

## Washburn Law School Celebrates a Century of Welcoming Women

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*In past years Washburn Law School has graduated some women who have made good in the legal profession. And prospects are good that the number will be increased in the future.*<sup>1</sup>

### I. INTRODUCTION

Washburn Law School opened its doors in September 1903. From the beginning, those doors were open to women. Women enrolled in some of the first classes.<sup>2</sup> At the time Washburn Law School began, women comprised less than one percent of all lawyers admitted to the practice of law in the entire United States. In 2004, women make up close to forty percent of all lawyers and forty-five percent of the student body at Washburn. During the past one hundred years, over 1500 Washburn women graduates have distinguished themselves as lawyers, judges, and scholars.<sup>3</sup>

The story of Washburn's women parallels that of women in the legal profession generally and reflects the evolution of the social and economic opportunities of women. The story begins with the determination and perseverance of several intelligent, independent women who challenged the traditional notions of what women could and should do. Many of the pioneers committed their lives to social

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1. *Law as a Cultural Subject*, WASHBURN REV., Apr. 9, 1919, at 3.

2. Although women enrolled in the first classes, most did not stay in the first few years. See THE KAW 46 (1906).

Among those who have quit on account of a *quasi*-affliction [matrimonial germ among others] . . . are all the ladies. Some of the latter quit, of course, when they first realized the status of woman at common law. They did not tarry long enough to ascertain that all the rights a woman has, even now, depend upon the statutes, and are liable to be repealed at any session of the legislature, or forever wrested from her by a constitutional convention in which she has no voice.

*Id.*

3. Charlene Smith, *History of Women at Washburn University School of Law*, WASHBURN LAW., Fall/Winter 2002-2003, at 5, 9 (2002) [hereinafter *History of Women*] (noting 1464 female graduates as of 2002). Washburn graduates have become the first women on the Kansas Supreme Court, the first woman elected President of the Kansas Bar Association, the first women research attorneys for the Kansas Supreme Court, the first woman Supreme Court Clerk, the first woman state law librarian, the first women presidents of local bar associations, the first women partners in many law firms, and the first women corporate counsel at several major corporations. *Id.* at 6-9.

causes, especially suffrage.<sup>4</sup> Many remained single.<sup>5</sup> Some women had lawyer husbands,<sup>6</sup> or lawyer fathers,<sup>7</sup> who supported their intellectual endeavors.

Washburn Law School's centennial celebration provides an opportunity to review the history of Washburn Law School's role in welcoming women to the study of law. To illustrate how Washburn women fit into the larger picture, I will briefly examine the national and state pioneering women lawyers. Most of the article, however, will concentrate on Washburn's women and their contributions to the legal profession.

## II. THE NATIONAL PIONEERS

*Law has been said to be "the perfection of reason" but how absurd that statement is when only one-half of the human mind is engaged in the reasoning.*<sup>8</sup>

Margaret Brent, the first known woman lawyer in America, was already a lawyer when she immigrated to the United States. Because only landowners could vote, she purchased land in Maryland to serve as a basis for political power. Reputedly a master negotiator, litigator,

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4. See Jane Chandler Holt, *Lilla Day Moore Monroe*, in *JOURNEYS ON THE ROAD LESS TRAVELLED: KANSAS WOMEN ATTORNEYS* 37-38 (Barbara Brackman et al. eds., 1998) [hereinafter *JOURNEYS*] (noting that Lilla believed women needed the vote to "create more reasonable laws regarding the regulation of liquor"); Karen Tokarz, *Lemma Barkeloo and Phoebe Couzins: Among the Nation's First Women Lawyers and Law School Graduates*, 6 *WASH. U. J.L. & POL'Y* 181, 186 (2001) (noting that Phoebe Couzins helped found the National Women Suffrage Association and worked for suffrage because she believed if women could vote "there would be no more wars"); see also KAREN BERGER MORELLO, *THE INVISIBLE BAR: THE WOMAN LAWYER IN AMERICA: 1638 TO THE PRESENT* 46-48 (1986).

5. See Linda D. Elrod, *Women in the Legal Profession*, in *THE LAW AND LAWYERS IN KANSAS HISTORY* 99, 107 (Virgil W. Dean ed., 1992) [hereinafter *Women in the Profession*]. Several of the early Kansas women lawyers including Suzanne Henry, Margaret McGurnaghan, and Marie Russell remained single. Prior to the 1920s, one-fourth of women college graduates never married. See *Who's Come a Long Way, Baby?*, *WASHBURN ALUMNUS*, Dec. 1969, at 1, 2.

6. *Women in the Profession*, *supra* note 5, at 104. Lucia Benton Case was married to A.H. Case, an early settler and well-known Topeka lawyer. *Id.* at 113 n.1. Lilla Day Monroe continued to read law after she married Lee Monroe with his encouragement and support. *Id.* Jessie Wright Whitcomb (admitted to the bar in 1889) married a law classmate George H. Whitcomb and practiced law with him in Topeka for several years. *Id.*; *In Memoriam*, Jessie Wright Whitcomb (Topeka Bar Ass'n 1931) (on file with author).

7. *Women in the Profession*, *supra* note 5, at 108. Lizzie Shoemaker Sheldon's father was a lawyer who studied in Abraham Lincoln's office and was appointed by President Lincoln to be Receiver of Public Monies in the Kansas Territory. *Id.* at 113 n.3. Marie Russell came from a family of lawyers — her father, H.A. Russell, and two uncles were lawyers. She worked as her father's stenographer before going to college. *Id.*; *Former State Law Librarian Dies*, *CIRCUIT RIDER*, Summer 1981, at 11. Nellie Cline's father, G. Polk Cline, was mentioned as one of the most widely respected trial lawyers in western Kansas. *Women in the Profession*, *supra* note 5, at 113 n.3; *Honor to Woman*, (newspaper clipping dated Apr. 3, 1918, on file with author); see also NELLIE CLINE STEENSON, *THE JAYHAWKERS: STORIES AND MEMOIRS OF THE EARLY DAYS IN WESTERN KANSAS* 82-92 (1967) (describing her father's law office). My father, Lyndus A. Henry '48, was one of the first lawyers in Overland Park, Kansas. I worked at his law office while in high school and college. See *infra* notes 244 & 323 for some of the Washburn fathers-daughters.

8. MORELLO, *supra* note 4, at 83 (quoting Phoebe Couzins).

and Colonial leader, she served as attorney to the governor of St. Mary's Parish in 1638 and was mentioned in 124 cases in eight years.<sup>9</sup>

Other women lawyers do not appear in recorded history for 200 years.<sup>10</sup> One explanation may be because most states adopted the common law's fictional unity of husband and wife, which took away a woman's legal identity upon marriage.<sup>11</sup> Many of the pioneering women lawyers were crusaders who saw law as the tool necessary to gain universal suffrage, prohibition, women's property rights, racial equality, and child protection.<sup>12</sup> After the 1848 Seneca Falls suffrage convention issued a Declaration of Sentiments declaring that men *and women* were created equal,<sup>13</sup> women began the campaign against gender restrictive laws and the paternalistic view of the delicacy of women with its "assumptions about their intellectual, physical and psychological unfitness."<sup>14</sup> The Married Women's Property Acts, enacted in the latter part of the nineteenth century in large part as a result of the women's efforts, gave married women the same legal rights as men.<sup>15</sup> It was not until 1920, however, that the Nineteenth Amendment gave all American women the right to vote.<sup>16</sup>

9. See *id.* at 3-8. She apparently moved to Virginia after she was denied a vote by the Maryland Assembly. *Id.* at 7.

10. *Id.* at 8.

11. Coverture kept women from entering into contracts, from suing or being sued, from retaining their own property or earnings. I WILLIAM BLACKSTONE, COMMENTARIES ON THE LAWS OF ENGLAND 430-33 (Lewis ed. 1898) ("By marriage, the husband and wife are one person in law; that is, the very being or legal existence of the woman is suspended during the marriage, or at least is incorporated and consolidated into that of the husband . . .").

12. See MORELLO, *supra* note 4, at 108-42; see also Holt, *supra* note 4, at 37.

13. Declaration of Sentiments (1848) stated,

The history of mankind is a history of repeated injuries and usurpations on the part of man toward woman . . . . He has monopolized nearly all the profitable employments, and from those she is permitted to follow, she receives but a scanty remuneration. . . . As a teacher of theology, medicine or law, she is not known. . . . He has endeavored, in every way that he could, to destroy her confidence in her own powers, to lessen her self respect, and to make her willing to lead a dependent and abject life. Now, in view of this entire disfranchisement of one-half the people of this country . . . in view of the unjust laws . . . and because women do feel themselves aggrieved, oppressed, and fraudulently deprived of their most sacred rights, we insist that they have immediate admission to all the rights and privileges which belong to them as citizens of the United States.

*Declaration of Sentiments*, in FEMINIST JURISPRUDENCE: TAKING WOMEN SERIOUSLY 3-4 (Mary Becker et al. eds., 2001).

14. Deborah L. Rhode, *Perspectives on Professional Women*, 40 STAN. L. REV. 1163, 1166 (1988). In denying Lavinia Goodell's application to the bar in 1870, Justice Edward Ryan stated, "[t]he peculiar qualities of womanhood, its gentle graces, its quick sensibility, its tender susceptibility, its parity . . . its emotional impulses, its subordination of hard reason to sympathetic feeling, are surely not qualifications for forensic strife." *In re Goodell*, 39 Wis. 232, 245 (1875). See MORELLO, *supra* note 4, at 22-26 (noting that the legislature changed the admission statute to allow both sexes and that Goodell was admitted in 1879).

15. See HOMER H. CLARK, JR., THE LAW OF DOMESTIC RELATIONS IN THE UNITED STATES 289-90 n.4 (2d ed. 1988) (listing states and their Married Women's Property statutes). Originally enacted as the Married Women's Property Acts in 1868, the Kansas statutes were "desexed" in the mid-1970s so they are now the Married Persons' Property Acts, which takes them out of historical context. See KAN. STAT. ANN. §§ 23-201 to -208 (1998).

16. U.S. CONST. amend. XIX.

Nationally, women struggled against perceptions of their ability to handle certain jobs, for admission to both state and federal bars, to law schools, and even to some professors' classes.<sup>17</sup> After completing law school, women had difficulty obtaining a job, getting clients, and gaining credibility as professionals.<sup>18</sup> These women, however, shattered the idea that law was exclusively a man's profession.

### A. Admission to State Bars

Until the latter part of the twentieth century, a law school education was not a prerequisite to admission to the legal profession. Lawyers "read" for the law and were "examined" by a designated group of attorneys and judges, usually at the county or judicial district level because admission to the state's supreme court was also not an early necessity.<sup>19</sup> Iowa's Supreme Court became the first court to grant a license to a woman in June 1869 when it admitted Arabella "Belle" Babb Mansfield.<sup>20</sup> Three years later in 1872, Charlotte E. Ray, the daughter of an abolitionist preacher, became the first black female lawyer after graduating from Howard Law School and being admitted to the District of Columbia bar.<sup>21</sup>

In some states, married women faced what must have seemed like almost insurmountable obstacles. In 1869, the State of Illinois denied Myra Colby Bradwell admission to the bar even though she had successfully passed the Chicago bar examination.<sup>22</sup> On appeal, the United States Supreme Court, in 1873, upheld the Illinois ruling finding that admission to practice law in state courts was not a privilege of citizenship guaranteed to women.<sup>23</sup> Perhaps more revealing as to societal attitudes, however, were the concurring comments of Justice Joseph Bradley, who basically stated that it was God's plan for women

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17. See, e.g., TIERA FARROW, *LAWYER IN PETTICOATS* (1953). Tiera Farrow was told that she could skip some of her criminal law classes at Kansas City School of Law "on the ground that the subject to be discussed might shock my maidenly modesty!" *Id.* at 25.

18. See generally VIRGINIA G. DRACHMAN, *SISTERS IN LAW: WOMEN LAWYERS IN MODERN AMERICAN HISTORY* (1998); CYNTHIA FUCHS EPSTEIN, *WOMEN IN LAW* (Univ. of Ill. Press 2d ed. 1993) (1981); FARROW, *supra* note 17; MORELLO, *supra* note 4; ROBERT STEVENS, *LAW SCHOOL: LEGAL EDUCATION IN AMERICA FROM THE 1850s TO THE 1980s* (1983).

19. For example, in February 1869, the *Chicago Legal News* reported a Mrs. Mary E. Magoon as practicing law although her name does not appear in the Supreme Court records. MORELLO, *supra* note 4, at 11.

20. *Id.* Missouri admitted Lemma Barkaloo in 1870. *Id.* at 37. Michigan admitted Sarah Kilgore in 1871. *Id.* at 44-45.

21. *Part I: Law and Its Call to Black Women*, in *REBELS IN LAW: VOICES IN HISTORY OF BLACK WOMEN LAWYERS* 9 (J. Clay Smith, Jr. ed., 1998). Black women lawyers did not reach significant levels until the 1970s. See generally MORELLO, *supra* note 4, at 143-72.

22. MORELLO, *supra* note 4, at 14-22. She also started the first legal journal in the West, *The Chicago Legal News*.

23. *Bradwell v. Illinois*, 83 U.S. (16 Wall.) 130, 139 (1872).

to occupy only the domestic sphere.<sup>24</sup> The Illinois Supreme Court admitted Myra to practice sua sponte almost twenty years later in 1890.<sup>25</sup>

Several women found that the most expedient route to be admitted to the bar was through the legislative process. Alta M. Hulett, a single woman, became the first woman admitted to the Illinois bar in March 1872 after drafting and getting passed a bill prohibiting discrimination on the basis of sex.<sup>26</sup> When the United States Supreme Court would not allow Belva Lockwood to argue, she persuaded Congress to pass a law granting women the right to practice in federal courts.<sup>27</sup> Clara Shortridge Foltz, called the “Portia of the Pacific,” drafted a bill to allow women to practice law and then persuaded the California Legislature to pass it in 1878.<sup>28</sup> After reading for the law with her father, she became California’s first woman lawyer after passing the bar examination.<sup>29</sup>

The last two decades of the nineteenth century saw women gain admittance to most state bars. Thirty-five states, including Kansas, had admitted their first woman lawyer before 1900.<sup>30</sup>

### B. Admission to Law Schools

*I advise every woman who has academic training, a strong analytical mind and a natural bent for the law, to study and practice it.*<sup>31</sup>

In the Midwest, women were admitted to law schools as early as the late 1860s. Because public schools and colleges in the territories admitted women as equals, it may have seemed logical that law schools should also be co-educational.<sup>32</sup> Ada Kely, who received her degree in June 1870, appears to be the first woman law graduate with an LL.B. from Union College of Law (a department of the old University of Chicago).<sup>33</sup> Washington University in St. Louis *intentionally*

24. *Id.* at 141 (Bradley, J., concurring) (“The natural and proper timidity and delicacy which belongs to the female sex evidently unfits [it] for many . . . occupations . . . . The paramount destiny and mission of women are to fulfill the noble and benign offices of wife and mother. This is the law of the Creator.”).

25. MORELLO, *supra* note 4, at 21.

26. *Id.*

27. *Id.* at 34. She then became the first woman to argue before the United States Supreme Court and obtained “a \$5 million settlement for the Cherokee nation.” *Id.* at 35. Belva ran for President of the United States in 1884 and 1888 on the National Equal Rights ticket. *Id.* at 36.

28. Barbara Allen Babcock, *Clara Shortridge Foltz: “First Woman,”* 30 ARIZ. L. REV. 673, 695, 700 (1988).

29. *Id.* at 673. Clara Shortidge Foltz (1849-1934) successfully sued Hastings Law School to admit her as a student in 1879, arguing her own case before the California Supreme Court. *Id.* at 708-09.

