, public or private insurance to compensate injured workers or survivors of those killed was virtually nonexistent in the United States. The law, and apparently much of American society, assumed that these deaths and injuries generally were the fault of the workers or were an inevitable consequence of industry and progress.

The Pittsburgh Survey was designed to discover the causes of workplace accidents and the impact of resulting deaths on workers' families. It was "a truly pioneering adventure, the first major attempt to survey in-depth the entire life of a single community by team research." Eastman's initial assignment was to investigate workplace deaths for a one-year period beginning in July of 1906. By examining death certificates in the coroner's office and supplementing this information with personal interviews of the families, employers, and coworkers of the deceased, Eastman reported the results of her investigation:

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141 Letter from Crystal Eastman to Annis Eastman (June 8, 1907), Schlesinger Library Collection, supra note 43, Box 6, Folder 169.
142 Id.
143 Id.
144 Letter from Crystal Eastman to Annis Eastman (postmarked June 23, 1907), Schlesinger Library Collection, supra note 43, Box 6, Folder 169.
146 See James Weinstein, Big Business and the Origins of Workers' Compensation, 8 Labor History 157 (1967); Werner Sombart, Study of the Historical Development and Evolution of the American Proletariat, 6 Int'l Socialist Rev. 129, 130 (1905).
147 Weinstein, supra note 146, at 157.
148 See text accompanying notes 191-92 infra.
149 C. Chambers, supra note 145, at 36.
man gathered information on the financial impact of the workers’ deaths and the causes of the accidents.\textsuperscript{150}

In contrast to the study of law, Eastman found this investigative work wholly absorbing.\textsuperscript{151} She was engrossed by tours of mills and factories\textsuperscript{152} and engaged by industrialists, insurance experts, fellow investigators, and journalists.\textsuperscript{153} These investigations, in particular the moving stories of the workers and their families,\textsuperscript{154} exposed Eastman to the human cost of the pressure for profit, unbridled by either incentives for safety or responsibility for the resulting losses. For the first time, law seemed as attractive as singing.\textsuperscript{155} In the fall of 1907, she wrote to her mother from the Pittsburgh Law Library: “This [legal] work interests me so much that I am dead sure I want to stop this investigating at Xmas time and get at my profession... I want to be really started with a good practice when I am thirty. You see I must have some time left to be married if necessary!”\textsuperscript{156} She resolved to practice law because “there is a joy in doing things, fighting fights, etc., that there isn’t in merely finding out things so that others may do.”\textsuperscript{157} Finally she observed, “[H]ere I am paid by philanthropists,—and in law I would be really making good.”\textsuperscript{158}

\textsuperscript{150} The methodology is described in Crystal Eastman, Work-Accidents and the Law 3-7 (1910).
\textsuperscript{151} Letter from Crystal Eastman to Annis Eastman (Oct. 2, 1907), Schlesinger Library Collection, supra note 43, Box 6, Folder 169.
\textsuperscript{152} Id.
\textsuperscript{153} Eastman worked closely with Florence Kelley, head of the Consumers League. Letter from Crystal Eastman to Annis Eastman (Sept. 18, 1907), Schlesinger Library Collection, supra note 43, Box 6, Folder 170. William Hard, a reporter for Everybody's magazine, was so impressed with Eastman that he urged her to write for the magazine. She declined the offer, concluding, “Just now it would not be fair to Charities and the Pittsburgh Survey.” Letter from Crystal Eastman to Annis Eastman (Jan. 26, 1908), Schlesinger Library Collection, supra note 43, Box 6, Folder 170.
\textsuperscript{154} Letter from Crystal Eastman to Annis Eastman (Oct. 2, 1907), Schlesinger Library Collection, supra note 43, Box 6, Folder 169.
\textsuperscript{155} Eastman’s singing career began to blossom in the fall of 1907. A church choir hired her to sing solos for two dollars a week. Letter from Crystal Eastman to Annis Eastman (Nov. 17, 1907), Schlesinger Library Collection, supra note 43, Box 6, Folder 169. In the spring of 1908, she sang three solos in concert. Letter from Crystal Eastman to Annis Eastman (May 28, 1908), Schlesinger Library Collection, supra note 43, Box 6, Folder 170. Her success as a singer was clearly a source of pride for Eastman. After a “grand dinner party for celebrities,” where she sang and gave a speech, Eastman was pleased that she received more compliments on her singing. Letter from Crystal Eastman to Annis Eastman (Feb. 6, 1908), Schlesinger Library Collection, supra note 43, Box 6, Folder 170.
\textsuperscript{156} Letter from Crystal Eastman to Annis Eastman (Oct. 10, 1907), Schlesinger Library Collection, supra note 43, Box 6, Folder 169.
\textsuperscript{157} Id.
\textsuperscript{158} Id. Eastman was paid $100 a month, plus incidental expenses, as an investigator. Letter from Crystal Eastman to Annis Eastman (Sept. 18, 1907), Schlesinger Library Collection, supra note 43, Box 6, Folder 169. From this salary, she accumulated significant savings, which she offered to help a child of family friends who was dying of tuberculosis. Tragically, the child died before treatment could begin. Letters from Crystal Eastman to Annis Eastman

