

WOMEN IN LAW IN CANADA

Is the prevalent notion that women are not treated equally with men within the legal profession a fact or a myth? Who were the first women to enter the legal profession in the various provinces? What contributions have been made by women lawyers and law graduates?

My proposal to write an article dealing with, *inter alia*, the prickly question of the treatment which women lawyers receive within the legal profession provoked a variety of reactions from women across Canada. My feeling at the outset of my research, on the basis of my own personal observations, was that there was such discrimination. To assist me in substantiating or deflating this theory and for the purpose of gathering other information in addition, I sent out a questionnaire¹ to as many women lawyers and law graduates as of whom I could obtain the names and addresses. I detected in some of the negative reactions to the questionnaire a fear that I would recklessly draw baseless conclusions; my intention is not to draw any conclusions, but rather to recount, for whatever each reader thinks it is worth, the information which my research has uncovered.

To be fair to those women who were strongly against the writing of this article, or at least a trifle hesitant about it, I think that I ought to try to present the gist of their reasons. Three of the women found the questionnaire either "formless", "juvenile", or otherwise inadequate. Several of the women were unable to see anything worthwhile or relevant in an article about women lawyers. These women are, generally speaking, of the opinion that a lawyer is a lawyer and that an article concerning women lawyers "as a separate breed" will have about as much social value as an article on blue-eyed or left-handed lawyers; indeed, three of my correspondents felt that an article such as this one will only aggravate the situation.

Before proceeding further, I wish to render several appropriate notes of appreciation, apology and explanation. I would be remiss indeed not to acknowledge publicly my debt to Jean Bannerman,² Her Honour Judge Edra Sanders Ferguson, Moira Caswell, Yvonne Beaupre, Dale and Lee Gibson and Alf Watts,³ a particular women lawyers' organization which prefers to remain anonymous, the Canada Council and the law schools and law societies across Canada for their encouragement, suggestions support and co-operation, and to the Women's Law Association of Ontario for

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1. See an Appendix to this article. The questionnaires which were completed and returned to me together with files of research done in connection with this article are available in the Archives of the Faculty of Law, University of Manitoba.
 2. See *Leading Ladies, 1639-1967*, esp. the chapter entitled *Modern Portias*, by Jean Bannerman. This book, which is being revised, was privately published as a Centennial project and is available in many public libraries.
 3. Who are writing histories of the legal profession in Manitoba and British Columbia, respectively; Mr. Watts' book will contain a chapter entitled "The Law Society and the Ladies", a copy of which he kindly sent to me, which elaborates on the trials and tribulations of the early women lawyers in British Columbia.

access to its archives. As well, I thank all of those women who took the time to respond positively or negatively to my questionnaire and letters; incidentally, I apologize for the errors and omissions in the list of names and addresses which accompanied the questionnaire.⁴ As many requested notification of the publication of this article, I sent an offprint of the article to all those who, in completing the questionnaire, gave me a name and address.⁵ Finally, two or three women raised the question of the appropriateness of the adjectives "female", "women" and "lady" in connection with the term "lawyers" or "law graduates"; I have chosen simply on the ground of descriptive convenience and with no malice aforethought to use the adjective "women" and I trust that this will be acceptable for the purpose of this article.

As mentioned earlier, I sent out a questionnaire as part of my research for this article. In total, on the basis of information gleaned from the Canadian Law List⁶ and received from law schools and law societies, approximately 649 questionnaires were mailed. Of these 649, 4 were returned undelivered, at least 9 were inadvertently mailed to men or non-lawyers, 5 were returned with a refusal to answer,⁷ and 267 were returned completed.⁸ Thus, in terms of positive and negative response the net percentage participation in the questionnaire was approximately 43%.⁹ Within the 272 positive and negative responses to the questionnaire were 8 women who indicated quite clearly that they were against such a project being undertaken or article being written and 3 who indicated that they were not necessarily in favour;¹⁰ on the other hand, 46 women in addition to completing the questionnaire indicated enthusiasm for, or endorsed in one form or another, the project or such an article.¹¹

Of the 272 positive and negative replies to the questionnaire, generally

4. I have more to say concerning this list later in the article.

5. Unfortunately, a few women who requested notice of the publication of the article failed to give me a name and address.

6. Accompanying the questionnaire in the original mailing was a list of 373 names compiled from the Canadian Law List. There were several errors in it and many omissions from it. There were several reasons for the list being sent out in the state it was: There was the enormous difficulty of extracting the names of women and compiling the list; secondly, time and expense militated against the revision of the list or holding up the mailing of the questionnaire until complete returns came in from the law schools and law societies; finally, the list was only intended to be an adjunct to the questionnaire, and particularly a couple of the questions, and it was never intended to be exhaustive or in any way authoritative.

7. Of the 5, 2 were from Ontario, and 1 each from British Columbia, Quebec and an unascertainable province. When indicating the source of the replies to the questionnaires in this footnote and others, I am indicating the point of mailing.

8. Of these 267, 110 were from Ontario, 49 from Quebec, 39 from British Columbia, 20 from Alberta, 13 from Nova Scotia, 12 each from Manitoba and Saskatchewan, 3 from New Brunswick, 1 each from Newfoundland and the Northwest Territories and 7 from miscellaneous or unascertainable sources.

9. Which I am told is extremely high for such a poll.

10. Of these 11, 6 were from Ontario, 2 from British Columbia, and 1 each from Manitoba, Quebec and an unascertainable province.

11. Of these 46, 23 were from Ontario, 10 from Quebec, 4 from British Columbia, 3 each from Nova Scotia and Saskatchewan and 1 each from Newfoundland, Manitoba and an unascertainable province.

speaking, 106 women¹² indicated an existence or feeling of prejudice against women lawyers in some form or other. The other 166 women replying to the questionnaire either made no indication at all, alleged no existence of discrimination or indicated positively that insofar as they are concerned it does not exist at all or at most it exists only in the minds of women who were going to inordinate lengths to find or imagine it.

What are the allegations or feelings of the 106 women who are of the opinion that women lawyers and law graduates have a "rougher row to hoe" than men. The six most common general complaints are that it is much more difficult for women lawyers as opposed to men to obtain a *first* job or position of employment,¹³ that women have to prove themselves (presumably to a greater extent than their male contemporaries), that women receive unequal remuneration and experience unequal advancement in comparison with their male contemporaries unless they are more than obviously deserving, that women are not taken seriously, and that it is common to attempt to "pigeonhole" women into certain more routine areas of work.¹⁴

Concerning the difficulty in obtaining a first job, a common viewpoint was that in many cases it stems from a feeling on the part of law firms that women, for one reason or another,¹⁵ will not stay long with the firm and the firm will thus lose its investment in training her; however valid this approach to hiring women may be, several women made the point that the transient nature of neophyte male lawyers is not considered by law firms although men are often on the move in their early years of practice. A significant number of women who experienced initial difficulty in locating a firm found that once ensconced in the firm and the practice of law they had no further cause to complain and that they were equally as mobile in shifting their employment venue as their male contemporaries. For the woman with practice qualifications or simply an LL.B. and with no other qualification, such as a social work or library science degree to provide her with a natural non-law vocation, the job-hunting situation can be particularly arduous; employers are suspicious and cannot understand why anyone with an LL.B. or practice qualifications

12. That is to say about 39% of the women who replied. Of the 106, 48 were from Ontario (i.e., 43% of the 112 positive and negative replies received from Ontario), 18 were from Quebec (i.e., 36% of the 50 positive and negative replies received from Quebec), 3 were from Nova Scotia (i.e., 23% of the 13 replies received from Nova Scotia), 2 were from New Brunswick (i.e., 67% of the replies received from New Brunswick), 6 were from Manitoba (i.e., 50% of the replies received from Manitoba), 4 were from Saskatchewan (i.e., 33% of the replies received from Saskatchewan), 12 were from Alberta (i.e., 60% of the replies received from Alberta), 9 were from British Columbia (i.e., 23% of the positive and negative replies received from British Columbia), and 4 were from miscellaneous or unascertainable sources.

13. A substantial majority of women law graduates join existing firms.

14. Although the "attempt" may be frequently present, in fairness it should be pointed out that in answer to question 7 in the questionnaire, while a significant number of women did indicate some "pigeon-holing" the overwhelming majority indicated that they were involved in a general or varied practice (several women indicated that they do not practise in the field of litigation).