30. See MORELLO, *supra* note 4, at 37-38.

31. Cynthia L. Cooper, *Suffrage in Y1900: Women Lawyers at the Start of the Twentieth Century*, PERSPECTIVES ON WOMEN AND THE LAW, Winter 2000, at 10 (quoting interview with Clara Shortidge Foltz in NEW YORK TRIBUNE, 1898).

32. See MORELLO, *supra* note 4, at 43-44. In 1867, the Wisconsin Legislature authorized the University of Wisconsin to admit females to its law department. *Id.* at 23.

33. *Id.* at 49.

admitted the first women, Lemma Barkeloo and Phoebe Wilson Couzins, to its law school in 1869. The law faculty, in seeking permission from the board of directors, said in a letter that

the Law Faculty see [sic] no reason why any young woman who in respect to character and requirements fulfilled the Conditions applicable to male Students, and who chose to attend the Law Lectures in good faith for the purpose of becoming acquainted with the laws of her country, should be denied that privilege.<sup>34</sup>

By 1920, all but twenty-seven law schools admitted women, and women enrolled in record numbers.<sup>35</sup> The Ivy League schools, partly because of class and tradition, were among the last to admit women.<sup>36</sup> However, the increases did not continue and there was actually a decline in law school enrollment of women nationally in the 1950s and early 1960s.<sup>37</sup>

The sea change in law school enrollments started in the late 1960s. Between 1966 and 1986, the enrollment of women in law school increased nineteen times from 2520 to 47,920. Women have comprised nearly half of the classes at law schools across the United States from 1987 to the present.<sup>38</sup>

Women have also become integrated into law faculties. As late as 1965 no more than thirty women held tenured or tenure-track classroom teaching positions in all of the ABA and AALS approved schools.<sup>39</sup> The last twenty years has seen an increase in women faculty members, rising from less than five percent in 1980 to 31.5% in 2001.<sup>40</sup>

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34. *Id.* at 46. Other law schools voiced their opinions on the admission of women. *See id.* at 51-52, 73, 82; Tokarz, *supra* note 4, at 185.

35. Virginia G. Drachman, *The New Woman Lawyer and the Challenge of Sexual Equality in Early Twentieth-Century America*, 28 IND. L. REV. 227, 227 (1995) (reporting 1171 in law school in the 1920s).

36. *See* MORELLO, *supra* note 4, at 69; STEVENS, *supra* note 18, at 82-83. New York University was one of the leaders in the field of legal education for women, opening its doors in 1890. MORELLO, *supra* note 4, at 82. The Ivy League schools began to admit women in the following order: Yale (1919), Columbia (1927), Harvard (1950), and Georgetown (1951). The last schools to admit women were Notre Dame (1966), Virginia (1970), and Washington & Lee (1972). *See also* EPSTEIN, *supra* note 18. Once admitted, some professors had Ladies Day where only the ladies were called upon to recite.

37. Whitney S. Bagnall, *The Women of Columbia Law School: A Brief History of Their 75 Years as Students and Alumnae*, COLUM. L. SCH. REP., Fall 2002, at 3, 7. Although some professors tried to intimidate or embarrass the women, others went out of their way to avoid embarrassing them. *Id.* at 8; *see also* LINDA WIGHTMAN, *WOMEN IN LEGAL EDUCATION: A COMPARISON OF LAW SCHOOL PERFORMANCE AND LAW SCHOOL EXPERIENCES OF WOMEN AND MEN* (1996).

38. ABA COMMISSION ON WOMEN IN THE PROFESSION, *CURRENT GLANCE OF WOMEN IN THE LAW* (2001), <http://www.abanet.org/women/glance.pdf>. [hereinafter ABA CURRENT GLANCE]; *see also* Jonathan D. Glater, *Women Are Close to Being Majority of Law Students*, N.Y. TIMES, Mar. 26, 2001, at A1.

39. *See* Herma Hill Kay, *The Future of Women Law Professors*, 77 IOWA L. REV. 5, 10 (1991).

40. ABA CURRENT GLANCE, *supra* note 38.

Women make up 6% of the tenured faculty, 22% of full-time, 46% of Associate Professors, and 38% of Assistant Professors.<sup>41</sup>

The first woman dean of a law school appears to have been Ellen Spencer Mussey, who was a founder of the Washington College of Law in 1896, which helped women obtain a legal education. She served as dean until 1913.<sup>42</sup> While by 1974 there were five women law deans (Soia Menschikoff, University of Miami; Dorothy Nelson, University of Southern California; Judith Younger, Syracuse; Jean Camper Cahn, Antioch; Judith McKelvey, Golden Gate), in 1981, Betsy Levin at Denver was the only woman dean. Since 1981, however, the number has gradually increased so that now women make up ten percent of deans.<sup>43</sup>

Soia Mentschikoff of the University of Miami became the first woman president of the Association of American Law Schools (AALS) in 1974. In 1992, Professor Emma Coleman Jordan of Georgetown University Law Center became the first African American to be selected President of the AALS.<sup>44</sup>

### C. Legal Associations and Fraternities

In 1890, there were 208 women lawyers. By 1900, there were 1010 women lawyers, but they still comprised less than one percent of the bar. The National Association of Women Lawyers (NAWL) was formed in 1911. It developed from the Women Lawyers' Club that had been established in 1899. The professional association started because of the "need for professional identity and support."<sup>45</sup> The NAWL established the *Women's Lawyers' Journal* and published articles on the "laws of marriage and divorce, property rights of married women and the discriminations encountered by women lawyers."<sup>46</sup>

The National Association of Women Lawyers continued to be active throughout the century. During World War II, the NAWL was instrumental in reforming divorce laws and assisted in writing the proposed uniform laws affecting families.<sup>47</sup> In 1997, the NAWL presented

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41. See Marina Angel, *The Glass Ceiling for Women in Legal Education: Contract Positions and the Death of Tenure*, 50 J. LEGAL EDUC. 1, 2 (2000) (arguing that women are over-represented as law librarians, clinicians, and legal writing teachers); see also Nancy Levit, *Keeping Feminism in Its Place: Sex Segregation and the Domestication of Female Academics*, 49 U. KAN. L. REV. 775, 778-79 (2001).

42. Louise B. Raggio, *Women Lawyers in Family Law*, 33 FAM. L.Q. 501, 506 (1999). In 1949, the school merged with American University. *Id.* at 506-07.

43. Levit, *supra* note 41, at 778 (citing Richard K. Neumann, Jr., *Women in Legal Education: What the Statistics Show*, 50 J. LEGAL EDUC. 313, 322-23 (2000)).

44. ASS'N OF AM. LAW SCHS., THE AALS DIRECTORY OF LAW TEACHERS 2001-2002, at 631 (2001).

45. Raggio, *supra* note 42, at 510.

46. *Id.*

47. *Id.* at 511 (citing Selma Moidel Smith, *A Century of Achievement: NAWL's First Fifty Years*, EXPERIENCE 6 (Fall 1998)).

its first Arabella Babb Mansfield Award for professional success and contributions to women to Martha Barnett, who became the second woman president of the ABA.

Because the three legal fraternities, Delta Theta Phi, Phi Alpha Delta, and Phi Kappa Phi, admitted only men, women developed their own legal fraternities. In 1911, Phi Delta Delta started at the University of Southern California “in order to promote a higher standard of professional ethics and culture among women in this and other law schools, and in the legal profession at large.”<sup>48</sup> Kappa Beta Pi was another national legal fraternity for women.<sup>49</sup> The legal fraternities were established along the same lines as social fraternities with qualifications, tests, rituals, and requirements.<sup>50</sup> Nationally, Phi Delta Delta merged with Phi Alpha Delta in 1972, signifying an end to exclusion of women from legal fraternities.

The American Bar Association, established in 1878, admitted Denver lawyer Mary Lathrop as the first woman member in 1917.<sup>51</sup> It was not until 1995, however, that Roberta Cooper Ramo became the first woman president of the American Bar Association.<sup>52</sup> In 1987, the American Bar Association started a Commission on Women in the Profession. Since then, women have risen to leadership positions in the House of Delegates, Standing Committees, and in all of the sections.<sup>53</sup> In 1999, the ABA Family Law Section became the first section to have three women in line officer positions.<sup>54</sup>

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48. PHI DELTA DELTA CONST. pmbl. (1917) (on file with author). Students were admitted by a unanimous vote of all active members after completing at least eight law school credits with an 85% or higher average. *Id.* art. III, §§ 1, 5. The chapter officers were High Priestess, Priestess, Chaplain, Registrar, and Chancellor. *Id.* art. VII, § 1. A national newsletter contained articles, current cases, and news from the chapters. For example, in June 1925, volume III (3) contained an article entitled *Sex Distinctions in the Virginia Law*, information on recent women judicial appointments, and information about installation of a new chapter. It was not until 1956, however, that the word “white” was eliminated before the word “women” in the sorority’s constitution. Minutes of Kappa Chapter of Phi Delta Delta 91 (1945-71) [hereinafter PDD Minutes] (on file with author). Theta Chapter of Phi Delta Delta was installed on December 13, 1920; Kappa Chapter began at Washburn in May, 1921.

49. See Ruth Letitia Halpenny, *Greetings*, KAPPA BETA PI Q., Sept. 1919, at 1. The legal sorority existed at the following chapters in 1919: Chicago-Kent College of Law, DePaul University, John Marshall College of Law, Kansas City College of Law, Northwestern University, University of California, University of Chicago, University of Texas, and Washington College of Law. *The Membership List*, KAPPA BETA PI Q., Sept. 1919, at 13-14.

50. See *supra* note 48.

51. See Drachman, *supra* note 35, at 227.

52. *History of Women*, *supra* note 3, at 9.

53. See generally ABA COMM’N ON WOMEN IN THE PROFESSION, GOAL IX UPDATE: AN ANNUAL REPORT ON WOMEN’S ADVANCEMENT INTO LEADERSHIP POSITIONS IN THE AMERICAN BAR ASSOCIATION (2004).

54. The three chairs of the Family Law Section were Sandra Morgan Little, New Mexico, 1999-2000; Linda Elrod, Kansas, 2000-2001; Sharon Corbitt, Oklahoma, 2001-2002. See Ninth Annual Margaret Brent Women Lawyers of Achievement Awards Luncheon, Aug. 8, 1999, at 34 (on file with author).

#### D. *The Middle Years — 1920s-1960s*

Between 1920 and the 1960s, the number of women in law schools and in the profession remained small — under four percent. A few women lawyers, however, became the “firsts” in several areas. Florence Ellinwood Allen was the first woman elected judge of the court of common pleas in Ohio after suffrage and later was elected to the Ohio Supreme Court in 1922. She became the first woman appointed to the federal bench (Sixth Circuit Court of Appeals) in 1934.<sup>55</sup> Soia Mentschikoff became one of the first female partners of a Wall Street law firm and the first woman invited to teach at Harvard Law School, three years before Harvard admitted female students. She was also a principal drafter of the Uniform Commercial Code.<sup>56</sup>

Progress was slow in the 1950s and early 1960s. A few women lawyers rose to national prominence.<sup>57</sup> A combination of changes in society, as well as new federal laws and Supreme Court decisions, however, helped move women into the profession in greater numbers. The 1960s saw an increase in life expectancy, the birth control pill, an increase in the number of divorces, an increase in the number of single women, proposal of the Equal Rights Amendment, and the beginnings of the feminist movement.<sup>58</sup> In addition, the Vietnam War led to a decline in male applicants to law schools. Title VII of the Civil Rights Act of 1964 prohibited discrimination in employment based on sex, race, religion, and national origin.<sup>59</sup> Title IX of the Education Amendments of 1972 made it possible to change many entrenched practices limiting the training of women attorneys.<sup>60</sup> The Supreme

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55. MORELLO, *supra* note 4, at 238; *see also* DAWN BRADLEY BERRY, *THE 50 MOST INFLUENTIAL WOMEN IN AMERICAN LAW* 47, 91 (1996). Nationally, the first woman judge appears to have been Esther McQuigg Morris, a nonlawyer who drafted and helped facilitate passage of the Wyoming suffrage amendment and became a justice of the peace in 1870. MORELLO, *supra* note 4, at 238.

56. BERRY, *supra* note 55, at 177.

57. For example, Barbara Jordan graduated from Boston University Law School and practiced law in Texas before serving in the Texas Legislature. She then became the first black female elected to the House of Representatives in 1973. *Id.* at 252-53. Patricia Schroeder graduated from Harvard Law School in 1964 and practiced in Denver before being elected to the House of Representatives in 1972. *Id.* at 293-94.

58. *See* BETTY FRIEDAN, *THE FEMININE MYSTIQUE* (1963). Gloria Steinem helped found the National Women's Political Caucus. BERRY, *supra* note 55, at 231.

59. The Civil Rights Act of 1964, Pub. L. No. 88-352, § 703, 78 Stat. 241 (codified at 42 U.S.C. § 2000e-2(a)(1)); *see* *Hishon v. King & Spalding*, 467 U.S. 69, 72-73 (1984) (stating that Title VII of the Civil Rights Act prohibits a law firm from denying partnership status to an associate on the basis of sex).

60. *See* 20 U.S.C. § 1681(a)(1) (1976). Title IX states,

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance, except that . . . in regard to admissions to educational institutions, this section shall apply only to institutions of vocational education, professional education and graduate higher education, and to public institutions of undergraduate higher education . . . .

*Id.*

Court also handed down decisions in favor of women's equality that forbade discriminatory conduct.<sup>61</sup>

### E. *Post-1970 Women Lawyers*

Eighty percent of the women in the profession today graduated after 1970 and many of the firsts have come in the last thirty years during which time women have moved into every sector of the legal profession. Sandra Day O'Connor, who had been offered a job as a stenographer when she graduated from law school, became the first female United States Supreme Court Justice in 1981.<sup>62</sup> In 1993, Ruth Bader Ginsburg became the second woman Justice on the Supreme Court. Since the 1990s, women have been appointed with more regularity to the federal and state benches.<sup>63</sup>

Women lawyers now are being appointed to nationally prominent positions in the executive branch. Janet Reno became the first woman Attorney General of the United States in 1993; Madaleine Albright became the first woman Secretary of State in 1997. Today, in law firms, women comprise 15.63% of the partners in firms of over 250 lawyers; 41.2% of firm associates; 24% of solo practitioners; 14% of general counsel; and 42% of legal aid or public defender attorneys.<sup>64</sup> In 1970, women comprised 2.8% of all lawyers; today women comprise 40% of the profession.<sup>65</sup>

### III. THE EARLY KANSAS WOMEN LAWYERS

*Women are members of society, members of the great body politic, citizens, as much as men, with the same natural rights, united with men in the same common destiny, and are capable of receiving and exercising whatever political rights may be conferred upon them.*<sup>66</sup>

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61. See, e.g., *Frontiero v. Richardson*, 411 U.S. 677 (1973); *Reed v. Reed*, 404 U.S. 71, 74 (1971).

There can be no doubt that our Nation has had a long and unfortunate history of sex discrimination. Traditionally such discrimination was rationalized by an attitude of 'romantic paternalism' which, in practical effect, put women, not on a pedestal, but in a cage. . . . [O]ur statute books gradually became laden with gross, stereotyped distinctions between the sexes and, indeed, throughout much of the 19th century the position of women in our society was, in many respects, comparable to that of blacks under the pre-Civil War slave codes.

*Frontiero*, 411 U.S. at 684-85.

62. Susan Mann & Dan Fiduccia, *Sandra Day O'Connor: The Making of a Precedent*, STAN. LAW., Fall/Winter 1981, at 5; see also FARROW, *supra* note 17, at 33 (indicating that "all [Farrow] could hope for at first was a stenographic job in some established law office," but she did get a legal position).

63. ABA CURRENT GLANCE, *supra* note 38 (showing that women now comprise on the bench — U.S. Circuit Court 16%, U.S. District Court 15%, state courts of last resort 26%). In 1991, Minnesota became the first state to have a female majority (four of seven) on its highest court.