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However, in February of 1908, funds were raised to extend the Pittsburgh Survey to include workplace injuries, as well as deaths, and three investigators were hired to work under Eastman's supervision. She became even more committed to finishing the project, despite its unexpectedly long duration. "Isn't it amusing how this two months' Pittsburgh venture has turned out? I don't mind now at all, it's a big thing I'm doing. Besides, I have thought myself out of the feeling of hurry about law or my 'career'. I'm going to live, not hurry." 

In addition to her investigative work, Eastman prepared an article on the law of workplace injuries. This article, an analysis of the legal rules governing employer liability to workers in Pennsylvania in 1908, was doctrinally sophisticated and eloquently written. It observed that employer negligence was limited by customary practice, even if the industry's customs were grossly and obviously negligent or in violation of a statute. It explained that courts had implied terms for employment contracts by which the worker assumed the ordinary dangers of the work, extraordinary dangers of which the worker was aware, and dangers resulting from the actions of fellow workers. Eastman's article praised reforms that removed supervisors from the category of fellow workers by characterizing them as agents of the employer, and protested the assumption of risk rule that barred recovery when a worker had previously complained of a dangerous condition. The article was not one-sided, however. While demonstrating that the law was unfairly harsh to workers, it grappled with concerns of employers, large and small, and recognized the existence of workers' negligence.

In this piece, Eastman successfully achieved two tasks. First, she

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159 Letter from Crystal Eastman to Annis Eastman (Jan. 14, 1908), Schlesinger Library Collection, supra note 43, Box 6, Folder 170.
160 Letter from Crystal Eastman to Annis Eastman (Feb. 9, 1908), Schlesinger Library Collection, supra note 43, Box 6, Folder 185.
161 Id.
163 Id. at 72-73.
164 Id. at 68.
165 Id. at 71-72.
166 Id. at 69.
167 Id. at 74.
demonstrated that the current law needed fundamental modification. Second, she provided support and authority for judges and lawyers who were grappling with the conflicting imperatives of providing compensation for particular individuals while still working within the strictures of the existing unjust law—a dilemma confronted by all who seek legal reform at both individual and systemic levels.

Eastman’s article was well received; by the spring of 1908, she had gained public acclaim. Florence Kelly, with whom Eastman had worked in Pittsburgh the previous fall, invited her to New York to give two lectures on employer’s liability at the School of Philanthropy. Eastman clearly enjoyed the academic and social spotlight, commenting, “Oh, isn’t it fun to be famous.” But the recognition she valued most came from her brother Max, who sent her a note admiring her legal analysis. She wrote that Max’s note was better “than what all the rest of the world put together might say.” “Max’s praise of my [article] is kind of awe-inspiring. I don’t see how it can be true, what he says—since it all came out of my head.”