15. For instance, if she is single she will marry and if she is married she will begin sooner or later to have children.

would not want to practise law. This is not to say that such women do not find interesting and often law-related jobs, but it may have taken time, luck, and in some cases "connections".

In connection with the allegation that women must work harder to prove themselves, it was the experience of several women that they have to be more meticulous, for men are quick to point out their mistakes and are not prone to gloss over them; on the other hand, one woman said that it took longer for her to correct her mistakes and bad habits, for men were generally too polite to point them out.

There are several aspects to the allegation that women lawyers are not taken seriously. These various feelings and attitudes towards, or assumptions made by men or clients about, women were expressed: that women are incapable of being realistic or logical; that women treat the practice of law as a hobby; that women cannot be sufficiently dedicated or ambitious, for if they are single they have no family to feed and if they are married they have a husband who is the primary provider; that some men tend to treat women colleagues patronizingly; that big or important business or clients can be "handled better" by men.

Other random comments made concerning the prejudicial treatment of women lawyers included the following: that women are made to feel that they do not belong in the legal profession and that they are not as competent as men; that women, while not barred from the legal profession, are not encouraged and are at the best only tolerated. Regarding the degree of acceptance of and the ease of advancement by women lawyers in government service, many conflicting views were expressed, making a positive or negative generalization impossible.

A profile of the 106 women who alleged the existence of discrimination in some form or other shows that: 11 possess a Q.C. appointment;¹⁶ 9 indicated that they are in the employ of a government; 51 indicated that they were, or had practised law, in a firm; 10 indicated experience in both government work and the practice of law in a firm of lawyers; 8 indicated that they were or had practised alone;¹⁷ 43 were single or widowed; 89 indicated in answer to question 17 of the questionnaire that they were generally content with the opportunities that their legal training had presented to them;¹⁸ and 52 were called in the 1960's, 26 in the 1950's, 17 in the 1940's, 3 in the 1930's, 4 in the 1920's, 3 prior to 1920 and 1 did not indicate.¹⁹

16. A total of 30 of those responding to the questionnaire indicated a Q.C. appointment.

17. The remaining women were either in "other" lines of endeavour than government service or the practice of law, or their questionnaires were incomplete.

18. Of all the questionnaires received, only 24 indicated a lack of general contentment with the opportunities presented by legal training.

19. Of all the questionnaires received, 117 indicated a call in the 1960's, 72 in the 1950's, 41 in the 1940's, 15 each in the 1930's and 1920's, 6 prior to 1920, and 1 did not indicate.

Before leaving the question of discrimination, here are the additional views of four women lawyers which may be of interest:

Marguerite E. Ritchie, Senior Advisory Counsel in the Department of Justice in Ottawa, in a letter accompanying her questionnaire said:

"The results of your study should be extremely interesting. You may discover that some replies indicate an apparent lack of discrimination; in many cases I have found that women are unwilling to admit discrimination, either because they are trying to conceal the fact from themselves or because they must play the role of 'Uncle Tom' and that their chances of promotion depend absolutely upon their conformity to and acceptance of the existing patterns. In other cases, I found that women who have been subject to great discrimination in the government service and who have told me of it with considerable bitterness cope with the situation by escapism, viz., taking an early retirement and travelling or occupying themselves in more pleasant ways than by fighting against discrimination. These women very often do not want to remind themselves of the events and the years which were painful episodes in their career."

Miss L. J. Campeau (Mrs. G. C. Scott) reportedly observed a few years ago that there is a "difference in attitudes toward women lawyers across Canada. In Quebec and the Maritimes the women lawyers sit with wives during conventions, and in the Western provinces, all the lawyers sit together. Ontario acts as a buffer between the two sections as the women lawyers sit where they want to with the wives or fellow members of the bar."²⁰

In an outburst which appeared in the Osgoode Hall Law School *Obiter Dicta* Miss M. V. MacLean felt compelled to point out that surely she no more than her male colleagues had to justify particularly why she was at law school — she was there for the same idealistic or materialistic reasons.²¹

Judy LaMarsh, on the subject of careers for women, at a conference for women in 1967 "urged women not to have chips on their shoulders and feel sorry for themselves when competing with men . . . she urged them to shed the belief that they have to be twice as good as men to succeed . . . she said the fact that few women are involved in the classical professions of law, medicine and theology, showed both real and imagined prejudice. There is definite prejudice against women by some men but more frequently it is a mental blackout from the point of appointing or promoting women. 'We are like furniture to be looked over and overlooked. We're there but invisible.' She said women often seem to imagine prejudice directed against themselves and feel they will not be accepted if they try for better jobs or a professional role."²²

20. The Windsor Daily Star, No Longings or Regrets for Career Girls, July 19, 1957 — perhaps somewhat dated?

21. January 1966.

22. The Globe and Mail, April 19, 1967.

As mentioned earlier, a healthy majority of the women responding to the questionnaire alleged no existence of discrimination; two opinions expressed by several women within this majority deserve emphasis. First of all, there were a significant number of women who very definitely indicated that not only had they never experienced any discrimination, but that they had always been treated respectfully simply as lawyers and that they could not be happier in their chosen profession. Second of all, several women expressed the opinion, as one of them put it, that "many women have a chip on their shoulder and go around looking for instances of 'discrimination'. They are the kind who usually find it."

One final comment on the discrimination situation, a few women from both camps voiced the opinion that the woman lawyer who attempts to overcome her supposed sexual handicap by masculinizing herself in appearance or manner is bound to defeat her purpose and suffer rebuffs, while the woman lawyer who remains feminine and charming without flaunting her sex will find that most men, to the extent that they remain conscious of her sex at all, will be inclined to respond positively towards her; in short, women lawyers simply ought to treat their presence in the legal profession as a completely natural phenomenon.

Looking at the answers to some of the other questions contained in the questionnaire, it should surprise no one that the overwhelming majority of women who attended university courses prior to entering law, took Arts courses;²³ similarly, it may surprise no one that of those responding to the questionnaire who are presently married, roughly 60%,²⁴ approximately 50% of them are married to lawyers.²⁵ The reply to question 19 was overwhelmingly positive, although a number of women qualified their answers in the light of their opinions regarding discrimination. Probably a popular conception is that many women who commence a training in law never complete it; this did not appear to be borne out in the answers received to question 9.²⁶ In answer to question 5, of those women lawyers who had been or are partners of law firms, an overwhelming majority indicated that they had progressed to that status in the same amount of time as their contemporaries; similarly, although here the majority was not as substantial, salaries generally were indicated to be on a parity with contemporaries.

What motivated the respondents to the questionnaire to enter law?

23. Question 16.

24. An additional 14 women (not included within the 60%), or approximately 5% of those responding, indicated a marriage breakdown.

25. Needless to say, in answer to question 13 virtually 100% indicated a definitely positive opinion on the part of the husband.

26. Although I hesitate to draw any figures out of the answers to question 9 for fear of presenting an inaccurate picture, the answers *seem* to indicate that roughly 7 out of 10, on an average, of the women who commenced a law training completed it. But, see Table V.

Here are approximately the number of times that the various factors set out in question 14 and other factors were mentioned:

keen interest	129
inspired by someone	50
drifted in	43
money and security	27
challenge to enter a predominantly male field	24
to work with men	23
to be able to work for the betterment of people and society	16
family background	12
interest	12
legal secretarial experience	12
parental influence	8
intellectual challenge	7
to obtain a versatile professional training	7
to be able to stand up to big business and government bureaucracy	6
husband	5
business training	4
curiosity	3
government service training	3
politics	2
to be with husband or fiancee	2
aptitude tests	1
family business	1
impulse	1
rebel against a medical family background	1
social life	1
to enter journalism	1
scholarship award	1
time and money to afford it	1

Anent family background, apart from whatever conscious influence it plays, according to the answers given to question 15 approximately 60% of the women lawyers in British Columbia, 50% in Alberta, 75% in Saskatchewan, 50% in Manitoba, 60% in Ontario, 70% in Quebec, 33% in New Brunswick and 50% in Nova Scotia, come from a family with a law background.