64. *Id.*

65. *Id.*

66. *Wheeler v. Brady*, 15 Kan. 30, 33 (1875) (upholding the legislature's 1861 grant to women of the right to vote in school elections).

Kansas has been in the forefront of women's equality since its inception. In 1861, the first Kansas constitution gave women the rights to acquire and possess property and to retain equal custody of their children.<sup>67</sup> The 1855 Kansas Territorial law, however, only allowed "any white male citizen of the United States" to practice in district court if he could establish good moral character.<sup>68</sup> By 1868, Kansas law allowed to be admitted "any person" who was a United States citizen, had read the law for two years, could satisfy a district court that he possessed the requisite learning, and had good moral character.<sup>69</sup> Although Kansas was the thirty-fourth state admitted to the Union, it was tied as the fourteenth jurisdiction to admit women to the state bar.<sup>70</sup>

### A. *The First Wave*

Most of the early women lawyers in Kansas "read for the bar" in a lawyer's office rather than attending law school. Some women were admitted on motion; others passed an examination. Many of these early Kansas women were married. Jennie Abigail Mitchell Kellogg of Emporia, admitted to the Lyon County District Court on December 9, 1880, appears to be the first woman admitted to the Kansas Supreme Court on February 3, 1881.<sup>71</sup> She served as the first female Assistant Attorney General from 1891-1893, while her husband served as Attorney General.<sup>72</sup>

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67. KAN. CONST. art. 15, § 6 ("The legislature shall provide for the protection of the rights of women, in acquiring and possessing property, real, personal and mixed, separate and apart from the husband; and shall also provide for their equal rights in the possession of their children."). Clarina Nichols is credited for sitting through constitutional conventions and pushing for women's equality with respect to custody of children. In 1861, Kansas became the second state in the nation to give women the right to vote in school board elections. In 1867, Kansas was the first state to consider full suffrage for women as a constitutional amendment. Although suffrage was not attained until 1912, Kansas was only the eighth state to grant full suffrage, seven years ahead of the Nineteenth Amendment.

68. 1859 Territory Laws of Kan. ch. 14, § 2.

69. GEN. STAT. KAN. ch. 11, § 2 (1868) (amended in 1905 and repealed in 1968).

70. Following is a list of the first fifteen states to admit women to the bar: California (1878); D.C. (1872); Illinois (1873); Indiana (1875); Iowa (1869); Kansas (1881); Maine (1872); Michigan (1871); Minnesota (1877); Missouri (1870); Nebraska (1881); North Carolina (1878); Ohio (1873); Utah (1872); Wisconsin (1875).

71. Sarah Larson, *The Petticoat Lawyers*, KAN. BARLETTER, Feb. 1985, at 14. There is reference to a Laomi McArthur in the territorial records who was listed on a women attorneys' list in the 1920s, but this person appears to have been male. Many names have only initials. One could practice in the district court without seeking admission to the Kansas Supreme Court.

72. Martha J. Hodgesmith, *Women Lawyers in Kansas*, in REQUISITE LEARNING AND GOOD MORAL CHARACTER: A HISTORY OF THE KANSAS BENCH AND BAR 96, 98 (Robert W. Richmond ed., 1982) (citing an article written in the *Topeka Mail and Breeze* indicating that "[s]he gave her whole time to work with the Attorney General's Office, and wrote many of the best opinions"). Jennie's name appears in several Supreme Court cases. See, e.g., *Coale v. Campbell*, 58 Kan. 480 (1897); *State v. City of Emporia*, 57 Kan. 710 (1897); *Burlington Nat'l Bank v. Beard*, 55 Kan. 773 (1895); *Sill v. Sill*, 32 Kan. 248 (1884); *Stuttle v. Bowers*, 31 Kan. 432 (1884); *Curtis v. Hoadley*, 29 Kan. 566 (1883); *Case v. Huey*, 26 Kan. 553 (1881). Jennie was also a founding member of the Lyon County Bar Association. See Judge Kay Royse, *Jennie Mitchell Kellogg*, in JOURNEYS, *supra* note 4, at 14, 21 (citing *A New Bar Association*, EMPORIA NEWS,

Many women were admitted on the county level first, such as Ida Tillotson, admitted in 1881 to the Graham County Court.<sup>73</sup> Marie Elizabeth Simpson Degeer Gilmore was admitted to the bar on May 7, 1886, and appears to have become the first female member of the statewide bar association in 1887.<sup>74</sup>

Like the first women lawyers nationally, the first Kansas women lawyers were interested in social causes — women's suffrage, temperance, child labor,<sup>75</sup> and labor generally.<sup>76</sup> For example, Mary Elizabeth Clynen Lease became a well-known, extremely talented orator who advocated women's suffrage, the populist movement, labor reform, and temperance.<sup>77</sup>

Two other women lawyers were particularly noted for their suffrage work. Lilla Day Monroe, admitted to the local bar in 1894 and to the Kansas Supreme Court on May 8, 1895, organized the Good Government Club of Topeka, the local suffrage association and served as its president for several years. After women's suffrage passed in Kansas in 1912, she continued to lobby for women's and children's issues.<sup>78</sup> In 1974, Washburn University established the Monroe Award in her honor.

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Feb. 9, 1882). Jennie also maintained a home with five children, was active in women's clubs, and participated in the Chautauqua movement.

73. Larson, *supra* note 71, at 14. Ida was described as bright and ambitious as well as pretty and talented. *State's First Lady Lawyer*, TOPEKA DAILY CAP., Mar. 27, 1948, at 3.

74. Larson, *supra* note 71, at 14. She was over fifty years old when she was admitted, and yet she practiced for many years, serving "as counselor, solicitor advocate and proctor of the Circuit Court of Kansas." *Id.*

75. *See, e.g.*, Camille Nohe, *Regina Victoria Mills Chambers*, in JOURNEYS, *supra* note 4, at 45, 49-52. Regina Victoria Mills Chambers, admitted to practice in Sheridan County in 1900 and before the Kansas Supreme Court in 1907, was active in suffrage and temperance movements. *Id.* Her granddaughter, Camille Nohe, graduated in 1978.

76. *See, e.g.*, MORELLO, *supra* note 4, at 129. In 1912, Caroline Lowe "was secretary of the Socialist Party's Women's National Committee, [and] went on to head the women's department of the national headquarters in Chicago." *Id.* She had a defense team of seventy-four members of Industrial Workers of the World. *Id.* She represented and obtained acquittals for the Wobblies, who were radical unionists tried in Washington for murder. *Id.* at 130. She was on the defense side of several cases, organized the Socialist Party in Kansas, and served nationally before being admitted to the Kansas Bar in 1916. *Id.* In 1923, she joined a Pittsburg, Kansas, law firm consisting of a husband and wife team, the Callerys, whose main client was the Mine Workers of America. *Id.*

77. *Id.* at 119-21. Mary read the law and was admitted in the 1880s while she and her husband were homesteading in Kingman. She moved to Wichita where she was called the "Wichita Cyclone," the "Iron-jawed Woman of Kansas," and the "Red Dragon." In 1890, she made 160 speeches, commanding crowds of up to 20,000. *Id.* at 119. Morello cites the Greenwood County *Republican* which called her a "political humbug in the shape of a brazen faced female commonly known as 'Old Mother Lease, the she-lawyer.' Woman full of venom and brass, of hard words and abuse of others. Beware of her. She advises you to defy the law of the land." *Id.* In 1900, she moved to New York and continued working for social reforms. She never took a fee for her services because she believed lawyers had a special duty to help the poor and work for social justice. *Id.* at 122.

78. *See* Holt, *supra* note 4, at 39-42. Lilla attended and lobbied in all but two legislative sessions between 1900 and 1927. She was also chair of the Woman's Advisory Council to the mayor of Topeka in 1913 and represented the mayor at the international mayor's conference in London in 1918. She owned and published the *Kansas Women's Journal*. *Id.* at 42. In 1925, her election "as president of the [then powerful] Women's Kansas Day club" resulted in successfully scuttling a legislative attempt to adopt a primary convention, which Lilla contended would disen-

Mrs. J.L. Sheldon, also known as Lizzie Shoemaker Sheldon, was a mother with five children at the time she graduated from law school in 1900. She drafted the suffrage amendment that Kansas passed in 1912 giving women not only the right to vote, but also the right to hold office. Lizzie Sheldon felt that a woman justice was “the logical outgrowth of uniformity of education for the sexes” and became the first woman to run for the position of Justice on the Kansas Supreme Court.<sup>79</sup>

The University of Kansas Law School started classes in 1878, but it was not until 1891 that Ella Weiss Brown became the first woman graduate. In 1893, she was admitted to the bar, went into practice with her husband in Holton, and became city attorney.<sup>80</sup>

Lutie A. Lytle, a Topeka native, became the first black woman admitted to the bar in Kansas in 1897 after graduating from Central Tennessee Law School. She only stayed a year before returning to Tennessee to teach law at her alma mater. A Topeka paper called her the only woman law instructor in the world.<sup>81</sup> By the end of the nineteenth century, Kansas had enough women lawyers that an 1898 newspaper article indicated that Kansas had more successful women lawyers than any other western state.<sup>82</sup>

Tiera Farrow, who grew up in Delphos, Kansas, graduated from Kansas City Law School and was admitted to the circuit court in Missouri in 1903. Her main practice was in Missouri, but she also worked for the Kansas City, Kansas, law firm of Dail and Carter.<sup>83</sup> In her book, she recounts that while sitting as a municipal court judge in

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franchise the women's vote. *When Mrs. Monroe Warns Against Weakening Primary Law Women at Once Name Her President of Club: Election is Handwriting Upon the Wall*, TOPEKA DAILY CAP., Jan. 30, 1925.

79. *Lizzie S. Sheldon Gives Her Campaign Platform*, TOPEKA DAILY CAP., July 12, 1914 (indicating that she “has been a member of the State Bar Association for thirteen years”). She received 156,000 votes, which left her short of a plurality. *Mrs. Sheldon Dies*, LAWRENCE J. WORLD, Mar. 24, 1942. Upon her death in 1942, she was proclaimed the “oldest member of the Douglas County Bar [A]ssociation.” *Id.* See also *Women in the Profession*, *supra* note 5, at 104. Until 1962 when John Fontron was appointed, Supreme Court Justices ran for office.

80. Constance Shidler, *Ella Weiss Brown*, in *JOURNEYS*, *supra* note 4, at 32 (citing Mrs. Ella Brown, CHRON. MONTHLY MAG., Sept. 1894, at 37). She served as Parliamentarian of the Kansas Equal Suffrage Association. *Id.* She also taught law classes at Campbell University in Holton. *Id.*

81. *Lutie Lytle's Luck*, TOPEKA DAILY CAP., Oct. 27, 1898, at 3.

82. Hodgesmith, *supra* note 72, at 97 (citing TOPEKA MAIL AND BREEZE, Apr. 15, 1898) (listing the most prominent female lawyers as Jennie M. Kellogg, Emporia; Mrs. Lucia Case, Topeka; Mrs. Ella W. Brown, Holton; Mrs. Julia F.V. Harris, Wellington; and Mrs. J. L. Sheldon, Topeka).

83. FARROW, *supra* note 17, at 35. Tiera Farrow believed that she was one of the first women on the record in a Kansas Supreme Court case. *Id.* Tiera marveled at how she had never seen a woman lawyer, but she was going to be one. *Id.* at 27. She also may have been the first woman to defend a woman accused of murder. *Id.* at 91.

Kansas City, she was dismayed that only the prostitutes were brought in on immorality charges and not the men who sought their services.<sup>84</sup>

In 1910, Lyda Burton Conley became the first Native American (Wyandotte Tribe) to be admitted to the bar. She read for the law with a musket by her side, defending the Huron Cemetery land in Kansas City where her mother and about 300 members of her tribe who had died of smallpox had been buried in the 1840s.<sup>85</sup> She started proceedings in the federal district court in Topeka to enjoin the federal government from removing the bodies. She filed a sixty-nine page brief with the United States Supreme Court, but the Court refused to interfere.<sup>86</sup> In 1912, however, the House Committee on Indian Affairs introduced a bill prohibiting removal of the Huron Cemetery.

Two early Kansas women lawyers did open law practices in small towns. Nellie Cline of Larned, admitted in June of 1912, was the first woman to present an oral argument before the Kansas Supreme Court, in 1918. A newspaper reported the precedent-breaking step, commenting, "Miss Cline represented the appellee and calmly and without hesitation spoke fifteen minutes in presenting evidence. . . ."<sup>87</sup> Nellie was also said to be the first prosecuting attorney in Kansas and one of the first four women elected to the state legislature.<sup>88</sup> Hattie Franey, admitted to the Kansas Bar in January 1914, opened a law office in Arkansas City and practiced for forty years.<sup>89</sup>

### B. *The 1920s and 1930s*

From Jennie Kellogg's Kansas Supreme Court admittance in 1881 until 1920, only fifty women were admitted to the practice of law in Kansas.<sup>90</sup> The 1920s, however, saw an increase in the number of women attending law school<sup>91</sup> and being admitted to the state bar. The women who entered in the 1920s, however, were no longer the radical reformers of the earlier period. Suffrage had been attained nationally in 1921. The men had returned home after World War I. Few issues

84. *Id.* at 170. "Miss Tiera Farrow revolutionized court procedure by launching an attack on the time-honored double standard. Bring in the men of the streets, she told police officers, after she had discharged nine women who appeared before her for immorality. . . ." *Id.* at 171.

85. MORELLO, *supra* note 4, at 123-25. When she discovered the government was going to allow destruction of the cemetery for commercial land development, she and her sister Lena built a 6' x 8' shack on the property (called Fort Conley) and defended it with signs, sticks, stones, and a musket. *Id.* at 123.

86. *Id.* at 125; see *Conley v. Garfield*, 216 U.S. 84 (1910).

87. *Honor to Woman*, *supra* note 7.

88. STEENSON, *supra* note 7, at 135.

89. *Obituary, Hattie Franey*, ARK. CITY TRAVELER, Dec. 26, 1957 (indicating that she was the first woman police judge, serving from 1944-50).

90. Hodgesmith, *supra* note 72, at 98 (citing TOPEKA ST. J., June 2, 1922). The list of women lawyers was compiled by Mrs. C.I. (Ida) Martin. *Id.*

91. See *infra* Part IV.B.

affected and united as many women as suffrage had. Some women were disillusioned. In 1926, Mabel Foltz lamented that the women's suffrage failed to elevate social structure and purify society.<sup>92</sup>

Women, however, were starting to make a difference. While it is difficult to accurately pinpoint the first judges in the state because of the numerous types of Kansas courts before unification in the early 1970s,<sup>93</sup> it appears that in May 1922, Dorothy M. Jackson became the first woman district court judge in Lyons, Kansas. Kathryn O'Loughlin McCarthy of Hays, admitted in 1921, practiced law for many years and became the first Kansas woman to serve in Congress from 1933-35.<sup>94</sup> The second black woman lawyer appears to have been Beulah Wheeler who passed the bar in 1925 and practiced in Leavenworth, Kansas.<sup>95</sup> By 1928, the Topeka newspaper reported that *Six Topeka Girls Now Are Actively Engaged in Practice*.<sup>96</sup>

The number of women admitted to the bar continued to grow in the 1930s. Grace Miles became the first female probate judge. Frances K. Seely Racine, believed to be the first woman admitted to the bar in Russell County in June 1934, became the city attorney.<sup>97</sup> A 1937 newspaper article also indicated that women lawyers had a more difficult time than men establishing their practices.<sup>98</sup> By 1938, 103 women had been admitted to practice law in Kansas,<sup>99</sup> doubling the number of women attorneys in Kansas since 1920.