For a good description of the instability of laws such as the fellow-servant rule during this period, see Lawrence M. Friedman & Jack Ladinsky, Social Change and the Law of Accidents, 67 Colum. L. Rev. 50, 59-63 (1967). Friedman and Ladinsky noted:

The common law doctrines were designed to preserve a certain economic balance in the community. When the courts and legislatures created numerous exceptions, the rules lost much of their efficiency as a limitation on the liability of businessmen. The rules prevented many plaintiffs from recovering, but not all; a few plaintiffs recovered large verdicts. There were costs of settlements, costs of liability insurance, costs of administration, legal fees and the salaries of staff lawyers. These costs rose steadily, at the very time when American business, especially big business, was striving to rationalize and bureaucratize its operations.

For me, the most wrenching contemporary example is whether prochoice lawyers should argue that Roe v. Wade, 410 U.S. 113 (1973), was overruled by Webster v. Reproductive Health Services, 492 U.S. 490 (1989). I believe that Webster effectively overruled Roe and that it is important to say so in political debate. Nonetheless, the majority of the Court in Webster formally affirmed Roe. See Webster, 492 U.S. at 521. In concrete cases, any responsible lawyer challenging a particular restriction must urge judges to assume that Roe is still the law of the land, as most federal courts have held. See Rachael Pine & Sylvia A. Law, Envisioning a Future for Reproductive Liberties: Strategies for Making the Rights Real, 27 Harv. C.R.-C.L. L. Rev. — (forthcoming 1992).

Letter from Crystal Eastman to Annis Eastman (postmarked Mar. 28, 1908), Schlesinger Library Collection, supra note 43, Box 6, Folder 170.

Letter from Crystal Eastman to Annis Eastman (Mar. 14, 1908), Schlesinger Library Collection, supra note 43, Box 6, Folder 170.

Letter from Crystal Eastman to Annis Eastman (Mar. 17, 1908), Schlesinger Library...
So still, it was Eastman’s family ties that continued to sustain her. As before, her mother was the emotional center of her life. Throughout her tireless work on the Pittsburgh study, Eastman made time for visits from her mother in the fall and spring, and she managed to return home for Christmas. In anticipation of one of her mother’s visits, Eastman wrote: “I feel about your little visits much as I imagine most people feel about their honeymoon. I plot in all sorts of ways for seclusion and privacy.”174

Eastman completed her investigative work in May of 1908, and she then moved to the country outside Pittsburgh to write her findings.175 Although she had hoped to return to New York to live with Max and to see her friend Vladimir Simkhovitch,176 she realized: “[I]f I am to get this huge thing written and off my hands this spring, the fewer devoted friends I have on hand the better. That’s a cold practical way of looking at life for a heavenly spring day like this,—but perhaps I can afford to be practical once in a while. I’m not thirty yet.”177 This unusual attitude for Eastman reveals the new stature her work had assumed. She was hoping to finish by July, but the project continued through the summer.178 In August, Eastman left Pittsburgh and returned to Cherith Farm to finish the book there.179

By the fall of 1908, Eastman had returned to New York with a nearly completed draft of Work-Accidents and the Law in hand.180 When it was released in 1910, this book received wide and favorable reviews.181 The book vividly presented facts, offered concrete proposals for