The replies to one other question on the questionnaire were fruitful enough to deserve a passing reference. The replies to question 2 reveal

roughly the following percentages of those responding to the questionnaire who are in active practice and in turn the percentage of those in active practice who are practising full-time as opposed to part-time:

British Columbia,	58%,	82%
Alberta,	55%,	90%
Saskatchewan,	50%,	66%
Manitoba,	45%,	100%
Ontario,	46%,	77%
Quebec,	51%,	87%
New Brunswick,	66%,	50%
Nova Scotia,	54%,	100%

Of course, within the non-practising ranks were women lawyers who had either retired altogether or were working in other fields, as well as a sizeable number who chose to occupy themselves entirely in their family lives. Several of the latter group stressed the importance they felt for devoting most of their time and energy to their children and home-making in general. Also, several emphasized the fact that at the same time they had been able to put their law training to good use in community affairs and general intellectual exchange with their husbands, particularly if their husbands were lawyers. A few entertained the idea, probably quite wishfully, of someday either commencing or returning to a full-time practice or related work.

With regard to children, home-making and a career there are naturally two largely opposite views. Representative of these two views are Diana Townsend of Ottawa and Judge Tillie Taylor of Saskatoon. In a letter accompanying her questionnaire Mrs. Townsend wrote:

"I have discussed with many women this matter of university trained women as housewives. All have agreed that after the novelty of babies has worn off, a resentment sets in. Practically felt the confinement of housework and the awareness of the gradual erosion of intellectual activity. With some this period ends, others I have known never do accept their role and have either broken down mentally or have left housework and returned to their profession. I know the feminists won't agree with me, but I wonder if there isn't an innate requirement in women to be wives and mothers first—career women second. I have a friend, in the professional field, the same age as I am, unmarried. I had often envied her gay life, her expensive clothes and slim figure and was astounded one day recently to be told by her that I had everything she wanted—a husband, home and children! I think the greatest pressure on university trained women is the horror by people of what they consider a waste of training. I don't think education is ever wasted—and certainly not to a mother who has the early education of her young. I found the solution by countering with the information that I am deeply involved in historical research and that I'm writing a book! (I don't suppose the book will ever get written, but I thoroughly enjoy the research and it is my defence against well meaning people!) And although, well educated women do not always make better wives and mothers, the premise is excellent and could make for a better society."

Judge Taylor, in an article which appeared in *The Globe and Mail*, said:

"I believe the children come first, but children certainly don't need a mother in the house all day. A woman with a satisfying career makes a better mother than a disgruntled woman who is bored to death, tied to a home with nothing more stimulating to think about than the diapers to be washed."²⁷

Other information relating to the situation of women lawyers and law graduates in Canada is contained in Tables accompanying this article; the Tables show, inter alia, the number of women who have been called and admitted, who have received a Q.C. designation, and who have been appointed to the Bench in the various provinces and territories. In addition, there are Tables showing similar information obtained from a random sampling of British Commonwealth countries.²⁸ There are gaps in some of the Tables due to a failure of information which I requested to be supplied.

The name Clara Brett Martin and the details of her struggle to obtain a call to the Ontario Bar are probably known to many lawyers across Canada; not so well known, I would guess, are the names and tribulations of the first women called to the other provincial Bars in Canada:

- Clara Brett Martin, Ontario 1897
- Mabel French, New Brunswick, 1906, British Columbia, 1912
- Melrose Sissons, and Winnifred M. Wilton, Manitoba, 1915
- Lillian Ruby Clements, Alberta, 1915
- Mary Cathcart, Saskatchewan, 1917
- Francis Fish, Nova Scotia, 1918
- Roma Stewart, Prince Edward Island, 1926
- Louisa Maud Saunders, Newfoundland, 1933
- Elizabeth C. Monk and Suzanne R. Filion, Quebec, 1942

Some confusion has arisen in some of the provinces between the first woman to be called and admitted and the first woman to earn an LL.B. degree. In regard to the latter distinction some of the first women were Ethel Fagan (Alberta, 1921), Elsie Hall (Saskatchewan, 1920), and Mrs. I. R. (Adamson) Hunt, Q.C. (Manitoba, 1917).

Within the British Empire, the Province of Ontario was the first jurisdiction and the Law Society of Upper Canada was the first governing body to permit women to practise law.²⁹ The initial stumbling block for Miss

27. "Woman judge finds double career fine", July 16, 1964.

28. In regard to the United States of America see a thorough article by James J. White, *Women in Law*, (1967) 65 Mich. L.R. 1051.

29. Women were not entitled to qualify to be called to the Bar or to practise law in England until the passage of the Sex Disqualification Removal Act of 1919 (see (1922) 58 C.L.J. 243). The first woman licensed to practise law in the United States of America was Belle A. Mansfield of Iowa on June 18, 1869.

Martin, as it was to be also for Miss French and Miss Sissons,³⁰ was the traditional statutory interpretation of the word "person", as used in the Law Society's incorporating statute, so as not to include women.³¹ After three years of refusals from and procrastination on the part of the Law Society of Upper Canada, Miss Martin succeeded in having the Law Society's statute amended and, with the assistance of the then Attorney General, Oliver Mowat, in gaining admission in 1893 "to the study and practice of law". Because the statutory amendment only provided for women to be admitted to practise as solicitors, Miss Martin had to wage another battle to obtain a call to the Bar; this she achieved February 2, 1897.³²

Mabel French distinguished herself by breaking the trail in two provinces, in both of which she achieved her goal only after unsuccessful appeals to the courts³³ and the passage of legislation expressly providing for women to be called and admitted to practise. Interestingly, the Barristers' Society of New Brunswick had willingly admitted Miss French as a student-at-law, but subsequently hesitated to admit her as an attorney after she had "complied with all the requirements of the society as to study and examination" and satisfied the society of her "moral character, habits and conduct" during the term of her study.

The story of the struggle of women to overcome the last bastion of an all-male legal profession in Canada has been written by Elizabeth C. Monk:

"The 1940 Act giving Quebec women the franchise did more than merely give them the right to vote. It led to their emancipation in many fields, one being the opening of the legal profession in the following year

30. See Robson Hall, 1969, at p. 4, a pamphlet published in connection with the opening of Robson Hall, the new law building which houses the Faculty of Law of the University of Manitoba.

31. For some idea of the attitude against women entering the legal profession see (1891) 2 W.L.T. 65; (1892) 12 C.L.T. 111, 219, 296; (1893) 4 W.L.T. 1; (1895) 31 C.L.J. 253; (1896) 32 C.L.J. 423, 748; (1897) 33 C.L.J. 133; (1921) 57 C.L.J. 98.

32. See *The Obiter Dicta* (Osgoode Hall Law School newspaper), January 17, 1934; *The Globe and Mail*, March 12, 1955; *Leading Ladies*, supra note 2; and other newspaper clippings available in the archives of the Women's Law Association of Ontario and my research materials. See also (1925) 5 C.B.R. 419. Following Miss Martin, the next few women lawyers who qualified in Ontario, and thus who comprised the first group of women lawyers in the British Empire, were Eva Maude Powly in 1902, Geraldine Bertram Robinson (Mrs. Ward Wright) in 1907 and Grace Ellen Hewson (Mrs. C. W. Knight) in 1908. Miss Powly practised law briefly in Port Arthur and then moved to Winnipeg to run a coal company; she died in November 1969. Mrs. Ward Wright, according to the *Law Society of Upper Canada Gazette*, May 1967, at p. 66, had the unique distinction of being the daughter, wife, mother, niece, sister, aunt and cousin of members of the Ontario Bar; her son Peter was recently appointed to the High Court of Ontario (similarly John M. the son of Mrs. Isabel Hunt, Q.C. of Manitoba was appointed to the Manitoba Court of Queen's Bench in 1966); she died in February, 1967. The senior woman lawyer in the British Commonwealth is Mrs. C. W. Knight who resides in the vicinity of Toronto; Mrs. Knight practised in Toronto for approximately four years after her call until her marriage.