### C. *The Kansas Women Lawyers' Association 1919-1937*

*Women to succeed in the practice of law must be able to meet a number of tests. First they must be physically strong and healthy; second,*

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92. *Women Lawyers Elect Miss Henry President*, TOPEKA DAILY CAP., Jan. 29, 1926. An ardent suffragist, I looked forward to the day when women, enjoying equal political rights, would exert a wide, salutary influence upon American institutions, but I cannot think of a single thing that women have done in the political world that enhanced ethical values or helped solve the problems of humanity. . . . It is evident that the failure of women to be politically effective is because [they are] at heart sentimental [and] have been the prey of dishonest politicians . . . .

*Id.*

93. See generally Linda Diane Henry Elrod, *Practicing Law in a Unified Kansas Court System*, 16 WASHBURN L.J. 260 (1977).

94. Sara W. Tucker & Barbara Burgess, *Forty-Four and Counting: Kansas Women Lawmakers, 1918-1991*, in THE LAW AND LAWYERS IN KANSAS HISTORY, *supra* note 5, at 117, 121-22.

95. Ruth M. Kaster Webb, *Women Members of the Kansas Bar: List Compiled in 1961-62 from Original Records in the Office of the Supreme Court of the State of Kansas and Kansas Reports, volumes 1-189*, Women's Kansas Day Club (1962) (on file with author).

96. *Man's Vanity Suffers New Blow as Women Step to Front Rank in Profession of Law: Six Topeka Girls Now Are Actively Engaged in Practice*, TOPEKA DAILY ST. J., Feb. 4, 1928.

97. Frances read for the bar in Oscar Ostrum's office and practiced from 1934-55. Letter from Frances K.R. Munro, to Linda Elrod, Professor of Law, Washburn University School of Law (Nov. 18, 1993) (on file with author).

98. *Miss Rohrer President*, TOPEKA DAILY CAP., May 29, 1937, at 8.

99. *Women Excel at Law*, KAN. CITY STAR, Nov. 27, 1938 (listing Kathryn O'Loughlin McCarthy, the first woman elected to Congress from Kansas, as knowledgeable in business law and consulted by male attorneys).

*they must be well informed in matters outside the legal profession; [third, they must have a desire and aptness for the profession;] fourth, they must be courteous and kind and endowed with an abundance of good common sense; fifth, they must be unhampered by domestic responsibilities. . . . A legal education is invaluable to all women in my opinion, regardless of her chosen vocation.*<sup>100</sup>

In 1919, Lilla Day Monroe established the Kansas Women Lawyers' Association and served as the first president. Washburn law graduates Jessie Nye, Mabel Jones, and Edna Hopkins were charter members with Mabel being elected Vice President. The Kansas Women Lawyers' Association urged women to take up law as a profession, to uphold the ethical standards of the profession, and to promote the welfare of all women and children.<sup>101</sup> The Association lobbied to create an inheritance law providing equal rights for husbands and wives and requiring probate judges to be lawyers.<sup>102</sup> Representatives of the newly formed Kansas Women Lawyers' Association stated that "the day is not far distant when law firms will be composed entirely of women."<sup>103</sup> The Kansas Women Lawyers' Association met annually in Topeka in January on the anniversary of its founding date and continued to propose and draft legislation concerning women and children.<sup>104</sup>

While women had been active in local bar associations,<sup>105</sup> only Margaret McGurnaghan and Mrs. Magdelene B. Munson of Pittsburg were listed as members of the Kansas Bar Association (KBA) in August 1934. In 1935, the KBA *officially* invited women lawyers to become members.<sup>106</sup> When speaking to the Bar, Lorraine E. Wooster, president of the Women's Bar Association, mentioned that she had recently been invited to become a member of the American Bar Asso-

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100. Sue Carmody-Jones, *Law Makes Big Demands*, TOPEKA DAILY CAP., Apr. 2, 1922, at 6C (quoting Mrs. C.I. Martin, President of the Kansas Women Lawyers' Association).

101. *Kansas Women Lawyers Form an Organization*, TOPEKA DAILY CAP., Jan. 29, 1919, at 4. The TOPEKA DAILY CAPITAL, Feb., 16, 1919, has a picture of seven women lawyers: Mrs. Lou-Ida Martin, Fort Scott; Miss Nellie Cline, Larned; Miss Mabel Jones, Topeka; Nancy Jane McNeill, Baxter Springs; Mrs. Lilla Day Monroe, Topeka; Mrs. Mattie Britt Hale, La Crosse; Mrs. Sadie P. Grisham, Cottonwood Falls.

102. *Id.*

103. *Three New Kansas Attorneys*, TOPEKA DAILY CAP., July 6, 1919, at 3A. The article noted that three women had been admitted to the bar on June 26, 1919. One of them was my great aunt Suzanne Gertrude Henry, who worked as an appellate clerk for Supreme Court Justice William Johnston and later Justice Hugo Weddell.

104. Hodgesmith, *supra* note 72, at 98.

105. Jennie Mitchell Kellogg was active in the Lyon County Bar. Miss Myrtle Youngburg was Secretary-Treasurer of the Harper County Bar in 1935.

106. Letter from Albert Faulconer, President, The Bar Association of the State of Kansas, to the Women Lawyers' Association of the State of Kansas (Jan. 10, 1936) (on file with author).

Another accomplishment worthy of mention was the affiliation of women lawyers with the state organization. . . . We are quite sure that the ladies won't 'cramp the style' of many of the speakers, nor interfere with the success of our meetings, but should greatly add to their success. . . . We further recommend that the lady members be recognized by a place on the program and on committees.

Hodgesmith, *supra* note 72, at 101 (quoting 5 J. B. ASS'N KAN. (1936)).

ciation. A 1936 Kansas Bar report encouraged members to use women on committees and programs. A woman first wrote for the *Journal of the Kansas Bar Association* in 1935.<sup>107</sup> The Women Lawyers' Association disbanded in 1937. In one of its last meetings, Tiera Farrow addressed the problems of women lawyers, noting in particular the uncertain financial struggle, which led many to quit private practice.<sup>108</sup>

#### D. *The 1940s-1960s*

The war years saw more women entering law school in the absence of many of the men. Law classes were small. Following the war, the men returned home to reclaim their traditional roles. Few women attended law school in Kansas in the 1950s; some women experienced difficulty getting legal jobs,<sup>109</sup> while others were able to find good positions.<sup>110</sup> Gwendolyn Van Derbur Falkenberg became the first woman lawyer to be a partner in a Johnson County law firm,<sup>111</sup> and the first female member of the Johnson County Bar Association.<sup>112</sup>

In 1962, Ruth Kaster Webb compiled a list which purported to include all women lawyers admitted to the practice of law in Kansas. Her list indicated that 171 women had been admitted to the practice of law in Kansas since 1881.<sup>113</sup>

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107. See Darlene G. Anderson, *Rights of Creditors in Partnership Assets*, 3 J. B. ASS'N KAN. 283 (1935). Darlene was a law student at the University of Kansas. See *id.*

108. FARROW, *supra* note 17, at 211-13 (noting that in 1948 there were six women lawyers in Kansas City and 1700 men lawyers).

109. See Constance M. Achterberg, *Our Legal Odyssey*, Lindsborg Conference, Lindsborg, Kansas (July 20, 2001) [hereinafter *Legal Odyssey*] (unpublished conference materials, on file with author). Connie (KU, 1953) went to law school to continue the pioneering spirit of her grandmother and to help those less fortunate. When she graduated, she was asked "if she could handle secretarial work in addition to" legal work. She now has been in private practice in Salina, Kansas, for close to fifty years. LaVone Daily (UMKC, 1957) started practicing in Wyandotte County and was the only woman attorney in that county for about twenty years. She found that "there weren't any positions for women so you were on your own." She was the first prosecuting attorney in Kansas City, Kansas, from 1965 to 1971. She also was nationally ranked as third in sports car racing. Interview with LaVone Daily in Topeka, Kan. (Mar. 25, 2004). Washburn graduates will be discussed *infra* Part IV.

110. Barbara Brackman, *The Times They Were a Changing*, in *JOURNEYS*, *supra* note 4, at 75, 76. Carolee Leek, who graduated in 1959 from UMKC, felt lucky when Larry Wagner asked her to work for him in his banking practice. She spent twenty-five years there before working in the family law area in Johnson County. *Id.* Camilla Klein Haviland practiced in Dodge City, Kansas, for decades, serving as probate judge part of the time. R.S. Barnett, *HASH-Country Style 1939-1966*, 60 J. KAN. B. ASS'N 14, 22 (1991).

111. Gwendolyn Van Derbur Falkenberg practiced at the firm Henry, Shankel, Gilman, Falkenberg & Rainey. Three partners were Washburn law graduates: Lyndus A. Henry '48, Buford Shankel '54, and David Gilman '57.

112. After graduating from the University of Missouri at Kansas City Law School in 1957, Gwen practiced real estate and family law and was on the Board of Directors of the Florence Crittenton Home for Unwed Mothers. She later practiced in San Francisco, California, until her retirement. See Karen Arnold-Burger, *First Female Member of the Johnson County Bar*, THE BARLETTER (Johnson County Bar Ass'n, Johnson County, Kan.), Oct. 1993, at 4; Marjean Phillips, *Housewife by Night, Lawyer by Day*, KAN. CITY STAR (undated newspaper clipping on file with author).

113. See Webb, *supra* note 95.

E. *The Modern Era*

The legal landscape changed beginning in the early 1970s. Kay McFarland challenged an incumbent and became the first female district court judge in Shawnee County in 1972. Mary Schowengerdt became the second female judge in 1976 when she was selected as an associate district judge for the probate division in Shawnee County. Kay McFarland made history again in 1977 when Governor Robert Bennett appointed her the first woman member of the Kansas Supreme Court. She became its first female chief justice on September 1, 1995. She remained the sole woman on the court for twenty-six years. In 2003, two women, Marla Luckert and Carol Beier, were appointed to the Kansas Supreme Court, bringing the total number of women to ever serve on the Kansas Supreme Court to three.

Mary Beck Briscoe became the first woman on the Kansas Court of Appeals in 1984, becoming the chief judge in 1990. She was appointed to the United States Court of Appeals for the Tenth Circuit in 1995. Kay Royse became the second woman appointed to the Kansas Court of Appeals in 1993, and Christel Marquardt became the third in 1995. To date no woman of color has been appointed to the Kansas appellate bench.

Deanell Tacha became the first woman appointed to the United States Court of Appeals for the Tenth Circuit in 1985 and the first female chief judge for the Tenth Circuit in 2001. Karen Humphreys was appointed United States magistrate in Wichita in 1993 and became chief judge in 2004. In 1994, Julie Robinson became the first black female to serve as a United States Bankruptcy Judge for the District of Kansas and was later appointed United States District Judge.

Although women were encouraged to join the state bar association in the 1930s, it has only been in the last twenty years that women have become fully integrated into the associations. Another first in the 1970s was women's participation in the annual bar show activities. For decades women were not allowed to attend the stag bar shows.<sup>114</sup> In 1973, Pat Casey became the first woman to have a part in the To-

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114. PDD Minutes, *supra* note 48, at 13 (indicating that on May 13, 1947 "[t]he purpose of the meeting was to discuss the dinner and program to be given for the women members of the State Bar Association while the men were putting on the Bar Show"); *see also id.* at 54 (noting on Apr. 10, 1961, "It has been the custom for a number of years for the State Bar to put on a stag show, given alternately by the Wichita and Topeka bars . . . . For the evening of the Bar Show, the women members have had their own dinner and three times the show has been open to them (cleaned up a bit for the occasion).").

peka Bar Show.<sup>115</sup> In 1976, the Topeka Bar Association formally invited women to be part of the bar show.<sup>116</sup>

Christel Marquardt became the first woman elected President of the Kansas Bar Association in 1987. In 1988, she was selected to represent Kansas in the House of Delegates of the American Bar Association.<sup>117</sup> Linda Trigg was the second woman president of the Kansas Bar Association and Marla Luckert was the third.<sup>118</sup>

The year 1986 marked the first time two of the largest county bar associations had a woman president. Karen Shelor became president of the Wyandotte County Bar Association, and I became the first female president of the Topeka Bar Association.<sup>119</sup> Two years later, Jannette Sheldon became the first president of the Johnson County Bar in 1988.<sup>120</sup> It was another three years before Wichita had its first female bar association president, Gloria Flentje.<sup>121</sup>

By the early 1980s, many women felt the need for a “support” group. In 1983, several women formed the Women Attorneys Association of Topeka. By 1989, over 100 women had joined. Around the same time, the Wichita Women Attorneys Association organized. In response to requests from other women in the state, the Topeka group organized a statewide conference for women attorneys in 1990 at Bethany College in Lindsborg, Kansas.<sup>122</sup> The program was so successful that there is now an annual conference, which attracts nearly 200 lawyers. On July 23, 1994, the Jennie Mitchell Kellogg Circle, named in honor of the first woman lawyer in Kansas, was incorporated. It has the responsibility for planning the annual Lindsborg conference.<sup>123</sup>

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115. Program, Topeka Bar Show 3-4 (1973) (on file with author). She played a Prognosticator along with Bruce Hurd and Sam Crow. She also helped with the choral music.

116. See Program, Topeka Bar Show 3 (1976) (on file with author). There was a Ms. Chorus composed of Kay Adam, Linda “Cricket” Elrod, Jenifer Ewbank, Joan Hamilton, Marcia Harley, Roberta Sue Hawver, Imelda Koett, Christel Marquardt, Sara Langland, Sara Miller, Sheila Reynolds, and Jane Werholz. Donna Dexter (Worley) played Martha Keys, and Sondra Newsum played Olivia Bennett.

117. Christel Marquardt was elected as one of eighteen district representatives on the thirty-seven member A.B.A. Board of Governors in 1998, and elected delegate in 2002. She chaired the A.B.A.’s Committee on Specialization and served on its Committees on Professionalism, Mediation, and Lawyer Referral. She also served on the Scope committee.

118. Jim McLean, *Appointed: Governor Tabs Shawnee County District Court Judge to Replace Retiring Justice Six*, TOPEKA CAP.-J., Nov. 21, 2002, at 9A.

119. At my request, Professor Jim Wadley designed a poster commemorating the Bill of Rights: *The Grand Experiment — Celebrating 200 Years Under the Constitution*. Topeka lawyers distributed posters to every school as part of 1987 Law Day activities. Topeka lawyers also gave “Bicentennial Minutes” following the evening news on a local television station. There have been only three other women Topeka Bar Association presidents, Ruth Graham in 1994; Marla Luckert in 2000; and Evelyn Zabel Wilson in 2004. They were also Washburn graduates.

120. The Honorable Karen Arnold-Burger became the second female bar president in 1995; Melinda Swanson Whitman became the third female bar president in 2001.

121. Yvette Gardner became the second female president in 2000.

122. Marla Luckert, *The Lindsborg Conference*, in JOURNEYS, *supra* note 4, at 87, 87-88.

123. *Id.* at 89. Lori C. Callahan, Marla J. Luckert, Carol A. Beier, Cathy Reeder, Martha Hodgesmith, and Linda Parks started the Jennie Mitchell Kellogg Circle and in 1994 incorpo-

## IV. WASHBURN WOMEN

*It will soon cease to be a marvel to see young women taking up the study of law. Already, Washburn people are accustomed to it . . .*<sup>124</sup>

Washburn Law School has been a “woman-friendly” school since its inception.<sup>125</sup> When Washburn Law School started in 1903, women were welcome, although only a few chose to attend. Three women, Maude Bates, Anna Marie Nellis, and Ruth Welles completed their first year with the entering class; they were grouped with twenty-seven other special students. Two other women, Zeva Bradshaw Edworthy and Louise Mary Morrison, also were listed among the special students who took at least one class. None of the women returned the following year.<sup>126</sup> Only a few women took law classes during the next five years. The poorly kept quarters on West Eighth Street were thought to make the school less than appealing to women.<sup>127</sup>

A. *The First Graduates*

*One lady student numbers among our ranks. It is hoped more will be found in the future.*<sup>128</sup>

Jessie Junette Nye became the first woman graduate on June 6, 1912,<sup>129</sup> the same year that women in Kansas received the right to vote. She had been a schoolteacher in Garnett, Kansas, before starting law school in September 1909 as the only woman.<sup>130</sup> Jessie was elected secretary and treasurer of the first-year class and wrote a weekly column for the college newspaper as the law school’s reporter.<sup>131</sup> During the spring term of 1911, she worked as the law librarian, a position held by students at the time. During her last semester, she was elected County Attorney for the Practice Court. Immediately upon graduation, Jessie Nye ran unsuccessfully for Harvey County Attorney in Newton.<sup>132</sup> She returned to Topeka and was docket clerk for the Public Utilities Commission. In 1913, she wrote an article in the Washburn newspaper encouraging other women to study law:

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rated the Kansas Women Attorneys’ Association. E-mail from Linda Parks to Linda Elrod, Professor of Law, Washburn University School of Law (Mar. 29, 2003) (on file with author).