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174 Letter from Crystal Eastman to Annils Eastman (Nov. 17, 1907), Schlesinger Library Collection, supra note 43, Box 6, Folder 169.
175 Letter from Crystal Eastman to Annils Eastman (Apr. 27, 1908), Schlesinger Library Collection, supra note 43, Box 6, Folder 170.
176 Id.
177 Id.
178 Letter from Crystal Eastman to Annils Eastman (June 11, 1908), Schlesinger Library Collection, supra note 43, Box 6, Folder 170; Letter from Crystal Eastman to Annils Eastman (June 3, 1908), Schlesinger Library Collection, supra note 43, Box 6, Folder 170.
179 See Letter from Crystal Eastman to Max Eastman (Sept. 4, 1980) (describing activities at Cherith Farm), Schlesinger Library Collection, supra note 43, Box 6, Folder 170.
180 From 1908 to 1909 Eastman polished the book and published portions of it in The Survey, a magazine published by the Russell Sage Foundation. See M. Eastman, supra note 18, at 297.
181 The New York Times said:
The book is important not only because it is the first systematic and comprehensive attempt that has been made in this country to measure the economic loss society bears by reason of preventable accidents to workmen and to apportion the responsibility for that loss, but also because of the spirit in which the work has been done.
Book Review, N.Y. Times, Aug. 6, 1910, at 15. The Nation called it “an admirable discussion of a complex topic” which would “aid powerfully the wide-spread movement to substitute for our outworn employers’ liability law a more rational method of distributing accident losses.”
reform—illuminated by the experience of other countries—and addressed the "political reality" of the era. What particularly interested Eastman were the personal stories of hundreds of killed and injured workers and the plights of their families. While always empathetic, her report was balanced and incorporated diverse perspectives. For example, Eastman detailed various forms of support that were available, including voluntary workers’ benefit programs and company sponsored programs. In addition, she portrayed family situations where the loss of the wage earner was not devastating. Still, the generally tragic nature and extent of the suffering painted a graphic picture of compelling human need.

The book also analyzed, in absorbing detail, the processes of making steel, running railroads, and mining coal. Eastman clearly respected the productive power of coal, steel, and railroads and relished the technological details of their processes of production. In discussing these processes, she deferred to industry expertise whenever ordinary people could not reasonably understand the technical requirements of the indus-

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182 See C. Eastman, supra note 150, at 17-18, 132-43.
183 Id. at 153-61.
184 Id. at 132, 135.
185 Here is one of the hundreds of stories told:

On October 17, 1906, Adam Rogalas, a Russian laborer employed at $1.60 a day by the Iron City Grain Elevator Company of Pittsburgh, was sent with two other men to do some work in an adjoining building, used by the company for storage. On the floor above them grain was stored in bags. The supports of the floor gave way and it fell. One of the workmen escaped, another was injured, Rogalas was killed. At the inquest a building inspector testified that the floor-supports were obviously inadequate. Rogalas had a wife, and four children, aged ten, six, five, and two; but he had no savings. According to Mrs. Rogalas, the claim agent of the company offered to settle with her for $400, which she refused. She put her case in the hands of a lawyer, and suit was entered for $20,000. Mrs. Rogalas got some washing to do; the city poor relief gave her $6.00 worth of groceries a month; she begged at the door of her Catholic church on Sundays; her sister, with a family of six, did what little she could; an occasional $10 was advanced by her lawyer. She was seen in severe winter weather, with shoes so old that her feet were exposed. Six months after the accident another child was born; it was the end of the year before her suit came to trial. The court instructed the jury to return a verdict for the defendant. The woman had lost her case.

Id. at 3-4.
186 Id. at 16-75.
But she also pointed out that death and injury often resulted from causes that any ordinary person could evaluate, such as the lack of guards and railings. That two major national engineering magazines reviewed the book favorably, suggests that Eastman had a solid grasp of the technical material.

Even adopting a generally deferential attitude toward technological expertise, Eastman concluded that thirty-percent of workplace deaths and injuries were attributable to employer fault, twenty-seven percent to worker fault, fifteen percent to both employer and employee fault, and the remainder to other causes, presumably dangers inherent in the enterprise. This finding was an important revelation in a period when “informed” public opinion, influenced by the views of industrial leaders, believed that ninety-five percent of workplace accidents were due to the carelessness of the workers.

Eastman’s central proposal for reform focused on the need for compensation, at least in limited amounts. Her supporting arguments were remarkably similar to those offered decades later in support of no-fault automobile insurance: reduction of the wasteful costs of dispute settlement; the unfairness of both excessive and inadequate settlements; the avoidable costs of death and disability; the problems of delay in compensation; and the implausibility of the argument that denying employer liability might encourage worker safety, as if self-preservation did not.