33. *Re Mabel French* (1906) 37 N.B.R. 359 — Tuck C.J. during the course of the argument was apparently somewhat upset by the fact that "if this young lady is entitled to be admitted as an attorney she will in a year be entitled to be called to the bar, and, in a few years, will be eligible to be appointed to the bench" and subsequently in his judgment he expressed his personal bias quite clearly: "If I dare to express my own views I would say that I have no sympathy with the opinion that women should in all branches of life come into competition with men. Better let them attend to their own legitimate business"; Barker J. in his judgment quoted a similar leopard-like opinion of a United States Supreme Court justice in *Bradwell v. State of Illinois* (1873) 16 Wall. 130; *Re Mabel French* (1912) 17 B.C.R. 1. See also C. L. Cleverdon, *Woman Suffrage in Canada*, at p. 91 and Mr. Watts' book, supra note. 3.

"The first woman to graduate from the Law Faculty of a Quebec University was Mrs. Annie Langstaff who obtained her B.C.L. degree from McGill in 1914. The University of Montreal graduated its first woman in law, Mademoiselle Juliette Gauthier, in 1928. Laval did not confer a licence en droit to a woman until 1946. At the time she took her degree Mrs. Langstaff was acting as Secretary to Mr. Sam Jacobs, Q.C., the very popular and almost perpetual member of Parliament for the constituency of Cartier. Immediately on graduating Mrs. Langstaff offered herself as a candidate for the preliminary Bar examination—the admission to study which precedes by, depending on the Bar regulations in force from time to time, three or four years the examination to practise—but the Board of Examiners refused to permit her to undergo the examination. Mr. Jacobs then made a petition for mandamus to force the Bar of the Province of Quebec to admit her to the examination.³⁴ His main argument was based upon the section of the Interpretation Act which provides that the masculine gender includes both sexes unless it appears by the context that it is only applicable to one of them. Nothing in the Bar Act expressly stated that men only were qualified for admission. The case came up for hearing before Mr. Justice Saint-Pierre and his judgment, rendered on the 12th of February, 1915 [denying the order] is today rather in the nature of a period piece as well as being a somewhat heartening assurance that certain attitudes are now a thing of the past. . . . The judgment of Mr. Justice Saint-Pierre was appealed to the Court of Appeal.³⁵ The appeal was dismissed by a majority of the Court Only Mr. Justice Lavergne was dissenting. He held that the Interpretation Act did apply, that since women were not expressly excluded from the Bar, as they were by the Act governing the notarial profession, they must be considered eligible unless and until expressly excluded. He went even further, holding that women were entitled to be admitted to all the liberal professions and, after referring to the fact that women were already practising the profession in the majority of the other provinces and in such countries as the United States, France and the Scandinavian Countries, he suggested that these could hardly be considered as 'barbarian countries'. The general opinion of the other judges were that given by Mr. Justice Trenholme when he said:

'No doubt the reason that women were not expressly excluded was that it was universally considered, at the time, that they were excluded on account of their sex, and that express exclusion was unnecessary.'

"In conclusion, the Court suggested that women who wished to practise law should seek to obtain that privilege from the legislature, not from the Courts. This they did upon various occasions, but without success until 1941.

"During these years the fight was carried on on their behalf by various women's organizations and more especially by the then League for Women's Rights under the dynamic direction of Madame Therese Casgrain. Tribute . . . [must be paid] to the courage of the then Premier of the Province of Quebec, the Honourable Adelard Godbout, in carrying through, in 1940, his pre-election undertaking to give women the vote despite last ditch religious opposition of a formidable kind. Women lawyers should remember with gratitude that his courage did not fail the following year in the face of what was in some instances almost violent opposition on the part of members of the Bar, when it came to implementing his undertaking to amend the Bar Act so as to make women eligible for admission . . . despite the eloquent attacks of the Honourable Mr. Duplessis, then leader of the opposition, the government carried the amendment which came into effect on the twenty-ninth of April, 1941.

"The next step was up to the women. By this time, four women had graduated in law at the University of Montreal and fourteen from McGill. There were still obstacles for them to overcome . . . admission to the Bar

34. See, Sam Jacobs, a biography by Bernard Figler of Montreal to be published in the Spring of 1970.

35. *Langstaff v. The Bar of the Province of Quebec* (1915) 47 Que. S.C. 131, aff'd 25 Que. Q.B. 11.

is in two stages, the so-called admission to study, which precedes the application for admission to the examination to practise. It seemed reasonable, to the women at least, that the waiting period between these two stages might be waived and this request was granted. But there was another hurdle. Some women had taken their law degree at a time when a B.A. degree, as a preliminary to the law degree, was not one of the requirements of the Bar. Two others found themselves in a special position. They had, some years earlier, passed examinations and been admitted to the Bar of Nova Scotia and had kept up their association with that Bar, although never actually practising there, this with, it must be admitted, an eye to the reciprocity provision of the Quebec Bar Act allowing members of the Bar of another province to be admitted as members of the Quebec Bar upon passing an oral examination which, by custom, had become a mere formality.

"Separate petitions were accordingly made to the Bar Council, by each of the women law graduates still desirous of being admitted to the Bar, with varying results. Those women who had not a B.A. degree—and it must be remembered that there were, at the time, many prominent members of the Bar who did not possess such a degree themselves—were told to go back to college for four years and get their B.A. degree. This, unfortunately, was the fate of Mrs. Langstaff and of Mrs. F. Seymour Bell, one of the Nova Scotia lawyers, and, in their cases, since it was not feasible for them to take off four years from their busy office routine, Mrs. Langstaff has never, with all her legal knowledge, been admitted, while it was not until 1957 that the Bar finally relented in the case of Mrs. Bell and she was made a full member of the Bar after what was merely a nominal oral examination. Those who were fortunate to have both their B.A. and their law degrees, and this included the other lawyer who had already been admitted to the Nova Scotia Bar, were told that since the waiting period between admission to study and admission to practise would be waived for them, they might write the Quebec Bar examinations in the ordinary course.

"As a result of these examinations held in January, 1942, two women were sworn in as members of the Bar, Miss Elizabeth C. Monk and Mme. Suzanne Raymond Filion, to be followed in July by Mlle. Marcelle Hemond, now Mme. Roger Lacoste, and the late Miss Constance G. Short . . . Despite the dire foreboding of the earlier generation of members of the Bar, the profession has survived the infiltration. By 1956 even the notaries had been converted."³⁶

To date the most celebrated woman judge in Canada is the late Helen Kinnear who was appointed to the County Court Bench of the County of Haldimand, Ontario, at Easter in 1943. Miss Kinnear was the first woman to be appointed to a judicial post as high as the County Court in the British Commonwealth. When she received her K.C. appointment in 1934 she was also the first woman so honoured in the British Commonwealth.³⁷ Other firsts and honours for Miss Kinnear include being the first woman to appear before the Supreme Court of Ontario and the Supreme Court of Canada,³⁸ being honoured by the University of Toronto, on the Senate of which she served as a graduate from 1944-52, with an LL.D. in 1953, and being the first woman to receive a medal and citation from the John Howard Society for distinguished humanitarian service.³⁹

36. From a memorandum prepared by Elizabeth C. Monk, Q.C., of Montreal in 1965, a shortened version of which was reproduced in a brochure published in connection with the 25th anniversary of the granting of the vote to women in Quebec.

37. See in connection with Miss Kinnear's K.C. appointment *The Evening Telegram*, December 21, 1934.

38. *The Star*, January 9, 1945.