124. Jessie J. Nye, *Tells of Law as Work for Co-Eds*, WASHBURN REV., Apr. 12, 1913, at 2.

125. LINDA HIRSHMAN, *A WOMAN’S GUIDE TO LAW SCHOOL* 161 (1999) (listing Washburn in the top 50 most women-friendly law schools). Washburn had women teaching substantive law classes as early as 1928.

126. See THE KAW, *supra* note 2, at 46.

127. *Law Notes*, WASHBURN REV., Dec. 9, 1908, at 2.

128. *Law Notes*, WASHBURN REV., Sept. 29, 1909, at 6.

129. Patricia A. Slider, *Jessie Nye Warren*, in *JOURNEYS*, *supra* note 4, at 60, 61. A plaque at Washburn Law School in honor of Jessie’s accomplishment indicates that her brother, J. Sydney Nye ’15, and a great nephew, Gregory C. Nye ’78, also graduated from Washburn.

130. *Id.* at 60.

131. *Id.*

132. Slider, *supra* note 129, at 62. She lost by a vote of 2308 to 1487. *Id.*

The bar of entrenched prejudice against the study of law by women is gradually breaking; it is responding to the spirit of the times, which is unquestionably a spirit of greater freedom for women. . . .

. . . [T]here is a field open and an increasing demand for women lawyers. Women now acquire, hold and transfer property and the study of the laws of state and nation will be a great aid to her in assisting her to meet and cope equally with others in the business world.

. . . We, who are pioneers so to speak, in this branch of academic study, have found the law anything but dry and uninteresting, but since it is a study of justice, we have found it rather, rich in historical interpretation and in human interest.<sup>133</sup>

At age forty-four, Jessie Nye married George Warren and in February 1931, opened a law office, which she maintained for some twenty-five years handling probate, family practice, and income tax. She apparently was well respected and had a loyal clientele. “She stood shoulder to shoulder in a man’s profession and in a man’s world all of her professional life.”<sup>134</sup>

All of the women who graduated before 1920 appear to have been single, came from varied backgrounds, and had different reasons for attending law school. Mignon Florence Eckhart, educated at the University of Alabama and in Paris,<sup>135</sup> was said to be “different from most women who attend[ed] law school, in that she thr[ew] her entire energy into the work. She has shown more than usual ability and tact in the trial work.”<sup>136</sup> Her interest was in juvenile law and in reforming the law to serve the needs of young people. Following her graduation in 1913, she opened a small practice in Topeka and enrolled in additional classes in pleading and practice and later in conveyancing.

Anna Parrett, a former law reporter and stenographer from Fayetteville, Arkansas, enrolled in night classes in 1911, after filing suit in Arkansas, where she was denied permission to take the bar exam.<sup>137</sup> Edna Sperry, Register of Deeds for two terms in Graham County, had conducted a farm loan, abstracting, and insurance business in Horton for a year. Although she was eligible to take the bar examination because she had studied in the office of a local attorney, she enrolled to review a few subjects and stayed to get the degree.<sup>138</sup> She was one of two members of her class selected to speak on behalf of the graduates

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133. Nye, *supra* note 124, at 2.

134. Sue Goosen, *NEWTON KANSAN*, July 21, 1988, at 14B.

135. *Law Girl Honored*, *WASHBURN REV.*, June 5, 1912 (“She was educated in Paris at one of the world’s leading finishing schools for girls . . . She made her debut in Paris[,] only people of title being present. [She] has been entertained by a baroness at her castle in Holland; and is one of the few American girls to have been presented at the Japanese court.”). She built a unique Japanese bungalow at Ninth and Buchanan Streets.

136. *Law Notes*, *WASHBURN REV.*, Mar. 26, 1913.

137. *TOPEKA DAILY CAP.*, Oct. 9, 1911.

138. *Yes, There’s Work for Women in Law*, *WASHBURN REV.*, May 1, 1912, at 10.

at the law school's annual spring banquet. Following graduation in 1914, she established a practice in Portland, Oregon.<sup>139</sup>

Because of World War I, there were just six members of the graduating class of 1918, and two were women.<sup>140</sup> Edna Pierson Hopkins's father was a lawyer. She had attended Bryn Mawr and Simmons Colleges after receiving her A.B. degree from the University of Kansas and then taught English at Topeka High School. Shortly before her graduation, she loaned the school her late father's entire law library to help it reach the number of volumes required by the Association of American Law Schools. Edna later accepted a position as a law clerk for a large New York City law firm.<sup>141</sup>

Mabel Jones, the second woman in the 1918 class, served as secretary for Kansas Supreme Court Justice Henry Mason, who taught Constitutional Law. Mabel is quoted as indicating that Justice Alfred Benson, who taught law classes, was extremely courteous to women students and would excuse them if he felt that the topic would embarrass them.<sup>142</sup> Other practitioners were not as hospitable.<sup>143</sup> Following graduation, Mabel married Don Shaffer, who started law school as a member of her class but graduated two years later due to the war. They practiced together in Hutchinson in the firm of Tincher, Shaffer & Shaffer.<sup>144</sup>

139. JAMES CONCANNON, *THE HISTORY OF WASHBURN UNIVERSITY SCHOOL OF LAW 1903-2003* (unpublished manuscript to be published in 2004) (on file with author) (citing *WASHBURN REV.*, Jan. 20, 1915).

140. A classmate penned a verse for them that appeared in the *WASHBURN REV.* Mar. 8, 1916:

Mabel and Edna, we're proud of you —  
Just stay with us the whole course thru.  
With your bright faces, from day to day  
You cheer us and help us along our way.  
At law we have considerable wit,  
But you are wiser we must admit.  
You cook, and iron, and knit, and sew,  
All these we cannot do — much to our woe.  
In examinations you are to a tee.  
While we make sixty and seventy-three.  
You smile and work, we frown and play.  
But to be like you, we ever say.  
Mabel and Edna, receive our thanks.  
We're glad to have you among our ranks.

141. CONCANNON, *supra* note 139.

142. Ellen Sue McLane, *A Home at Last: A History of Washburn School of Law*, *WASHBURN ALUMNUS*, Sept. 1969, at 9 (indicating that he told Mabel, "Miss Jones, you may be excused from class attendance tomorrow.").

143. *See id.* at 11. Attorney Ed Rooney reportedly said to the only girl in his Criminal Law class, "It is very good for the man you marry that you are developing your mind logically. When you are cooking and your biscuits fall, instead of becoming emotional and hysterical, you will pause and think (logically) 'Now, what did I do that was wrong . . . oh yes, I left the baking powder out.'" *Id.* at 11. On the other hand, Ed Rooney hired a woman lawyer in his office long before many others.

144. Mabel's name appears in several Kansas Supreme Court cases. *See, e.g.*, *Poe v. Silver*, 8 P.2d 945 (Kan. 1932); *El Dorado Nat'l Bank v. Eikmeier*, 300 P. 1085 (Kan. 1931); *Harbaugh v. Herr*, 289 P. 957 (Kan. 1930). Their son, John, graduated from Washburn in 1954.

### B. *Women's Intellectual Pursuit of the Law in the 1920s*

*There was a closeness about the school that meant much to students and faculty. "We knew our professors, the dean . . . the secretary. We could talk to any of them most any time. It was quite an advantage for a professional school."*<sup>145</sup>

The 1920s brought a slight increase in the number of women lawyers. More women enrolled once the law school moved to Washburn's main campus.<sup>146</sup> Twelve women graduated during the 1920s.<sup>147</sup> These women, all single when they started law school, were not the reformers of earlier years, but pursued law for the intellectual exercise and were exceptional students.<sup>148</sup> Three women did the additional work to earn the J.D. degree, which then required an additional thesis.<sup>149</sup> Women frequently were selected as officers of their classes.<sup>150</sup> Although there were more women in law school than before, one woman graduate commented, "We tried hard to be as little trouble as possible and always sat on the front row nearest the door."<sup>151</sup>

As more women came, Washburn became eligible to have a chapter of Phi Delta Delta, a women's legal fraternity.<sup>152</sup> Washburn's Kappa Chapter was installed on May 21, 1921.<sup>153</sup> By July of 1922, Phyllis Obee of Kappa Chapter was the National Treasurer of Phi

145. McLane, *supra* note 142, at 10.

146. Dean Harry K. Allen included in the catalogue for the 1923-24 academic year a special section encouraging enrollment by women. "Recent news that a woman had been elected to the Supreme Court of Ohio," it said, "was not altogether surprising to the members of Washburn Law School, which has several women graduates among members of the bar." It noted that nine women currently were taking classes, that college dormitories were open to them and that they "enjoyed the protection and care afforded by the general supervision of the dean of women over student life . . . a woman of experience in this work, endowed with common sense, sympathy and tact." See CONCANNON, *supra* note 139.

147. Webb, *supra* note 95 (Ruth M. Kaster Webb '21, Mary Hazel Williams Koger '22, Ivah Cosette Raines Glenn '23, Myrtle Minnie Banks '24, Louisa Isabel Obee '24, Mary Phyllis Obee '24, Marie Russell '25, Lucile Elizabeth Horn Sponable '26, Nellie Ruth Crotts Huffman '27, Margaret McGurnaghan '27, and Mildred Ernestine Wilson '28).

148. Isabel Obee and Marie Russell both received the Walker Prize (\$5.00) for the highest grades in their respective classes. Isabel Obee and Margaret McGurnaghan received the LL.B. *cum laude*. See, e.g., Memorial for Margaret McGurnaghan (Shawnee County D. Ct. filed June 14, 1963) [hereinafter Memorial for Margaret McGurnaghan].

149. Ruth Kaster Webb, Marie Russell, and Mildred Wilson graduated *cum laude* and completed the additional requirements to earn the J.D. degree. Until 1969, the law degree was an LL.B. Only seven students that decade earned both degrees. Marie Russell also received the Vernon Law Book Company prize of five volumes of *Randall's Instructions to Juries*.

150. Ruth Kaster Webb became the first woman to be elected President of the Student Bar at the Law School in the spring of 1919. Lucile Horn was Vice President during her last semester, and she, Nellie Ruth Crotts Huffman, and Margaret McGurnaghan were elected Secretary in various semesters. Nellie Crotts and Minnie Banks both served as clerk of the Practice Court.

151. McLane, *supra* note 142, at 9.

152. Apparently there was debate about which women's legal fraternity would be chaptered at Washburn. An article in 1920 speculated that Kappa Beta Pi would come. The qualifications required women to have an average of 85 or more, unanimous vote of existing members, and a promise to come back for a second year unless something unforeseen occurred. See *Girls Legal Frat?*, WASHBURN REV., Dec. 15, 1920, at 1.

153. Letter from Mary H. Williams, Washburn student, to M. Eleanor Mack, Grand Secretary, Phi Delta Delta (on file with author) (asking the number of women necessary to install a chapter of Phi Delta Delta and indicating there were seven women in law school at Washburn). Among the first women initiates were Ruth Kaster Webb, Mary H. Williams, Ivah Raines, Phyl-

Delta Delta.<sup>154</sup> The women's legal fraternity invited women law students who attained high grades to join. Phi Delta Delta provided educational<sup>155</sup> and social support<sup>156</sup> for women students and alumnae. Marie Russell won first prize in the national essay contest sponsored by Phi Delta Delta. Marie remained active in Phi Delta Delta throughout her life, often presenting a recent case.<sup>157</sup> Most meetings had only seven to eleven women in attendance.<sup>158</sup> The last initiation of women into Kappa Chapter of Phi Delta Delta was in 1970<sup>159</sup> shortly after the celebration for the fifty year anniversary of the founding of the chapter.<sup>160</sup>

Upon her graduation, Marie Russell was appointed as Assistant to the Dean of the Law School and law librarian for a year. In 1928, Russell became the first woman lecturer at the Law School, teaching Common Law Pleading. She later taught Conflict of Laws, which she taught for thirty-one years. During her forty plus years as State Law Librarian, Marie helped innumerable law students, lawyers, and judges in their quest for authority.<sup>161</sup>

Several of the graduates from the 1920s did not practice law.<sup>162</sup> Nellie Huffman and Margaret McGurnaghan did practice law. Nellie

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lis Obee, Louisa Isabel Obee. Josephine Oakley, Minnie Banks and Irene McQuilkin were initiated May 24, 1922. Mrs. C. I. Martin was admitted as an honorary member.

154. Letter from Anita Veale Robbins, National Secretary of Phi Delta Delta, to Theta Chapter, Phi Delta Delta (July 28, 1922) (on file with the author).

155. See PDD Minutes, *supra* note 48, at 4, 6. For example, at a meeting on Feb. 12, 1946, "Constance Lord gave a book review on 'What is the Verdict,'" and Margaret McGurnaghan talked about "Derivative Citizenship under Naturalization Law." *Id.* at 4. At a May 16, 1946, meeting "Mary Louise Miller discussed the case of *Coates v. Coates*," a divorce case involving a mother taking her children to California and whether the courts there would give full faith and credit to the Kansas decree. *Id.* at 6.

156. See *id.* at 10-11 (minutes from Feb. 11, 1947 and Mar. 11, 1947, which noted that when Margaret McGurnaghan broke her leg, the group met at the hospital).

157. *Id.* at 85 (noting that on May 10, 1955, Marie reported on *In re Watson*, 177 Kan. 666 (1955), which held that the children were dependent and neglected because the mother lived with a man to whom she was not married). I met Marie Russell, a petite, soft-spoken lady, at Phi Delta Delta meetings in 1969 and 1970.

158. See generally PDD Minutes, *supra* note 48. For close to twenty years, the women who attended meetings were Ruth Webb, Ivah Glenn, Nellie Ruth Crotts Huffman, Irene Lomax, Margaret McGurnaghan, Marie Russell, and Mary Schowengerdt. *Id.*

159. Peggy Gatewood was the last initiate of Kappa Chapter. Martha Steincamp was then Registrar. In 1972 Phi Delta Delta was merged with Phi Alpha Delta.

160. PDD Minutes, *supra* note 48, at 141 (minutes of Oct. 12, 1970, containing undated newspaper clipping titled *Chapter Will Celebrate Its Founding*). The celebration was at Topeka Country Club on November 10, 1970. Professor Bob Fowks gave a humorous talk. *Id.* at 142 (minutes of Nov. 10, 1970). At the October 11, 1971 meeting, Kappa Chapter unanimously voted to merge with Phi Alpha Delta. *Id.* at 147.

161. Justice John Fontron penned a poem upon her retirement, which went in part:

We'll miss her as throughout the stacks  
 We browse, with tired and aching backs  
 In looking up some point.  
 Recalling that in days of yore  
 Marie would help us with that chore,  
 And make the mission joint.

162. Both Ruth Kaster Webb and Ivah Glenn had husbands who did not want them to practice law. Ruth was active in community service work, especially the Topeka Public Library. Ivah Raines Glenn assisted her husband in his law practice. Both women remained active in Phi

worked with the law firm of Colmery & Smith before setting up her own practice in the Columbian Building in the fall of 1953.<sup>163</sup> Nellie later became the first woman “honorary” president of the Topeka Bar Association in 1967-68.