Early in 1909, Governor Charles Evan Hughes of New York appointed Eastman as the only woman on the state Employers’ Liability Commission. The Commission elected her Secretary, the only salaried position, and, according to Max, “practically turned over to her the drafting of a workmen’s compensation law for New York state.” In 1910, The First Report of the New York State Liability Commission, writ-

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188 See id. at 27.
189 She observed, however, that 81% of deaths in steel-making occurred in the process of transportation, not in the mills. “Lurid newspaper accounts of [accidents in smelting] . . . determine the popular idea of steel mill accidents. . . . An outsider may wisely hesitate to make suggestions with regard to accidents connected with steel making, so much of which is a mystery to him. But the means of transportation used in the mills [present no mystery]. . . . It does not take a steel expert to ‘see how they work.’” Id. at 57.
190 See note 181 supra.
191 C. Eastman, supra note 150, at 102-04.
192 Id.
193 Id. at 218.
195 See Davis, supra note 1, at 544.
196 M. Eastman, supra note 18, at 319.
ten primarily by Eastman, was released. This report analyzed workplace
deaths and accidents in New York. Soon thereafter, the New York
legislature adopted the nation's first workers' compensation program for
state-mandated workers engaged in particularly dangerous enterprises.

The program Eastman advocated, in her book and in the New York
classification, was quite limited, extending only to the most dangerous
trades and, even then, only where an accident was due to employer negli-
gence or to an inherent risk of the trade. From 1907 to 1908, while
investigating and writing *Work-Accidents and the Law*, Eastman found
little political support for state-mandated workers' compensation in the
United States. Business and conservative interests were well-served by
a legal regime denying liability for workplace accidents. Larger, more
affluent companies could institute voluntary compensation plans that
would help keep "intact a non-union working force." Even organized
labor opposed workers' compensation, asserting that it was paternalism
which would undermine efforts to organize workers into expressing col-

But even as popular support for workers' compensation grew, other
political obstacles remained. Eastman addressed these new issues in a
1910 article. First, she wrote that industry might leave any state that
passed strong legislation protective of workers, as there were "legislative
lines between the states, but no commercial barriers." Second, East-
man feared that the courts might strike down a broad compensation law
as unconstitutional. Eastman's fear of the courts was, at least in the

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197 The Report is included as an appendix in Work-Accidents and the Law. See C. East-
man, supra note 150, at 269.
198 See Workers Compensation Act (Laws 1910, c. 674) art. 14a; see also Ives v. South
199 Workers Compensation Act (Laws 1910, c. 674) art. 14a.
200 See Weinstein, supra note 146, at 159-61 (noting that labor opposed compensation legis-
lation in early 1900s, while business trusts favored voluntary plans). However, by 1910, the
Republican Party included a workers' compensation plan in its platform. See Friedman &
Lansky, supra note 168, at 68.
201 Weinstein, supra note 146, at 161.
202 Samuel Gompers, for example, opposed minimum wage and maximum hours legislation
for men, and only grudgingly accepted these ideas for women. See Irwin Yellowitz, Labor and
the Progressive Movement in New York State, 1897-1916, at 133 (1965). He preferred a vol-
untary organization of wage workers prepared to advance labor's interests independent of state
law. See id. at 56-57, 133. Workers' compensation raised another problem: "state satisfaction
of the guild-like provision of pensions and other welfare benefits would reduce the craftsman's
loyalty to the union." Weinstein, supra note 146, at 159-60.
203 Crystal Eastman, Work-Accidents and Employers' Liability, The Survey, Sept. 3, 1910,
reprinted in On Women, supra note 1, at 275.
204 Id. at 278.
205 Eastman did not pretend that these constitutional principles made any sense. She wrote:
Certain provisions in these documents, originally intended no doubt to safeguard the
rights of the people, serve often, so it seems to some of us today, to deny the rights of the
short term, well-founded. In March of 1911, the New York Court of Appeals held that the nation’s first workers’ compensation statute was “plainly revolutionary” in comparison to prevailing common-law standards and contrary to the positive limits against deprivation of property without due process. However, soon thereafter, the political climate changed so dramatically that the New York court’s conservative holding was outside the political mainstream. Both the National Association of Manufacturers, representing a broad range of American businesses, and the National Civic Federation, representing big labor and big businesses, supported workers’ compensation. The National Civic Federation drafted a model statute to avoid the problem that Eastman had recognized of some states imposing greater demands than others, inspiring businesses to seek more friendly legal environments. Between 1909 and 1912, a majority of states appointed commissions to