Regarding women and the practice of law Miss Kinnear has been quoted as saying:

"If a man proves a failure he is accepted as that, but should a woman fail in her chosen profession, everyone says it serves her right . . . she should have been home pushing a carpet sweeper."⁴⁰

and

"There is no reason why a woman should not succeed in the legal profession —provided she has a logical mind and a capacity for hard work."⁴¹

While Miss Kinnear was the first woman in Canada to be appointed to a County Court, the first woman to be appointed to a judicial post in Canada was Emily Murphy, who was appointed a Police Magistrate for Edmonton in 1916; Miss Murphy was not a lawyer by training.⁴² Miss Murphy was one of five women who in 1928-29 took a case through the Supreme Court of Canada to the Judicial Committee of the Privy Council the upshot of which was that women were eligible for appointment to the Senate of Canada. Other early women jurists in Canada were Alice Jamieson, appointed a Police Magistrate for Calgary in 1916, and Helen MacGill, appointed to the Juvenile Court for Vancouver in 1917.⁴³ In *Rex v. Cyr*⁴⁴ the legality of a conviction by Magistrate Alice Jamieson was questioned on the ground that a woman was not legally competent and capable of holding the position of police magistrate. While the judge of first instance on the application to quash the conviction, Scott J., entertained "serious doubt whether a woman is qualified to be appointed to . . . [the] office" of police magistrate, he did not find it necessary to decide the point. On further appeal, Stuart J., delivering the judgment of the Court of Appeal, dealt with the issue and after a lengthy historical review concluded:

"I therefore think that applying the general principle upon which the common law rests, namely of reason and good sense as applied to new conditions, this Court ought to declare that in this province and at a time in our presently existing conditions there is at common law no legal disqualification for holding public office in the government of the country arising from any distinction of sex. And in doing this I am strongly of opinion that we are returning to the more liberal and enlightened view of the middle ages in England and passing over the narrower and more hardened view, which possibly by the middle of the nineteenth century had gained ascendancy in England.

I think therefore that Mrs. Jamieson is not disqualified from holding the office of police magistrate. . . ."

39. See *The Evening Tribune* (Port Colbourne), May 3, 1965. Regarding her work in the field of corrections Miss Kinnear currently was a member of the Minister's Advisory Council of the Department of Correctional Services for the Province of Ontario and she was a member of two Royal Commissions concerning the law of insanity as a defence in criminal cases (1956) and the criminal law relating to criminal sexual psychopaths (1958); in addition, during the years 1947-1962 Miss Kinnear served not only as a County Court Judge but also as a Juvenile and Family Court Judge.

40. *The Chatelaine*, May, 1949.

41. *The Globe and Mail*, September 1, 1955.

42. She is reputed to have been the first woman magistrate in the British Commonwealth. See Emily Murphy, *Crusader* ("Janey Canuck") by Byrne Hope Sanders (MacMillan, Toronto, 1945).

43. Judge MacGill was temporarily unseated on a technicality in 1925.

44. (1917) 12 Alta. L.R. 320.

Two other Canadian women judges deserve mention. In October 1962 Edra Sanders Ferguson was sworn in as Ontario's first Division Court judge, and in addition as a judge of the Juvenile and Family Court, with jurisdiction to sit throughout the Province. Those who know Judge Ferguson will appreciate the accuracy of the prediction by The St. Thomas Times Journal on the occasion of her judicial appointment:

It is a certainty that Mrs. Ferguson will conduct proceedings as she sees fit, for in addition to her avowed concern for little people's problems she is a woman with a will of her own."⁴⁵

Mrs. Ferguson, who practised law with her father and two brothers in St. Thomas on a full-time basis from 1930-40 until her marriage took her to Guelph, was a prominent Western Ontario Conservative Party worker, St. Thomas' first woman alderman in 1936⁴⁶ and a frequent speaker on the legal status of women. While attending the Third Commonwealth and Empire Law Conference in Sydney Australia in 1966, in a verbal exchange with an Australian woman lawyer concerning the prejudicial treatment which women lawyers sometimes receive, Mrs. Ferguson was quoted by The Australian Women's Weekly as saying:

"The best way to tackle prejudice is to ignore it. Be good at your job and tell yourself you're good at it. As good as the next man."

To this the Australian woman answered that, "in this country being as good as the next man isn't good enough. Not if you're a woman. You've got to be a whole lot better to stand any sort of a chance". Mrs. Ferguson replied:

"All right then. Accept that and get on with it. The more women complain about sex prejudice, the more they draw attention to being women, rather than lawyers or doctors or what have you. Be confident. Be good at your job and you'll get there . . . don't fret about prejudice. Talent has a way of finding its own level."⁴⁷

On March 6, 1969 a major milestone in the development of the administration of justice in Canada was reached with the swearing in of Rejane Laberge-Colas as a judge of the Quebec Superior Court. Mrs. Colas became Canada's first woman superior court judge.⁴⁸ Mrs. Colas, a corporation lawyer, said that her appointment came as a "total surprise"; she attributed her appointment to primarily her work with regard to equal rights for women as the founding president of the Quebec Federation of Women. She is also a vice-chairman of the Canadian Consumer Council

45. October 15, 1962.

46. Apparently, of all the aldermanic candidates she received the greatest number of votes.

47. September 22, 1966.

48. The first woman superior court judge appointed in England was Elizabeth Kathleen Lane to the High Court in 1965; she had been the first woman appointed to a county court judgeship in 1962. The first woman judge appointed in England was Rose Heilbron as Recorder of Burnley, Lancashire, in 1957; she may have been the first woman to plead a case before the House of Lords (Margaret H. Kidd the first Scottish woman K.C. is also credited with this first) and along with Helena Normanton she was one of the first two women appointed K.C. in England in 1951-52. The first woman judge appointed in Quebec was Mrs. Therese Lemay-Lavoie who was named a municipal judge for St. Georges — Est. in 1961.

and a member of the Quebec Bureau for Revision of the Civil Code. At the time of her swearing in she suggested the creation of more specialized divisions within the superior courts. Mrs. Colas expects that women in other provinces will soon be asked to accept similar appointments and in this connection Justice Minister John Turner has been reported to have said that the Federal Government is considering appointing women judges to all provincial superior courts.⁴⁹

At least two women have gained prominence through their work on administrative entities of the Federal Government. Since 1960 Mary Louise Lynch, Q.C., has been a member of the National Parole Board. Prior to her appointment she practised law for twenty-seven years in New Brunswick; she was the first woman to appear before the Supreme Court of that Province. Interestingly, through her law practice she became the secretary-treasurer and officer in charge of the Canadian woods operations of the St. Regis Paper Company, and the project manager of the late Lord Beaverbrook in connection with his many and varied benefactions to the people of New Brunswick, Miss Lynch was also deeply involved in community planning and a member of the Juvenile Delinquency Committee set up by former Minister of Justice, E. Davie Fulton. The first and current chairman of the Immigration Appeal Board, created in 1967, is Janet V. Scott. For Janet Scott this represents career number three; after her graduation in 1951 she practised law and later joined the Carswell Company as an editor. On her appointment Miss Scott is reported to have said:

"It's a job that anyone with the proper ability and legal training could do. I hope that the fact that I am a woman didn't enter into this. I like to think that I was selected on merit."⁵⁰

While the field of litigation has been by no means closed to women, it is one field to which not many women lawyers have been attracted. One woman whose success in this field is particularly noteworthy is Vera Parsons, Q.C. In her year of graduation she was a silver medallist. She was the first woman in the Toronto area to appear as counsel before a judge and jury (1925 — in the same year Mrs. S. M. G. Duff appeared as associate defense counsel in a murder trial in British Columbia) and subsequently she was the first woman lawyer to represent before an Ontario Assize jury a client charged with murder. In an article which appeared in the *Globe and Mail* sometime ago she gave these views on Miss Parsons the lawyer and on the legal profession for women:

"As far as Miss Parsons is concerned, her sex is neither a handicap nor an advantage in her court work. When she enters a trial court or appears before the Court of Appeal, she is just another black-robed advocate and she asks no quarter from her legal adversaries. . . . I don't think women should enter law without the thought of using it as an alternative for

49. Francis Russell, "Ottawa considering naming women judges", *The Globe and Mail*, January 28, 1969.

50. *The Globe and Mail*, August 3, 1967.

something else. Law is hard work and calls for long hours and plenty of study. I hardly think the study of law is a particularly good preliminary to marriage for instance."⁵¹

Two other women to whom I can make no more than a passing reference for lack of information, but who have obviously made their mark in the courts of British Columbia, are Mary Southin and Norma Christie.

Margaret Paton Hyndman, Q.C., appears to be in a category all of her own. Miss Hyndman's particular fields of interest were corporation, estates and taxation in which she became expert. As a member of the Toronto firm of Wegenast and Hyndman, she was in effect a co-author of F. C. Wegenast's monumental book "Canadian Companies".⁵² In 1938 she was the second woman appointed K.C. in the British Empire and in 1945 she was the first woman appointed to the Directorate of any Trust company in Canada. Her many and valuable contributions to public and political service are too numerous to canvass; suffice it to say that she rose to become president of the International Business and Professional Women's Club and that she was one of the key women instrumental in the creation of the federal Royal Commission into the Status of Women.