Margaret McGurnaghan was fifty-one years old when she graduated from Washburn in 1927. Before going to law school, Margaret had worked as a stenographer with a Topeka law firm for twenty-five years and had been trained in title standards.<sup>164</sup> She became the first female partner in a large law firm (Wheeler, Brewster, Hunt, Goodell & McGurnaghan) and was one of a handful of women in private practice. She specialized in probate, real estate, and foreclosures. Margaret was active with the Kansas Bar Association before it officially extended the invitation to women to join the association in 1935.<sup>165</sup> She served as chairman of the first Title Standards Committee for the Kansas Bar, was active in the American Bar Association Title Standards Committee, and served on the legal aid committee. As the recognized state authority in the real property area, Margaret began lecturing on office practice at Washburn Law School starting in 1936. She taught students how to examine abstracts, draft wills, and properly manage the office.<sup>166</sup> She published a number of articles on title, real estate, and probate issues.<sup>167</sup> She was the national treasurer of Phi Delta Delta women’s legal fraternity for sixteen years and served as President of the Kansas Women Lawyers’ Association. She practiced for thirty-three years until retiring at age eighty-four in 1960.<sup>168</sup>

### C. The Depression Years

*Today women are entering into and proving themselves in almost every field in which man has been regarded as supreme. . . . some of them actually representing clients in court.*<sup>169</sup>

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Delta Delta throughout their lives. Ruth hosted the meeting each January, her birthday month; Ivah hosted a spring meeting when the raspberries were ripe. The first mention of raspberries at Ivah’s appears in 1965. “Our annual raspberry feast was held with Ivah Glenn. The time of the meeting was governed by the ripening of the berries which grow in Ivah’s garden.” PDD Minutes, *supra* note 48, at 115 (quoting minutes from June 21, 1965). Another graduate who did not practice law was Mildred Wilson, who studied law as a hobby while she taught at Washburn as an Assistant Professor of Bacteriology and never intended to practice. *See Law is Hobby for Wilson: Is Ichabod Prof*, WASHBURN REV, Feb. 7, 1929.

163. PDD Minutes, *supra* note 48, at 72 (minutes from Oct. 13, 1953).

164. Laura Howard, *Margaret McGurnaghan*, in JOURNEYS, *supra* note 4, at 66, 67.

165. *See* 3 J. KAN. B. ASS’N 99 (1934) (showing her listed in 1934).

166. Howard, *supra* note 164, at 68 (“Never having married, McGurnaghan considered her students to be like her children, and spent considerable time with them.”).

167. *See, e.g.*, Margaret McGurnaghan, *The Doe and Roe Estates*, KAN. JUD. COUNCIL BULL., July 1956, at 8; Margaret McGurnaghan, *Land Titles and Abstract Examination*, KAN. JUD. COUNCIL BULL., Apr. 1942, at 14; Margaret McGurnaghan, *Standards for Title Opinions Adopted by the Bar Association of the State of Kansas to and including May, 1946*, KAN. JUD. COUNCIL BULL., Oct. 1946, at 197.

168. Memorial for Margaret McGurnaghan, *supra* note 148.

169. *Man’s Vanity Suffers New Blow as Women Step to Front Rank in Profession of Law: Six Topeka Girls Now Are Actively Engaged in Practice*, TOPEKA DAILY ST. J., Feb. 4, 1928 (listing

By the end of the 1930s, thirteen more women had graduated from Washburn Law School. There were several years (1931, 1933, 1937, and 1938) with no female graduates. Thelma Helsper Boatman graduated in 1930 and maintained a private practice in Norton for many years. She was the first woman to be elected County Attorney in Norton. Kathryn Albaugh Kline, one of the first Washburn female graduates to be married while in law school, graduated in 1932. Three women graduated in 1934.<sup>170</sup> There were also three women in the class of 1935<sup>171</sup> and in the class of 1936.<sup>172</sup> Three years passed before two more women graduated in 1939.<sup>173</sup>

Starting in 1934, students from both Washburn and the University of Kansas were invited to be members of the Student Editorial Board for the *Kansas Bar Journal*. Since neither Washburn nor the University of Kansas had a law journal then, the *Bar Journal* provided an opportunity for editing and writing. Several women were members of Washburn's Student Editorial Board<sup>174</sup> and some had pieces selected for publication.<sup>175</sup>

#### D. *The War Years*

*Washburn offers opportunity for ambitious young men to school themselves for the legal profession.*<sup>176</sup>

Although the quote from the yearbook indicates that some still considered law to be a male profession, the number of women in law school in the early 1940s jumped because so many men were in World War II. Nineteen women graduated during that decade, making it the most women ever to graduate in a ten-year period.<sup>177</sup> Martha Leona Stewart graduated with high honors. While in private practice in Cali-

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five Washburn graduates — Margaret McGurnaghan, Ivah Raines Glenn, Nellie Ruth Crotts, Mary Williams Koger, and Marie Russell were listed along with Mabel G. Womrey).

170. The graduates were Harriett Lull Alden, Grace Curlis Chaffee Peterson, and Veva Avis Light Ramskill. Veva's father had been President of the Kansas Bar Association. She practiced with her husband in Burlingame for decades.

171. Ruth Evangeline Anderson, Frances Jean Gibbs Ehly, and Mary White McIntosh graduated in 1935.

172. Clessie Gilmore, who earned her law degree by attending classes part time after she became the Law Librarian in 1931; Lorraine Mable McMullen; and Elise Lambertson Reynolds, whose father was a lawyer and Republican member of Congress, earned their degree in 1936.

173. The 1939 graduates were Gladys Esther Brooks Matthews and Mary Jane Finney Cheap.

174. Lorraine Mable McMullen was a member of the first board in 1934-35. Other members between 1940 and 1950 were Martha Leona Stewart, Dorothy Tyner, Dorothea Grubbs, Constance Lord, Narra Smith, Kay Arvin, Blyth Caw, Carol Virginia Creitz, and Mary Schowengerdt.

175. Dorothea Grubbs Warren, Constance Lord Brown, and Mary Schowengerdt were published.

176. THE KAW 52 (1941).

177. Graduates in the 1940s other than those specifically discussed were Myrtle Maurine McIntosh, who practiced in Winfield; Annella Blanton Flesher, who practiced in Coffeyville; Arvella Embry Free; Mary Louise Miller Corbett, who practiced in Topeka; Gwinn Gibson Shell; and Mary Jane Joyce.

ifornia, she became a part-time Instructor for eight years at Southwestern Law School. She became a law professor at Loyola University School of Law in Los Angeles in 1965, and she taught full-time for nineteen years.<sup>178</sup>

Bessie Mae Wills McIntosh, a 1940 graduate, remembers that Kansas Supreme Court Justice Walter Thiele taught her Wills' class and would greet her each session with, "Good morning Miss Wills, what do you know about wills this morning?" It was funny at first." She considered returning to Lyons to practice law, but Dean Antrim Hambleton cautioned her against it because he was not sure whether Kansas was ready for women lawyers.<sup>179</sup> While her husband, Elton McIntosh, served in the Army, she worked for the F.B.I. in Washington, D.C. "J. Edgar Hoover was not fond of women, but he had a shortage of men due to the times," she said. At the Legislative Desk, she monitored legislation that might affect the F.B.I. and wrote briefs on the pending legislation for Hoover.<sup>180</sup> After the war, she and her husband lived and worked in Clay Center, Kansas. Her son-in-law, Tom Adrian, and granddaughter, Lisa McPherson, also became Washburn law graduates.

Four women graduated in 1941.<sup>181</sup> One, Gladys Iola Hodgkinson Doop, came to the law school with the encouragement and financial support of Margaret McGurnaghan for whom she worked as a stenographer. After graduation, Ms. Doop worked for Southwestern Bell in Kansas City. Another 1941 graduate was Virginia Aloise Miller. After being Deputy Sedgwick County Attorney and a lawyer for the National Labor Relations Board in Washington, Ms. Miller became a prosecutor of Nazi war criminals for the International Military Tribunal in Nuremberg, Germany. She was one of the first thirty women admitted to practice in Nevada in 1950. In 1958, she was the first woman to run for District Court judgeship in Clark County, Nevada.<sup>182</sup>

Dorothy Davidson Tyner from McCracken, Kansas, became law librarian immediately following graduation. During the second semester, she also filled a vacancy as secretary and taught Domestic Relations. In 1942, she became the first woman appointed to a full-time faculty position at a Kansas law school, holding the title of Instructor of Law at Washburn.<sup>183</sup> She left teaching in 1943 to join the legal staff

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178. Martha married Marburg Yerkes '41 and was known as Martha Yerkes. In later years, she was known as Martha S. Robinson. She taught Community Property, Law and Literature, and Remedies, as Professor Emeritus for many years.

179. *Progressive Trio Set Pace for 1940 Class*, CIRCUIT RIDER, Spring 1997, at 14.

180. *Id.*

181. Gladys Iola Hodgkinson Doop, Virginia A. Miller, Lois Hall Bane, and Dorothy Davidson Tyner graduated in 1941.

182. *Law School News In Memoriam*, CIRCUIT RIDER, Spring 2001, at 33.

183. The Law School announced her full-time faculty appointment after Ralph Rice received a leave of absence due to World War II. *Notes and Personals*, 10 AM. L. SCH. REV. 60 (1942).

of the War Production Board in Kansas City. By 1947, she had moved to Anchorage, Alaska.<sup>184</sup>

Dorothea Ruth Grubbs Warren, who graduated with high honors, worked in the law library during her senior year of law school. Ironically, she ended up retiring from the Washburn Law Library nearly forty years later. Upon graduation in 1942, she moved to Louisville, Kentucky, and worked as a lawyer in the Government Regulations Department of Seagram's Distillery. She came back to Kansas and worked for the Postal Savings & Loan before Marie Russell hired her as Assistant State Law Librarian in 1956. Dean John Howe recruited her to help rebuild the library after the tornado in 1966. Dorothea was the first woman to be granted tenure at Washburn and also the first to hold the title of Professor of Law, while she was Director of the Law Library from 1967-79. She continued to be Reference Librarian until she retired in 1984. She was the only woman on the faculty from 1967 until 1971, although Ruth Gough, also a lawyer, came as reference librarian in 1969.

Another woman who served as law librarian and secretary was Helen Lucille Loomis. After graduation, she became a law clerk at the Kansas Supreme Court for ten years before moving to Winfield to practice law.<sup>185</sup>

Elizabeth Serridge Bowers was law librarian at Washburn for the first two years after she graduated in 1948<sup>186</sup> and then at Creighton Law School for two more years. Thereafter, she was a construction contract lawyer for the Corps of Engineers in Omaha, Nebraska, a hearing officer for the Federal Aviation Administration and the Social Security Administration, and Administrative Law Judge for the Nuclear Regulatory Commission. In 1976, she received a Presidential Appointment to a panel on Women in High Level Government Positions. She was Chair of the Atomic Safety and Licensing Commission when she retired.

Mary Margaret (Billie) McIntire Parr, elected as the law school's representative to the student council, graduated in 1947. She had a long career as a litigator and then worked with Legal Aid Society

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The *Washburn College Bulletin*, issued in late spring, 1943, listed her as "Instructor of Law." Tyner was scheduled to teach Property II, Federal Taxation, Domestic Relations, and Legal Bibliography. Both Tyner and, before her, Joyce Rodgers Tyler, who also was a lawyer, held the title "Secretary and Instructor of Law" when they held the secretary position vacated by Emily Sanford Platt in 1941. However, their teaching duties in that position were limited to part-time.

184. In Alaska, she married and had a son. PDD Minutes, *supra* note 48, at 25 (minutes from Sept. 28, 1948). She became a district judge in 1970, serving ten years before retirement. CONCANNON, *supra* note 139.

185. *Obituary for Helen Loomis*, TOPEKA CAP.-J., Nov. 18, 1999, at C5 (indicating that she was active in the American Bar Association).

186. Bob Dole '53 recognized Beth Bowers as influencing him to run for the Kansas Legislature, which started his political career.

before becoming the second faculty member hired to teach in Washburn's Law Clinic in the summer of 1971. She was the first woman to serve as Associate Dean of the Law School in 1978. She retired in 1983. Billie loved teaching third-year students and believed that the highest accolade one could get was to be a "competent" lawyer.<sup>187</sup> While she taught her clinic students empathy and professionalism, she was unsympathetic to women who complained of discriminatory treatment.<sup>188</sup>

### E. *Declining Enrollment in the 1950s and 1960s*

*It was mostly a case of being in the right place at the right time and making a decision. You have to take chances.*<sup>189</sup>

Enrollment of women in law school declined in the fifties and sixties. There were some years with no female graduates. Only eleven women graduated in the 1950s. Kay Krehbiel Arvin had been blinded in an accident before her husband began law school. Because she was bored at home, her husband encouraged her to go to class with him. Dean Schulyer W. Jackson suggested she enroll in classes.<sup>190</sup> She came with the assistance of her seeing-eye boxer, named Larkin, and did very well.<sup>191</sup> After graduation in 1951, Kay became a leader in divorce, mediation and counseling, and served as an interim District Judge in Wichita in 1977. She practiced with her husband for fifty years.

Carol Virginia Creitz Martin graduated with honors in 1954 and practiced law in Wichita for six years, specializing in property law. From 1960 to 1966, she was Washburn's law librarian and taught Legal Bibliography. Following the tornado, at age thirty-six, she became an Assistant Professor of Law for the 1966-67 academic year, teaching Titles, Office Practice, and Trusts and Estates. She died suddenly, after a short illness, at the end of that academic year.<sup>192</sup>

Mary Rebecca Schowengerdt received a J.D. cum laude (rather than an LL.B.) by completing the thesis required in addition to regu-

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187. Donald F. Rowland, *Mary M. Parr Remembered*, CIRCUIT RIDER, Spring 1987, at 9.

188. I remember one conversation with Billie where, cigarette dangling from the corner of her pursed lips, she shook her head and said, "Be prepared and do your job and you'll earn the respect of lawyers and judges. Gender is not the issue; performance is."

189. Brackman, *supra* note 110, at 82 (quoting Kay McFarland, Chief Justice of the Kansas Supreme Court).

190. *Id.* at 78. Kay Arvin stated, "I knew that I wasn't going to be on an . . . equal footing with everyone else so I needed to be able to do something better . . ." *Id.* at 81.

191. PDD Minutes, *supra* note 48, at 29 (minutes from Feb. 28, 1949, mentioning an article being written about Kay Arvin and Larkin for a Phi Delta Delta magazine).

192. Robert J. Fowks, *In Memoriam*, 7 WASHBURN L.J. 285 (1968). Fowks describes Martin as "the first full-time woman law teacher in the sixty-three year history of the Washburn Law School." *Id.* Dorothy Tyner actually was the first, but no member of the faculty would have known that. See *Notes and Personals*, *supra* note 183, at 60. Phi Delta Delta set up a scholarship in her honor. See PDD Minutes, *supra* note 48, at 123 (minutes from Nov. 13, 1967).

lar course work in 1957.<sup>193</sup> Mary was the second woman partner in a Topeka law firm. She was a partner with Irwin, Irwin and Schowengerdt from 1966 until she became an associate district court judge for the probate division in Shawnee County in 1976. She was the first woman to serve on the Washburn Law School Alumni Association (WLSA) Board of Governors (1974-80). Mary became the first woman president of the WLSA. Mary was a quiet, thoughtful woman who worked hard and was respected as a good lawyer, especially for probate matters.<sup>194</sup> She was active in the field of individual rights for the physically and mentally disabled. She took part in the first Topeka Bar Show in which a large number of women were invited (allowed) to participate.<sup>195</sup>

Jerry Ann Tribble Foster was the first female recipient of the Floyd Nick Cossman Freshman Scholarship Award for highest freshman grades in 1955-56. She graduated in 1958. She worked as Senior Regional Counsel for the Greater Southwest Region of the General Services Administration for over fifteen years. Her daughter, Sarah, graduated from Washburn in 1989. There were five other female graduates during the 1950s.<sup>196</sup>

No women graduated from 1958 to 1964. Only six women graduated in the entire decade of the 1960s.<sup>197</sup> One of them was Kay McFarland, who became the first female Justice of the Kansas Supreme Court. Chief Justice McFarland graduated as the only woman in her class in 1964. Her father's attorney friend counseled Kay against law school, warning her that a woman's domain in the legal profession was confined to legal research. She enrolled that day.<sup>198</sup> She would be a woman of many firsts, being the first woman elected in Shawnee County as Juvenile Judge and Probate Judge in 1970, defeating an incumbent. She was the first woman district judge in 1972, the first wo-

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193. See Mary Schowengerdt, Comment, *The United Nations as Juridical Personality*, 25 J. KAN. B. ASS'N 275 (1957) (noting that it was "written in compliance with requirements for the degree of Juris Doctor").