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206 In 1906, Congress enacted a law providing that common carriers engaged in interstate commerce were liable to injured workers or, if killed as a consequence of the employer's negligence, to their survivors. See Act of June 6, 1906, ch. 3073, 32 Stat. 232. A worker’s contributory negligence could reduce recovery on principles of comparative fault. See The Employers’ Liability Cases, 207 U.S. 463, 490 n.1 (1908). In January of 1908, the Supreme Court struck down the entire Act because it potentially could be applied to incidents occurring solely within an individual state’s borders and hence was not within Congress’s power to regulate interstate commerce. See id. at 498, 503. Four Justices—Moody, Harlan, McKenna, and Holmes—dissented, observing that the statute easily could be read as limited to incidents involving interstate commerce, and arguing that it was the Court’s duty to adopt the interpretation that saved the constitutionality of the Act. Id. at 510, 540, 541 (Moody, Harlan, & McKenna, JJ. dissenting). The majority’s decision made plain that the regulation of relations between workers and employers was primarily a matter for the states rather than the federal government. See id. at 502.


208 See id. at 298, 94 N.E. at 439.

209 Courts “trailed behind the leaders of the large corporations and those politicians close to them, who were developing the new liberal, or progressive, ideology of the welfare state.” Weinstein, supra note 146, at 170. Dean Roscoe Pound and several other “experts in political and Constitutional law” protested that Ives was “not in accordance with the best legal authorities in the United States.” The Workmen’s Compensation Act: Its Constitutionality Affirmed, 98 Outlook 709, 709-11 (1911), quoted in Friedman & Ladinsky, supra note 168, at 68.

210 In 1910, the National Association of Manufacturers reported that 95% of its 25,000 members favored automatic compensation for industrial accidents, though most lacked the resources to institute such programs on their own. See Weinstein, supra note 146, at 161.

211 The National Civic Federation was committed to conciliation between conservative unions and large corporations, and united in opposition to the socialists and the Industrial Workers of the World. See id. at 162-64.

212 Id. at 161-62, 165-66.

213 See id. at 166-67.
develop workers' compensation programs.\textsuperscript{214}

Furthermore, the 1911 decision striking down New York's workers' compensation law enraged ex-President Theodore Roosevelt, who complained that such judicial actions served "to bar the path to industrial, economic, and social reform," thereby adding "immensely to the strength of the Socialist Party."\textsuperscript{215} Roosevelt responded with a proposal for a New York constitutional amendment aimed at allowing more liberal recall of state judicial decisions.\textsuperscript{216} Others, including the New York Times, supported a more specific constitutional revision to allow workers' compensation.\textsuperscript{217} Such an amendment carried overwhelmingly,\textsuperscript{218} and the constitutionality of workers' compensation per se was no longer controversial.

Thus, a political and constitutional consensus in support of workers' compensation developed with remarkable speed between 1907 and 1910. The controversial issues then became the breadth of coverage, the question of public or private administration, levels of compensation, and the circumstances in which negligence claims would still be allowed.\textsuperscript{219} In 1911, Eastman published an article on workers' compensation that moved beyond concern for compensation and towards accident prevention.\textsuperscript{220} Eastman believed that the compensation-oriented programs were merely band-aids—albeit necessary ones—that did not sufficiently focus on the more important issue of avoiding accidents. She expressed her impatience with the limited reform measures:

When I read in the Bulletin of the New York Department of Labor, among particulars of fatal accidents in 1908 such records as this: "Helper—flooring factory—age 18—clothing caught by set-screws in shafting: both arms and legs torn off; death ensued in five hours," my spirit revolts against all this benevolent talk about workingmen's insurance and compensation.