Not surprisingly, several women lawyers have made significant national and local contributions to Canada through the holding of political office. Included in this group are Senator Muriel McQ. Fergusson, Claire Kirkland-Casgrain, Judy LaMarsh, Sybil Bennett, Mary Batten, Mary (McNulty) Fix, Margaret Campbell, Evelyn Harrison, Elizabeth Monk, Ruth McGill and Margaret Crang.

In answer to question 21 of the questionnaire two women said of Muriel Fergusson that "of all the women lawyers . . . the greatest contribution to public service has been made by Senator Fergusson", and that she is "recognized by women's organizations as an independent voice for them in Parliament . . . [and is] highly regarded in Ottawa for her competence, thorough research and humanity in her work in Parliament". Senator Fergusson was called to the Bar of New Brunswick in 1925; she practised for one year until her marriage and subsequently in 1936 returned to practice to assist her husband until his death in 1942. From 1943-1947 she was the Assistant and then Chief Enforcement Counsel for the Wartime Prices and Trade Board in New Brunswick. In 1947 Mrs. Fergusson left this position to become the Regional Director of Family Allowances and of Old Age Security for New Brunswick until her appointment to the Senate in 1953. Prior to her Senate appointment in 1953 she was elected to the Fredericton Council in 1951, and was re-elected as an alderman and Deputy Mayor in 1953. To recount Senator Fergusson's

51. *The Globe and Mail*, October 20, 1944.

52. In this connection mention should be made of Marjorie Laird Palmer who is similarly in effect a co-author of the authoritative work, Fraser and Stewart on Company Law.

virtually countless other activities would be tantamount to painting the lily; however, it should be noted that she has received honorary degrees from the universities of Mount Allison and New Brunswick.

The only woman ever to have been elected to the National Assembly of Quebec is Claire Kirkland-Casgrain. Prior to her election in 1961 in the riding of Jacques-Cartier which her father had represented for 22 years until his death, Mrs. Casgrain practised law for nine years in the courts of her home town of Ville Saint-Pierre. She increased her record 20,000 vote majority of the 1961 by-election to another record 50,000 majority in the 1962 general election and maintained her majority proportionately in the new riding of Marguerite-Bourgeois in the general election of 1966. She was named to the portfolio of Minister of State in the Lesage government in which capacity she sponsored Bill 16 which gives complete legal capacity to women married separate as to property and limits the power of husbands in the case of couples married under the regime of community property. Subsequently, Mrs. Casgrain was named Minister of Transportation and Communications. In a speech to the Women's Press Club in Toronto in 1962 Mrs. Casgrain outlined the dangers of the woman politician:

"If I remain silent I am useless. If I talk too much it is a woman's fault. If I dwell on woman's rights, I am narrow. If I neglect them, women will ask why they elected me. If I tackle large problems of finance and make a mistake, it is because I am a woman. And you can imagine what would be said if I tried to use charm."⁵³

In May, 1965, the University of Moncton bestowed on her a honorary degree. She was again returned to the National Assembly in the 1970 election and subsequently appointed to the Bourassa Cabinet.

And then, there is the inimitable Judy LaMarsh. Besides being the President of the Osgoode Hall Legal and Literary Society, she was reported to have been presented with a gold key on her graduation "for her untiring efforts leading to the establishment of a coffee shop and a Coke machine for the students of Osgoode Hall".⁵⁴ Less than one year after her graduation it was reported that she "tossed somewhat of a bombshell into the deliberations of the Ontario Bar Association . . . when she suggested that the provincial government keep a closer check on the ability and conduct of local magistrates".⁵⁵ Her resolution was seconded by Lillian Irwin. Judy's career and escapades are well enough known that a canvass of them here would be a trifle redundant.

Sybil Bennett graduated from Osgoode Hall in 1936 and thereafter worked as a solicitor for the Agricultural Development Board. In 1945

53. *The Globe and Mail*, March 31, 1962.

54. *The Toronto Telegram*, June 30, 1950.

55. *The Globe and Mail*, May 31, 1951.

when she was appointed a K.C. she was one of a group along with Helen Palen and Gertrude Alford who were the fourth, fifth and sixth women in the British Empire to be so designated, the others being Helen Kinnear, Margaret Hyndman, and Vera Parsons. In taking silk Miss Bennett donned the K.C. gown left to her by her distant relative the Honourable R. B. Bennett. In winning a seat in the House of Commons on her second try in 1953, she was practising what she so often preached, namely a greater involvement of women in politics.

Mary Fix has the distinction of having been in 1918 the first woman member of the Osgoode Hall debating team. She practised law as the first woman lawyer in Ottawa and subsequently worked as a buyer for the T. Eaton Co. Ltd. in New York and Paris. In 1953 she spearheaded a protest in Toronto Township over high taxes which led to her election as Deputy Reeve of the Township. Eventually she was elected Reeve in 1955; then she was defeated, regained the reeveship and became the 90th Warden of Peel County in 1959.

Mary Batten served for eight years (1956-64) as a Liberal member of the Saskatchewan Legislature; subsequently she was appointed to the District Court of Saskatchewan. In addition, she has contributed to more than one Royal Commission.

Margaret Campbell has been a longtime alderman and member of the Board of Control for the City of Toronto. Recently, she made an unsuccessful bid for the mayoralty. Evelyn Harrison was for some 19 years a school trustee and Board Chairman in London. The Evelyn Harrison Public School was named in her honour. Elizabeth Monk and Ruth McGill were aldermen in the cities of Montreal and Regina during the years 1940-2 and 1947-50, respectively. The interesting fact about Margaret Crang who headed the aldermanic polls in Edmonton in 1935 was that she fired two shots for the government side at the Fascists on the Spanish Civil War Front. She was on a tour of Spain as a member of the Alberta Section of the League Against War and Fascism in connection with a peace conference in Geneva.⁵⁶

Another unique woman law graduate is Ruth Gordon of Calgary. For 25 years she worked as a volunteer legal advisor to the Alberta Indian Association. For this and other volunteer work she has received an honorary degree from the University of Calgary and a Canada Medal, and she has been named Citizen of the Year and Alberta's Woman of the Century. Presently Mrs. Gordon publishes a magazine entitled "My Golden West" and serves on the Attorney General of Alberta's advisory committee on penal reform and as the honorary convener of laws for the National Council of Women of Canada.

56. The Toronto Daily Star, October 14, 1936.

No outline of the contributions and achievements of women in law in Canada would be complete without at least a passing reference to several other women. Of Helen Gregory MacGill, Jean Bannerman says in her book⁵⁷ that "no woman in Canada [has] made a greater contribution to [the] social problems of children than she." Miss MacGill, who was not a lawyer by training, was the first woman appointed to the bench in British Columbia; she sat for some years as a judge of the Provincial Court. The University of British Columbia conferred on her an honorary degree of Doctor of Laws in 1938. Genevieve Lipsett Skinner who graduated with honours from Manitoba in 1917 was the first woman member of the Parliamentary Press Gallery; she represented the Vancouver Sun. Helen Palen, who graduated from Osgoode Hall in 1918, practised for 15 years and then joined the office of the Registrar of the Supreme Court of Ontario; she retired in 1956 as Deputy Registrar. Eileen Yates, a graduate of Dalhousie in 1948, became in 1950 the Secretary-Treasurer and Librarian of the Nova Scotia Barristers' Society; she was the first woman Secretary of a Canadian law society. The present Secretary-Treasurer of the Nova Scotia Barrister's Society is Lexie L. McKay. Mrs. Yates went on in turn to be the Solicitor to the Workmen's Compensation Board of Nova Scotia, Registrar of the Nova Scotia Admiralty District, a member of the Attorney General's Department for Alberta and an assistant to the Legislative Counsel of Alberta, and the Acting and then Deputy City Solicitor for the City of Hamilton; presently, she is in practice with her husband in Hamilton. Deirdre Harvey served as the first Registrar of the Bar Admission Course in Manitoba and as Librarian of the Law Society Library. Mrs. R. H. Stewart and Elizabeth Newton have, I am sure, in their quiet, competent ways served the profession in their respective cities as librarians in the Court House at Edmonton and in the York County Library in Toronto. Jeanne LeMay-Warren served as a member of the Royal Commission on Health and Welfare in Quebec. Judge Marjorie M. Bowker of the Alberta Juvenile and Family Court was the only woman member of the Committee of Inquiry into Adoption and Child Welfare in Alberta; she submitted her own substantial Supplementary Report. In 1968 Judge Bowker represented women lawyers at a special Anniversary Celebration at Ewha Women's University in Seoul Korea; she received an honorary degree. Recently Dr. Florence Brent became the first member of the medical profession to be sworn in as a member of the Alberta Bar; before studying law Dr. Brent took her medical degree at the University of Alberta and had post graduate medical training at New York, Harvard, McGill and Philadelphia.