194. In October 1971, my mother hired Mary to probate my grandmother's estate telling everyone that if her daughter was going to be a lawyer, she certainly was going to hire a woman lawyer.

195. See Program, Topeka Bar Show 5 (1976) (on file with author). When women were finally allowed to participate in the Topeka Bar Show in 1976, we were allowed to do the opening chorus number. We wore magenta turtleneck tops and baggy pants with colorful sashes and gleefully sang, "There's no vanism like Chau-vanism . . ." During a dance kick, Mary fell. Then in her fifties, she picked herself up and kept dancing.

196. The other graduates were E. Lorraine Bracy, Blyth B. Caw, Narra Sherrill Smith Asher-Phillips (who practiced in California), Mildred Bagby Riseley, and Ramona Lee Funk Smith.

197. Linda Hawley Asay graduated in 1965; Gloria Eve Shaw and Marcia Myers Tharnish in 1967, and Mary Hack Allen in 1968. Mary worked for the Kansas Legislative Research Department before moving to Louisiana. She finished her career in the Department of Psychiatry at the Louisiana State University School of Medicine in Shreveport, Louisiana. Because she almost went to medical school instead of law school, she enjoyed combining her two loves — law and psychiatry. See *Mary Hack*, CIRCUIT RIDER, Apr. 1978, at 5.

198. Brackman, *supra* note 110, at 81.

man to serve on the Kansas Supreme Court in 1977 and the first to become Chief Justice on the Kansas Supreme Court, on September 1, 1995.

In 1967, Kathleen E. Powell King Toews became the first woman to have a comment published in the *Washburn Law Journal*<sup>199</sup> and the first woman to serve on the editorial board. In 1968, she won the National Association of Women Lawyers' Essay Contest, which provided her with a free trip to England to study the history and system of common law.<sup>200</sup>

The students who entered Washburn Law School in the academic years after June 1966 until September 1969 attended some or all of their law school years in trailers.<sup>201</sup> These were the last days of the "old era." Men wore suits and ties to class and women wore dresses, even if short. On the first day of class, Dean Howe explained that law school was a professional school, not a trade school, and students were expected to dress the part. Senior law students carried canes throughout their third year and across the stage at graduation. It was also the time immediately before competitive enrollments.<sup>202</sup> One or two tables of students played bridge between classes; others sat around talking. Most students worked, often more than the recommended twenty hours a week, either at law firms or other jobs.

Although the number of women in law school remained small, the winds of change were apparent. The class of 1970 had three women. Mary Ann Senner ranked first in her class of seventy-six students. Mary was the first woman to have both a comment and a note published and the first woman Editor-in-Chief of the *Washburn Law Journal*.<sup>203</sup> The other women graduates, Lauraine J. Brooker and Jane Twining Roy, appear to be the first women who attended Washburn Law School with children at home. Lauraine had two children and came to law school following a bitter divorce.<sup>204</sup> Jane Roy, whose

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199. See, e.g., Kathleen E. Powell, Comment, *Constitutional Law — Administrative Searches and Seizures*, 7 WASHBURN L.J. 385 (1968).

200. *WU Law Student Wins Contest*, TOPEKA CAP. J., May 19, 1968, in PDD Minutes, *supra* note 48, at 126 (minutes from June 25, 1968). See Kathleen King, *Civil Rights?*, 8 WASHBURN L.J. 143 (1969). Kathy graduated in December 1970. At one point, Kathy worked in the Field Solicitor's Office for the Five Civilized Tribes in Okmulgee, Oklahoma.

201. The 1966 tornado damaged Carnegie Hall. The law library was in one trailer and classes were in two others. Construction was underway on the new building, which opened in the fall of 1969.

202. Almost anyone with a college degree could get into the law school, but many would not graduate. For example, in the 1969 entering class, 131 were admitted, but only 109 graduated in 1972.

203. See, e.g., Mary A. Senner, Comment, *Constitutional Law—Rights of Free Speech and Assembly in Racially Tense Area*, 8 WASHBURN L.J. 259 (1969); Mary A. Senner, Note, *An Inquiry into the Doctrine of Public Policy and Disallowance of Business Deductions*, 9 WASHBURN L.J. 101 (1969).

204. See *Brooker v. Brooker*, 433 P.2d 363 (Kan. 1967) (indicating that on the appeal of the divorce case involving issues of alimony, child support, and attorneys fees, the children were

husband attended law school at the same time, took six years to graduate, but had six children at home ranging from grade school to high school age.<sup>205</sup>

The graduating class of 1971 had eighty-one students, including five women,<sup>206</sup> none of whom went into private practice. Lois Patricia “Pat” Casey remembers that if you came to class late in the trailers, you had to sit under the “drip” where the roof leaked. While she did not feel that the male classmates treated her differently, she did remember that all students feared Bob Fowks’ Civil Procedure class because his Socratic approach was so intimidating. She worked on the Legal Aid Committee in school. She felt that the women in her class had a difficult time finding jobs in private practice.<sup>207</sup>

Martha Steincamp was active in Phi Delta Delta, worked on the law journal staff,<sup>208</sup> and was one of the first women members of the Benson Chapter of Phi Alpha Delta (PAD). Most women who had the requisite grades were invited to join Phi Delta Delta.<sup>209</sup> The PAD members, however, always invited some of the women to attend their activities. In the spring of 1970, on motion of Chuck Worden and Phil Elwood, the Washburn PAD chapter voted to admit Martha Steincamp, Peggy Gatewood, and me as members.<sup>210</sup> The Honorable Alex Hotchkiss, a Washburn graduate from Lyndon, Kansas, was the International Justice of PAD and helped the Washburn chapter successfully carry the issue of admitting women to membership in PAD at the national convention. At the October 11, 1971 meeting of Phi Delta Delta, the Kappa chapter unanimously voted to merge with Phi Alpha Delta.<sup>211</sup> After graduation, Martha moved to Kansas City and has worked with the Environmental Protection Agency for over twenty years. She serves as the Regional Counsel, heading a staff of forty attorneys and fourteen administrative staff.

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thirteen and six). In school, Lauraine was in the Legal Aid Society. After graduation, she worked for years with the court trustee enforcing child support.

205. Jane Roy was active in Phi Delta Delta. She worked for the court trustee and later became a member of the Kansas Corporation Commission before retiring.

206. Judy Barnes worked for the Department of Transportation in Washington, D.C. for several years; Avis A. Swartzman Badke was active in the Legal Aid Committee and was her class representative in the Washburn Student Bar Association. She worked for the Revisor of Statutes for many years.

207. Interview with Pat Casey in Topeka, Kan (Mar. 2004). Pat worked for the Kansas Department of Human Resources for many years and then with the Kansas Department of Health and Environment.

208. See Martha Steincamp, Comment, *Jurisdiction — Incompetent Donor’s Consent to a Kidney Transplant*, 10 WASHBURN L.J. 57 (1970).

209. Martha was initiated May 12, 1969; I was initiated April 13, 1970. The Phi Delta Delta activities of eating raspberries seemed tame in comparison to the PAD activities. Martha, Peggy, and I were invited to one of PAD’s “special” meetings only to discover that it was an opportunity to view the latest confiscated adult films. Martha and I left quickly. Peggy Gatewood, however, sat in the front row, saying, “After having three children, nothing bothers me.”

210. *The P.A.D. Report*, CASE & CANE, Apr. 1970, at 25.

211. PDD Minutes, *supra* note 48, at 147. The merger was completed nationally in 1972.

### F. *The Last Class of Only One Female Graduate*

*Woman's role is an ever-evolving, ever-expanding one. A woman should accept the challenges offered and take advantage of the numerous opportunities for positions of responsibility and leadership.*<sup>212</sup>

Being an avid reader, I spent summers literally in a tree in the backyard voraciously consuming books from the library. I planned to teach English as my mother had done. The seeds for a law career, however, were also planted long before the decision to attend Washburn or its law school. Lyndus Henry, my father, loved Washburn and often talked about his law school days. As one of the pioneering lawyers in Overland Park, Kansas, he had hired the first woman attorney in Johnson County, Gwen Falkenberg.<sup>213</sup> After my parents' divorce when I was twelve, I worked for my father's law firm on Saturday mornings and in the summer.

I chose to attend Washburn as an undergraduate student.<sup>214</sup> Washburn suited me well — small classes, excellent faculty,<sup>215</sup> a semester in Copenhagen, and an opportunity to edit the 1969 yearbook. Dating a third year law student<sup>216</sup> gave me the chance to meet many law students and faculty during my junior year. Therefore, when I discovered in September 1968 that I would be unable to graduate in December and start a PhD English program because of a technicality,<sup>217</sup> perhaps it was not so strange that I would choose to take the LSAT.

I entered Washburn Law School in January 1969 as a provisional student. My first class was Equitable Remedies with then District Court Judge David Prager. He walked into the trailer, smiled broadly at me, nodded and murmured, "Welcome, Miss Henry." Even though I was the only woman in almost all of my classes, I felt welcome. With

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212. *Student Voice: The New Woman?* WASHBURN ALUMNUS, Dec. 1969, at 12 (quoting Linda "Cricket" Henry, BA 1969, law school undergraduate).

213. My role model was Gwen who seemed to have it all — a gorgeous husband, two young children, a challenging career, and an amazing house. See *supra* notes 111-12 and accompanying text

214. Since Shawnee Mission West class of 1965 had 736 graduates, I wanted a smaller college environment. I had been accepted to an all-female, Ivy League school, but did not want to go that far from home, mainly because my high school boyfriend was going to Drake. The final decision came down to the fact that my grandmother still lived in Topeka and the Kappa Alpha Thetas had a great rush party.

215. Dr. Ruth Friedrich and Dr. Elizabeth Van Schaack were legends by the time I arrived. Dr. Franklin D. Mitchell's book *EMBATTLED DEMOCRACY* (1968) earned him a job at the University of Southern California. My future husband, Mark, and I met in one of Mitchell's classes.

216. Ralph Muxlow knew everyone. He was the student bar president, notes editor for the law journal, and active in moot court. The faculty selected him as outstanding senior in 1968.

217. Although I had 134 undergraduate hours, a certificate to teach, and was yearbook editor, Dr. Eldo Bunge, Chairman of the English department, refused to count a class I had taken in Denmark, which meant that I needed one hour of English in the spring of 1969. Dean Ray Spring encouraged me to take the LSAT. Several years after I started teaching, I thanked Dr. Bunge for being so rigid because the decision to go to law school that second semester of my senior year changed the course of my life in a positive way!

the exception of a comment by one professor during enrollment,<sup>218</sup> I found the entire faculty<sup>219</sup> and my male colleagues to be wonderfully supportive and encouraging.<sup>220</sup> I was never singled out for recitation nor did I ever feel uncomfortable in any of my all-male classes.

I loved law school from the beginning. There was a certainty and an exhilaration in finding my niche. English history and its legacy in real property fascinated me.<sup>221</sup> I became the second woman to receive the Nick Cossman Freshman Scholarship Award.<sup>222</sup> Law school was a time of great intellectual stimulation, a lot of fun (playing bridge between classes!), and hard work — four part-time jobs,<sup>223</sup> a note and comment for the law journal,<sup>224</sup> and marriage before my last semester.<sup>225</sup>

In April 1972, Justice Alfred Schroeder and Randy Hearrell hired me to work for the Kansas Judicial Council, making me the first woman in the “research attorney” corps.<sup>226</sup> Less than one year later, the

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218. Professor Edward Robinson lumbered through the registration area, stopped in front of me and inquired, “Young woman, are you planning to take domestic relations?” I replied, “Maybe.” He retorted, “Don’t. Leave it to the men to have domestic relations with you.” I avoided his courses.

219. Ray Spring encouraged me to apply to law school. Later he offered me a teaching position and continued to mentor me. Elwood Slover, who taught evidence, military law and became associate dean, often invited Mark and me to dinner parties he and his wife, Marilyn, had for students. Professors Bob Fowks and John Howe invited me to be their research assistant in the middle of my first year.

220. The first day Roger Hiatt and Ed Carpenter invited me to sit with them. Several seniors shared outlines and asked me to join their study groups. Only one classmate ever questioned out loud my “right” to be in law school after first semester tort grades were posted (by numbers) on the bulletin board. Professor Jim Ahrens had given three A’s and twenty-three D’s. As I left after checking the board, one classmate demanded, “Did you get one of the A’s?” I nodded. He said, “Well, I’m not sure women belong in law school, but if they are going to be here, they better be smart.”

221. Unfortunately, my Property professor read straight from the text. Several of my classmates remember the day I complained to Associate Dean El Slover, “I could teach property better than this!” Little did I know that I would get that chance!!

222. Awards used to be given at all-school social events. Professor Jim Ahrens, in presenting me with the Nick Cossman Award, made an elaborate, somewhat humorous, presentation indicating that I was “not only personable, but also perspicacious, perceptive, and persevering.”

223. In addition to being a research assistant for Professors Fowks and Howe, I taught ninth grade English two hours a day at Hayden one year and at Roosevelt Junior High the next. I also punched meal tickets at Washburn’s cafeteria in exchange for lunch and dinner and worked at the Topeka Institute of Urban Affairs, putting together its legislative debates on KTWU. My last semester, I worked for the Topeka City Attorney, who was the only employer to ask how fast I could type.

224. My comment and note were each the only female-authored work in the issues. See Linda D. Henry, Comment, *Domestic Relations: The Role of Long Arm Statutes*, 10 WASHBURN L.J. 487 (1971); Linda Henry Elrod, Note, *Passive Investment Income: An Analysis of Subchapter S Corporations*, 11 WASHBURN L.J. 97 (1972). I married Mark D. Elrod on June 5, 1971, so my comment was under my maiden name and my note under my married name. Before the mid-1970s, the student with high grades was invited to be editor of the law journal. Since I ranked first of the 109 students in my class, Darrell Warta did ask. However, I wanted to graduate in December, so I opted to serve as co-Notes Editor for the fall semester.

225. Mark and I took Administrative Law in summer school and missed three days because of our honeymoon. Professor David Ryan would raise his eyebrows if we were a little late and make some comment about newlyweds.

226. Margaret “Peggy” Gatewood, who graduated at the end of August 1972, became the first woman research attorney to work for a Supreme Court Justice — Perry Owsley. I worked for Judge Alex Hotchkiss as the reporter for the committee drafting a *Comparison of the ABA*

first of May 1973, Ray Spring beseeched me to teach Debtor-Creditor for the first session of summer school.<sup>227</sup> Even though it was a bit strange having students who had been entering law school my senior year, the class went well. At the urging of the students, the Dean invited me to teach legal methods and legal writing for the 1973-74 school year. In March 1974, I was seven months pregnant and working full time for the Judicial Council when David Dale became ill. Ray Spring called on a Friday morning in March to see if I could pick up David's four hour Property course. The following Monday, during my lunch hour, I started teaching Property. One week later, the phone rang during dinner, and Ray extended the faculty's invitation to become a full-time member of the faculty.<sup>228</sup>

Looking back, perhaps the most amazing thing is how welcoming and supportive the law faculty was. Basically, I had started teaching less than two years out of school with all of my teachers still on the faculty. Being a law professor was absolutely the ideal career path for me. I love to teach, I love to write, and I love to travel. Being a working parent, however, is not easy for anyone.<sup>229</sup> A supportive partner<sup>230</sup> and additional help<sup>231</sup> were invaluable at the outset.