When great unforeseen disasters like the San Francisco earthquake come upon humanity by act of God, we can be thrilled and uplifted by

\textsuperscript{214} Three commissions were appointed in 1909, 8 in 1910, 12 in 1911, and 7 in 1913, and all favored eliminating employers' liability and substituting some form of workers' compensation. See Harry Weiss, Employers' Liability and Workmen's Compensation, in Elizabeth Brandeis, Labor Legislation, in 3 History of Labor in the United States: 1896-1932, at 572 (1935).


\textsuperscript{216} See George E. Mowry, Theodore Roosevelt and the Progressive Movement 213-16 (1947).


\textsuperscript{218} See Recall of the Ives Decision, 17 The Nation 2527 (1913); see also New York Cent. R.R. v. White, 243 U.S. 188, 208 (1917) (unanimously rejecting federal constitutional challenges to New York's workers' compensation act).

\textsuperscript{219} See Weinstein, supra note 146, at 173.

the wave of generous giving which sweeps over the country—we can be comforted by contributing a little ourselves to aid the survivors. And when we are thinking of the deadly list of unpreventable work accidents—the blast furnace explosions, the electric shocks, the falls—it appeases our sense of right a little to realize that we are working away as hard as we can for a law which will assure a livelihood to the children of the victims. But when the strong young body of a free man is caught up by a little projecting set-screw, whirled around a shaft and battered to death, . . . when we know that the law of the state has prohibited projecting set-screws for many years, then who wants to talk about “three years’ wages to the widow,” and “shall it be paid in instalments [sic], or in lump sum?” and “shall the workman contribute?” What we want is to put somebody in jail. . . . What we want is to start a revolution.221

Eastman outlined an accident-prevention program that relied heavily on state regulation. She wrote: “The first thing we need is information. . . . It seems a tame thing to drop so suddenly from talk of revolutions to talk of statistics. But I believe in statistics just as firmly as I believe in revolutions.”222 Simultaneously serious and tongue in cheek, she summarized her vision:

[A] complete system of accident reports, handled with transcendent intelligence by a superhuman statistician, and published for the enlightenment of a body of eager-minded public-spirited citizens. To this picture I have added that of a high-salaried, well-trained, fully-equipped labor department with power to make safety rules having the force of statutes; I have provided heavy penalties for violation of these rules to be imposed with discretion by judges aroused to the importance of their duty; and I have given the commissioner of labor summary powers to enforce compliance with his orders.223

Finally, Eastman observed that mandatory compensation will allow “the economic necessity of reducing accidents to enter effectively into the calculations of the ‘powers that be.’ ”224

CONCLUSION

This chapter in Eastman’s life ends in 1910. In that year, her mother died, and within months, both she and her brother Max had married.225 Ahead lay Eastman’s work in women’s suffrage, peace, and civil liberties, a second marriage, and two children. This Essay offers a glimpse into Eastman’s early familial, social, intellectual, and political

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221 Id. at 281 (emphasis in original).
222 Id. at 281-82.
223 Id. at 288.
224 Id. at 289.
225 M. Eastman, supra note 18, at 356-58.
surroundings. It reveals how Eastman's year in the Village at NYU Law provided her with skills, friendships, and causes that flourished and sustained her throughout her life.

By age thirty, Eastman had done much important and influential work and was the subject of a flattering article in the New York Herald.226 Although the author could not resist describing Eastman's "fine brow," "brown eyes that laugh," and "charming, girlish manner,"227 the author also noted that when Eastman "argues the woman promptly gives place to the lawyer, clear headed, clear eyed, decisive, the adversary in every word and gesture."228

226 Portia Appointed by the Governor, N.Y. Herald, Apr. 24, 1910, reprinted in On Women, supra note 1, at 358.
227 Id. at 359.
228 Id. at 365-66.