In the miscellaneous department, the grandmother of the many women lawyers organizations which exist across Canada in virtually every province

57. *Supra*, Note 2, Miss MacGill is covered extensively. See also Mr. Watts' book *supra*, note 3.

is, to the best of my knowledge, The Women's Law Association of Ontario. This association was formed in October, 1923 at the home of Mary Elizabeth Buckley (Mrs. H. V. Laughton) on Centre Island, Toronto. Some 43 women lawyers were present. There are at least three duos of sister law graduates all of whom are from Ontario: Bertha (Mrs. J. R. McCarney) and Mary Agnes (Mrs. D. T. Bennett) Haffa; Moira L. (Mrs. Ralph Caswell) and Deirdre K. (Mrs. Cameron Harvey) Mungovan; and Joan W. (Mrs. R. H. Sadleir) and Dale Lois Robinette. However, the three LeMay sisters of Quebec,⁵⁸ hold the record. Also, there have been at least three sets of mother and daughter law graduates: Ruth Gordon and her daughter of Alberta; Vera A. (Robinson) Cartwright and her daughter Mrs. Geraldine R. Tepper of Ontario; and Mrs. Wilhelmina Holmes and her daughter Diane Elizabeth of Quebec who also practised together. The first all women law firm was probably formed by Vera A. (Robinson) Cartwright and Helen W. Currie in Kingston in the early 1920's. There has been to date only 1 woman Bencher in Canada, Mrs. Barbara Hughes of Windsor, Nova Scotia. Women have been active in the Canadian Bar Association since at least 1941 when Edra Sanders Ferguson was Secretary of the Junior Bar Section and 1943 when Eileen Mitchell and Ruth S. McGill were Council Members; however, no woman has been honoured with the presidency to date. And finally, a common nickname applied to women lawyers, particularly by newspapers, and adopted by some women lawyers' clubs is the name "Portia". Helena Normanton of England pointed out in a letter to the Editor of The New York Times that it is questionable whether in Shakespeare's play, The Merchant of Venice, Portia was a lawyer or a judge:

"She brought 'Old Ballario's' judgment in the case of Shylock v. Antonio and delivered this judgement in a court merely nominally presided over by a layman, the Doge of Venice. Shylock called her 'Judge'; 'O wise Judge how do I honour thee!', when he thought that she was deciding in his favour . . . Moreover did anyone ever hear a counsel refusing [sic] to be informed in court who was his client and who was not: 'Which is the merchant here and which the Jew?' This is the remark of a judge."⁵⁹

In concluding, I trust that I have cleared the air to some extent, that I have shed the odd shaft of light on some of the women of whom the profession can be justly proud, and that I have nailed down a few of the historical facts about which there may have been some doubt (without, hopefully, adding to the confusion).

CAMERON HARVEY*

58. Therese Lemay-Lavoie, Jeanne LeMay-Warren, and Edith.

59. January 12, 1925.

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APPENDIX

QUESTIONNAIRE

1. Where did you receive your legal training, and when did you graduate, obtain your call to the Bar or admission to practise as a solicitor, as the case may be?

Institution(s) in which you took
your legal training

Year of Graduation _____

Year of Call to Bar _____

Year of Admission to
Practise as a Solicitor _____

2. Are you now engaged in active private practice (as distinct from working or practising in a corporation, a government or being involved in some other endeavour)?

Yes _____ No _____

If yes, are you practising full-time _____ or part-time _____?

3. If you are not now engaged in active private practice;

- (a) Were you ever engaged in active private practice?

Yes _____ No _____.

If yes, for how many years? _____ Why did you cease private practice?

- (b) What are you doing now; are you working or practising;

— as a lawyer in a corporation _____

— as a lawyer in a government _____

— if so, what department _____

— in some other endeavour. If yes, please explain.

- (c) If you are not now engaged in work outside your home, is this so because of family commitments?

Yes _____ No _____

- (d) If you are not now using your legal training vocationally, do you ever intend to do so?

Yes _____ No _____

4. If you are (or were) engaged in active private practice, are (or were) you practising alone _____, or in a firm of lawyers _____, or in association with other lawyers _____?
5. (a) If you are (or were) practising in a firm of lawyers, what is (or was) the size of the firm? _____ lawyers.
- (b) Are (or were) you a partner? Yes _____, No _____.
- (c) If you are (or were) a partner, did you progress to this status in the same amount of time as your contemporaries?
Yes _____ No _____
- (d) Is (or was) your salary on a parity with your contemporaries?
Yes _____ No _____
6. If you are (or were) working or practising in a corporation or government department, etc.:
- (a) Are you progressing (or did you progress) at the same rate as your contemporaries?
Yes _____ No _____
- (b) Is (or was) your salary on a parity with your contemporaries?
Yes _____ No _____
7. If you are (or were) engaged in active private practice or in a corporation or a government department, what is (or was) the nature of your practice?
8. Are you a Q.C.? Yes _____ No _____.
9. How many women took their legal training (i.e. took the LL.B. university course or the equivalent course in the pre-LL.B. course days) with you? That is to say, how many commenced with you? _____. And, how many completed the training or graduated with you? _____.

10. I would appreciate it if in answering this multiple question you would supply me with the names and addresses of women law graduates or lawyers whose names *do not appear* on the list accompanying this questionnaire:

To the best of your knowledge how many other women who took their legal training with you,

- (a) entered private practice but are not practising today? _____
 - (b) are engaged in private practice today? _____
 - (c) entered other related fields such as practice in a corporation or with a government, business, etc.? _____. Can you indicate the fields?
 - (d) did not put their legal training to any particularly related use? _____
11. Are you married _____ or single _____?
12. If you are married, what is your husband's occupation? _____
13. If you are married, what is your husband's opinion of the law as a vocational training or as a career for women?
14. Why did you pursue a legal training?
- keen interest in the law _____
 - challenge of entering a field for the most part occupied by men _____
 - desire to work with men _____
 - money _____
 - no real reason, just drifted into law _____
 - inspired by admiration for some particular person already in a legal career _____
 - other — please specify if you can
15. Are (or were) either of your parents, or any of your brothers, sisters or other close relatives lawyers?
- parents _____
 - brothers _____
 - sisters _____
 - other close relatives _____

16. Of what was your pre-law training comprised?
 General Arts _____
 Honour Arts _____
 Other — please specify _____
17. Are you generally content with the opportunities that your legal training has presented to you?
 Yes _____ No _____
18. Do you have any criticism or comment concerning the treatment of women lawyers generally in the legal profession? No _____. If so, kindly specify.
19. Would you advise your daughter or the girl-next-door to pursue a legal career *if she were interested*?
 Yes _____ No _____
20. To what organizations or associations related to law do (or did) you belong?
 — Canadian Bar Association _____
 — Provincial Bar Association _____
 — County Bar Association _____
 — Women lawyers Associations or Sororities — please specify.
 — Others — please specify
21. Are there any women lawyers of whom I ought to be aware who have made significant contributions to Canada or to their province through appointment to the bench, through election as a bencher of any law society, through public service of one form or another, etc.? I would also appreciate receiving information on the women who were first admitted to the provincial Bars. Please give me as many details as you can in answering this question.
22. Are there any women law graduates or lawyers residing in your community whose names do not appear on the list accompanying this questionnaire? If so, please furnish me with names and addresses if possible.
23. Do you have any other observations or comments which you wish to make?

Table 1

The DBS figures for what they are worth indicate the following breakdown of judges and lawyers in the various provinces and Territories for the years 1931 - 1961.

	JUDGES				LAWYERS			
	1931	1941	1951	1961	1931	1941	1951	1961
ALBERTA								
Male	45	38	52	87	544	512	544	935
Female	3	0	0	0	2	11	5	16
BRITISH COLUMBIA								
Male	48	38	64	99	640	661	863	1204
Female	1	0	0	0	7	12	27	44
MANITOBA								
Male	37	32	30	37	653	546	536	607
Female	0	0	0	1	4	10	5	9
NEW BRUNSWICK								
Male	42	35	31	30	195	225	218	208
Female	0	0	0	1	0	5	8	5
NEWFOUNDLAND								
Male			20	24			61	73
Female			0	0			2	1
NOVA SCOTIA								
Male	58	38	29	30	250	294	274	288
Female	0	0	0	1	1	8	5	5
N.W.T.								
Male				2				11
Female				0				1

See page 34 for continuation to Table 1.

Table I (Cont'd.)

	JUDGES				LAWYERS			
	1931	1941	1951	1961	1931	1941	1951	1961
ONTARIO								
Male	176	164	191	270	2760	3030	3281	4740
Female	0	1	5	12	32	73	107	162
PRINCE EDWARD ISLAND								
Male	9	7	7	7	48	57	40	41
Female	0	0	0	0	0	0	0	0
QUEBEC								
Male	83	86	128	181	2347	2707	2639	3263
Female	0	0	0	0	4	5	30	59
SASKATCHEWAN								
Male	41	42	40	49	567	460	385	400
Female	1	0	0	2	4	5	8	8
YUKON								
Male				1				7
Female				0				1
TOTAL—CANADA								
Male	539	481	592	817	8004	8492	8841	11,777
Female	5	1	5	17	54	129	197	311

Table II

NO. OF WOMEN CALLED AND ADMITTED

Saskatchewan, 1970, 44 out of 1,795
Newfoundland, 1969, 5 out of approx. 400
Manitoba, 1969, 35 out of an unknown figure which would be in excess of 1,600
Alberta, 1970, at least 31 out of 2,714
Ontario, 1970, 308 out of 12,222
Prince Edward Island, 1970, 1 out of approx. 300
Nova Scotia, 1970, 12 out of unknown number
New Brunswick, 1970, 23 out of 458

Table III

NO. OF WOMEN APPOINTED Q.C.

Saskatchewan	2
Newfoundland	1
Manitoba	3
Quebec	5
Alberta	at least 4
Nova Scotia	2
Prince Edward Island	none
New Brunswick	3
British Columbia	1

These figures do not include federal Q.C.'s of which there are a couple I believe. It should be noted that 30 respondents to the questionnaire indicated a Q.C. appointment and that for Ontario, a province which has appointed a substantial number of women Q.C.'s, I could obtain no certain figure.

Table IV

WOMEN JUDGES

Saskatchewan	— Mrs. Tillie Taylor	— Magistrate
	Mrs. Mary T. Carter	— Magistrate
	Mrs. Mary Batten	— District Court
	Mrs. Laura Rushford	— Family Court
Newfoundland	— None	
Manitoba	— Mrs. N. M. Sanders	— Family Court
	Mrs. Mary A. Wawrykow, Q.C.	— Magistrate
Alberta	— Mrs. Emily Murphy (not a lawyer)	— Magistrate
	Mrs. Alice Jamieson	— Magistrate
	Mrs. Wallis Kempo	— Magistrate
	Mrs. Marjorie M. Bowker	— Magistrate
British Columbia	— Helen MacGill (not a lawyer)	— Provincial Court
	Edith Louise Paterson*	— Provincial Court
	E. Lorraine Johnston	— Provincial Court
	Mrs. P. M. Curtis	— Provincial Court
	Mrs. Winifred Murphy	— Provincial Court
	Mrs. Myrtle Kathleen Saxton	— Provincial Court
Ontario	— Helen A. Kinnear	— County Court
	Edra S. Ferguson	— Division Court
	Margaret M. Chambers	— Juvenile and Family Court
	Miss B. E. Thompson	— Juvenile and Family Court
	Mrs. M. C. Maloney	— Juvenile and Family Court
	Mrs. M. Hamilton	— Juvenile and Family Court
Nova Scotia	Mrs. Allie Ahern (not a lawyer)	— Halifax Citizen- ship Court
Prince Edward Island	— None	
New Brunswick	— Mrs. Doris Ogilvie	— Juvenile Court
	Muriel McQ. Fergusson	— Probate Court
	Frances Fish	— Magistrate
Quebec	— Yvette Dusseault-Mailloux	— Social Welfare Court
	Marguerite Choquette	— Social Welfare Court
	— Jeanne LeMay-Warren	— Social Welfare Court
	Therese LeMay-Lavoie	— Municipal Court
	Rejane Laberge-Colas	— Superior Court

* There is some confusion concerning Edith Louis Paterson or Patterson (Mrs. Hamilton Read) who apparently graduated from Osgoode Hall in 1915, and a Margaret Patterson who was not a lawyer but a medical doctor and who (according to Jean Bannerman, *Leading Ladies 1939-1967*) was ultimately appointed magistrate in Toronto in the 1930's.

WOMEN IN CANADIAN LAW SCHOOLS

	Number of women as of 1969 who have,				Been on the Academic Staff
	Commenced	Graduated	Graduated With Distinction		
1. University of Toronto (1949)*	71	26	1, with honours	1	
2. Osgoode Hall (1957)	128	50	No Medallists	2 teaching fellows 1 librarian	
3. Ottawa (Common Law) (1957)	41	9	1, silver medal 1 honours	1	
4. Western Ontario (1959)	27	4	No Medallists	none	
5. Queen's (1957)	approx. 35	10	No Medallists	none	
6. New Brunswick		at least 19		none	
7. Sherbrook (1954)	35	8	No Medallists	none	
8. Laval (1964)		25	6	6 assistants	
9. Manitoba (1914)	80	53	6 gold medallists	2	
10. British Columbia (1945)	97	55	none	none	
11. Montreal		118 (licenses) 17 (baccalaureats) 4 (not indicated)	12	5	
12. Dalhousie (1883)	65	59	none	2	
13. Saskatchewan (1913)		at least 39		none	
14. Alberta (1921)		58	3 with honours	none	
15. Ottawa (Civil Law) (1953)	39	24		6	

Clearly, the number of women law students is on the rise, although still at Canada's largest law school the figure remains below 10% (See The Globe and Mail, March 14, 1969). Interestingly, according to F. K. H. Maher, The Teaching of First Year Law Students, The Journal of the Society of Public Teachers of Law, X, No. 3, 195 at p. 196, about 17% of the law students in Australia are women.

*This date and the others in brackets indicate the year the school came into existence or became a degree granting institution.

	1920	1930	1940	1950	1960	1965	1969	TOTAL
New South Wales (Solicitors)								Approx. 345 out of approx. 36000 in total
England (Barristers)					84 out of 1919 in total	99 out of 2164 in total	133 out of 2448 in total	
Scotland (Solicitors)	1	3	3	3	174 out of 3759 in total	204 out of 3763 in total	273 out of 3924 in total	
Scotland (Advocates)	1	1	1	4	8		11	
Trinidad and Tobago (Solicitors)								none ever
Ceylon (Proctors)								83 in total
Ceylon (Advocates)								36 in total
Trinidad and Tobago (Barristers)			2	2	7		37	
England (Solicitors)					407 out of 19,069 in total	530 out of 21,255 in total	681 out of 23,574 in total	
Northern Ireland (Barristers)		4	5	6	7	7	7	
New Zealand (Solicitors)	16 out of 1350 in total	28 out of 1560 in total	38 out of 1700 in total	55 out of 1900 in total	54 out of 2300 in total	55 out of 2600 in total	73 out of 2825 in total	

The above were all the figures that my inquiries produced. My understanding is that in India women are widely accepted especially since Independence. Sierra Leone has a long tradition of equality within the legal profession; to some extent this equality may be explained by the problem of illiteracy in and general underdevelopment of the country, thus requiring the acceptance of all qualified persons regardless of sex. In 1966 the President of the Sierra Leone Bar Association was a woman.