The early years of teaching were great fun. I was close to the age of many of my students and the only full-time female faculty member in the classroom from 1974-79. I played in the student golf tournament on perhaps the first all-woman team with Cynthia Douglas,<sup>232</sup>

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*Standards for Criminal Justice with Kansas Statutes, Law and Procedure*; staffed the Committee on Reorganization of the Kansas Court System, which former Governor Ed Arn chaired; and was reporter for the committee writing the *Municipal Court Code* and the *Municipal Judge's Manual*, chaired by Jim Waugh.

227. Professor Dennis Stewart had accepted a federal magistrate position. I told him if I could get to my "real" job by 9:00 a.m., I would do it. In two weeks, I read three textbooks and consulted with several lawyers.

228. Although I jokingly said I was hired because I was willing to teach any course on a weekend's notice, Washburn Law School had received authorization for five new faculty members. John Kuether, Carl Monk, Randy Jones, and Joel Meinecke were also hired.

229. I was pregnant with my first child, Carson, when hired. I started teaching when he was six weeks old. Day care was a constant problem until Carson was two. When I became pregnant with Bree, I taped three classes in advance to cover my absences and returned to teach the last class. Because I was a room mother, I often had to wear my Halloween costume to class in order to get to early afternoon school parties. At University Child Development parents had "volunteer" responsibilities. One year mine was menu planning. At 11:30, the director called, demanding that I come to prepare lunch because the cook was ill. I explained that the reason my son was in day care was because I had to teach class in thirty minutes. Presumably, someone fed the children.

230. Until Mark and I ended up living in different cities following our career paths, he shared the parenting load, which helped immensely. I remember once he ran Carson to the hospital for stitches, while I was host for the Foulston Siefkin speaker for the annual law journal banquet.

231. Dorothy Voss, a retiree, came to the house to babysit when Bree was six weeks old. Fortunately, she also liked to bake bread and wash clothes. She adopted us. When Bree was three, she was hospitalized several times with chronic asthma. I would stay at the hospital overnight; Mark would come before and after work; Dorothy covered the in-between.

232. Cindy was the founder and first president of the Women's Legal Forum. Cindy became a Deputy Assistant Secretary of Labor for Occupational Safety and Health under Secretary of Labor, Elizabeth Dole, and is now an Administrative Law Judge with the Labor Department.

Rebecca Crotty,<sup>233</sup> and Patricia Riley.<sup>234</sup> The graduating class of 1979, who had presented me with a “Brass Bra” award at the faculty roast<sup>235</sup> their first year of school, voted me the William O. Douglas Outstanding Professor of the Year.<sup>236</sup>

Washburn has given me the freedom to flourish — to develop new courses and programs. In 1985, Charlene Smith and I took twenty-eight students on what would become an annual “Law in London” summer foreign-study program.<sup>237</sup> Washburn has also allowed me the flexibility to participate in bar association activities on the local, state, and national level.<sup>238</sup> I feel so fortunate to have had deans and colleagues who have supported my numerous writing endeavors, and most recently, the creation of the Children and Family Law Center.<sup>239</sup>

### G. *The Surge in Women Enrollments*

*Overall I thoroughly enjoyed Washburn and appreciated the “hands on learning.”*<sup>240</sup>

The 1970s marked the turning point for women in law.<sup>241</sup> As was true nationally, women began enrolling in Washburn Law School in much greater numbers starting in the early 1970s. The reasons were as

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233. Rebecca, the third female research attorney for a Kansas Supreme Court Justice (Richard Holmes), later went into practice with her husband Doug '75 in Garden City, Kansas. She is now a district magistrate judge.

234. Patricia Riley practices law in Topeka and serves on the Supreme Court Nominating Commission.

235. The early years of the faculty roast were often in poor taste and particularly harsh. There were some funny moments, however. One year a student playing me talked extremely fast, wrote on a blackboard and erased at the same time; another year my tongue appeared in a wheelchair to sue me for biting it off by talking too fast; another year the students hawked pens that had a light that would go off when they were writing too fast.

236. It was not until the 2003-04 academic year that another woman professor, Megan Ballard, received the award.

237. We team taught three courses with law faculty at Brunel University in Uxbridge, England. See Linda Elrod, *Reflections on an English Law Program*, CIRCUIT RIDER, Summer 1985, at 3. I taught in the London program in 1985, 1994, 1997, and 2000. I also taught in San Diego's Summer Institute in Paris in 1988 and 1990.

238. I was the first woman president of the Topeka Bar Association in 1986; secretary-treasurer of the Kansas Bar Association in 1987; and Chair of the ABA Family Law Section in 2000. I started attending American Bar Association meetings in 1981. I began as a Reporter for the *Law in 50 States*; then chief judge of the Schwab Memorial Essay Contest Committee; co-chair of the Amicus Curiae Committee; then in 1986, I was appointed to the Board of Editors of the *Family Law Quarterly*, becoming the editor in 1992 and moving the publication to Washburn. In 2001, I was appointed co-chair of the ABA Advisory Committee for the Child Custody Pro Bono Project. In 2002, I received a presidential appointment to the ABA Steering Committee on the Unmet Legal Needs of Children. In 2004, I became reporter for the National Conference of Commissioners on Uniform State Laws drafting committee on a Child Abduction Prevention Act.

239. The Washburn Law School Children and Family Law Center began in January 2003 to give Washburn students access to alumni, scholars, and activities in order to prepare them to be advocates and creative problem solvers for children and their families.

240. Linda Elrod, Survey for Washburn Women Law Graduates (Fall 2003) [hereinafter Elrod Survey] (on file with author) (quoting Juni Hendrickson Clark '78, survey respondent).

241. MORELLO, *supra* note 4, at 209.

varied as the women themselves. Some women had been teachers;<sup>242</sup> others had been encouraged by spouses<sup>243</sup> or fathers;<sup>244</sup> and some thought that the law would provide a good living. Several were older. In 1973, the four women graduates (out of 126) were Edna Hodges, Georgann Rausch Mefferd, Grace Schroer, and Shoko Severt.<sup>245</sup> Shoko Severt, Washburn's first minority female graduate, had only been in the country a couple of years before starting law school. She remembers that

there were three foreign students including myself when I was a freshman (one from Korea and the other from Yugoslavia, both male students). Professor Ahrens was very considerate and gave us extra attention and allowed us to take the final examination in torts at a special time for the three of us. He even allowed me to use my English Japanese dictionary. . . . I have always been very grateful for Professor Ahrens for his caring and assistance.<sup>246</sup>

Georgann Mefferd recalls that when she started in January 1971, she felt very comfortable and accepted. She thought that the women who entered law school after the fall of 1972 changed the atmosphere because they were more strident feminists.<sup>247</sup> It may also have just been that there were so many more women around than ever before.

Sondra Newsom may have been in the best position to note the sea change. She started in 1970 with two women and thirty men in the spring class and less than one hundred students graduating in each class. When she finally graduated in 1976,<sup>248</sup> one-third of the entering fall class was female, and there were 194 in the graduating class. She felt that male professors, typical of most men of the era, were more

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242. For example, Janet Amerine, Rebecca Crotty, Helen Dupre, Ruth Graham, JoAn Hamilton, Jenifer Lucas, Roberta Sue McKenna, Sara Miller, Grace Schroer, Connee Scott, Donna Voth, and Nina Wuestling came from teaching backgrounds. Elrod Survey, *supra* note 240.

243. Sue McKenna recalls that her then-husband, Dennis Hawver '75, signed her up for the LSAT. Sara Miller remembers professors calling on her a lot at first, perhaps because she had been the president of Law Wives when her then-husband, Bruce '70, went to law school and her face was familiar. Helen Dupre went to law school immediately after her husband, Duke, graduated in 1973. Shoko Severt's husband, Dan '76, went to law school after Shoko.

244. It appears that less than ten women in the 1970s had Washburn lawyer fathers — Jamie Corkhill '78 (John '48); Linda Graves '78 (Ron Richey '51); Amy Hackler '79 (Gene '49); Muriel Harris '76 (James Yates '51); Juni Hendrickson Clark '78 (Robert Hendrickson '42); Linda Henry Elrod '72 (Lyndus '48); Jane Isern '77 (Martin '48); Darci Rock '75 (Richard '50); and Sarah "Sally" Shattuck '79 (Willis '40).

245. Technically, Margaret "Peggy" Gatewood has her statistics included with the class of 1973, but she actually graduated after finishing a clinic course in August 2002 and received special permission to take the July bar examination. Conversation with Peggy Gatewood in Topeka, Kan. (Sept. 2003).

246. Elrod Survey, *supra* note 240 (quoting Shoko Severt, survey respondent).

247. *Id.* (Georgann Mefferd, survey respondent). Georgann indicated that she never considered any alternative to law after a high school guidance counselor told her that she was smart enough to do anything and should go to cosmetology school. *Id.* My survey results show that in the time period between 1972 and 1977, about half of those who responded felt that they were treated differently than the men. Before and after that time frame, over 90% felt that they were treated the same. Elrod Survey, *supra* note 240.

248. *Id.* (Sondra Newsom, survey respondent). Starting at age thirty, with a six-month-old baby, Sondra took a part-time load so she could spend time at home.

polite to the women than the men. She also felt that there was a perception that the women who were in law school were extremely bright or they would not have been there. Her biggest complaint, shared by others, was that the only women's bathroom in the school was a converted broom closet with one toilet.<sup>249</sup>

The number of women graduates reached seven (out of 192) in 1974. Marcia Heil Harley Johnston chose to become a lawyer to "save the world, change the government, stop the war."<sup>250</sup> She was the second woman to represent the school in the National Moot Court Competition in 1973 and the first woman selected as a member of the Order of Barristers. She twice represented Washburn in the Jessup International Law Moot Court Competition.<sup>251</sup>

By the 1974-75 academic year, women law students constituted twenty percent of the entering Washburn class.<sup>252</sup> Vicki K. Brittain became the third woman to receive the Nick Cossman Award. In 1975, the number of women graduating more than doubled to sixteen (out of 158), the most women graduates in any single year to date.<sup>253</sup>

Only a couple of married women attended law school before the 1970s, let alone attend with children at home. Roberta Sue McKenna (Sue) may have been the first to give birth while in law school when her daughter was born during spring break of her senior year. She remembers her "feminist" sensibilities being awakened when she read on page one of the property text, "Land like a woman is meant to be possessed."<sup>254</sup> By the mid-1970s, several women had children when they started law school.<sup>255</sup>

Women enrolled in increasing numbers during the 1970s. There were twenty women graduates (out of 194) in 1976;<sup>256</sup> twenty-three

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249. *Id.* Several others, Jane Werholz McAllister, Sue McKenna, and Harriet Gingrich Caplan, also remembered the lack of bathrooms. *Id.*

250. *Id.* (Marcia Heil Harley, survey respondent).

251. She was a member of the team that won the regional Jessup Competition in 1973 and won one round in the national finals in Washington, D.C.

252. Washburn enrollment reflected the same numbers across the country. *See* EPSTEIN, *supra* note 18, at 53. The percentage of women in law school rose from four to twenty percent in less than a decade. *Id.*

253. The 1975 graduates were Karen Barefield, Mary Blessing, JoAn Hamilton, Polly Wilhardt Higdon, Imelda Koett, Victoria Kumorowski, Karen Langston, Jenifer Lucas, Mary McCuskey, Carol Duffy McDowell, Roberta Sue McKenna, Sara Miller, Darci Rock, Sally Stratmoen, Kathryn Mary D'Agostino Wachsman, and Sharon A. Werner.

254. Before going to law school, Sue had taught migrant children in California and taught in Louisiana public schools in the year the federal court ordered integration. She describes her life's path as a quest for social justice. She has worked in private practice, represented children as a guardian ad litem, and is an attorney for the Children and Family Policy Division of the Kansas Department of Social and Rehabilitation Services. Elrod Survey, *supra* note 240 (Roberta Sue McKenna, survey respondent).

255. Christel Marquardt had four children; Sara Miller had two; Jan Montgomery had three; Helen Dupre had one before and one right after; Laurine Kreipe had three; and Marie Johnson had two.

256. The 1976 female graduates were W. Kay Adam, Karen Black, Harriet Elyse Caplan, Janet Chubb, Cynthia Douglass, Helen Dupre, Muriel E. Harris, Susan Marshall, Judith Ann

(out of 191) in 1977;<sup>257</sup> thirty-eight (out of 197) in 1978;<sup>258</sup> but only thirty (out of 171) in 1979.<sup>259</sup> There were a few growing pains with the addition of more women.<sup>260</sup> Amazing, however, is that only a few women remember any type of negative interactions with professors at the law school during the growth period. Women had hit enough critical mass by 1977 that the school catalogue reflected the changed name of the Washburn Law Wives organization to the Washburn Law Partners.

Nola Tedesco Foulston, the District Attorney in Sedgwick County, came to law school to be a trailblazer. She remembers having no problems with her male classmates, but a few of their wives had some reservations about her being in study groups. Nola, Becky Sanders, Elizabeth Herbert,<sup>261</sup> and others presented former Dean John Howe, who taught Domestic Relations, with a live pig with a sign "Male Chauvinist Pig."<sup>262</sup> Joyce Simmons Rubenstein remembers that Professor Jim Ahrens, an avid tennis player, only called on women in his Torts class the day after Billie Jean King defeated Bobby Riggs in tennis.<sup>263</sup>

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McKee, Anita Mortimer, Sondra Newsom, Leslie Rawlings, E. Jolene Rooney, Joyce Simmons Rubenstein, Kathy Marie Sachen-Gute, Susan Shumway, Kathleen Elizabeth Stinson, Janet S. Svoboda, Cathy Ann Talbert, and Ruth West.

257. The 1977 female graduates were Joan Marie Baker, Jeanette Bertelson, Vicki Kelly Brittain, Megan Cate, Rebecca W. Crotty, Nola Tedesco Moore Foulston, Patricia Ann Gorham, Linda Kroll Gutierrez, Cynthia Marie Hartman, JoElaine Heaven, Elizabeth Herbert, Ann Hoover, Nancy Ingle, Jane Isern, Linda Jeffrey, Diane E. Martin, Betty Joan Phelps, Patricia E. Riley, Carol S. Rogers, Nancy Neal Scherer, Brenda Joyce Stidham, Kathy R. Vetter, and Donna Fretz Voth.

258. The 1978 female graduates were Vivian Addam, Denise Bandy, Rebecca Bennett, Kathie Anne Berweiler, Cynthia Lea Burch, Juni Hendrickson Clark, Linda Kay Cooper, Jamie L. Corkhill, Nancy Fursman, Cydni Gilman, Amy Girst, Linda Graves, Karen Griffiths, Sandra Hazlett, Barbara Gayle Heptig, Christine Hutton, Patricia Scalia Jones, Patricia Joseph, Cynthia Jossierand, Carol Laakso, Vivian Wiberg McLeod, Claudia Miller, Gudrun Maria Nickel, Camille Nohe, Maikwe Linda Parsons, Sally Davis Pokorny, Kathleen Marie Rhoades, Dianna Pahls Robb, Rebecca Anne Sanders, Elsbeth Schafer, Anne Elizabeth Schroer, Connee Ann Scott, Diana Kay VanDeHey, Beth Ann Riggert Whittier, Kathryn J. Winters, Teri Wilford Wood, Donna Worley, and Julia Young.

259. The 1979 female graduates were Anne Lamborn Baker, Paula Casey, June Ellen Claydon, Mary Stuckey Cofran, Sandra F. DePriest, Susan Kay Ellis, Annette Eslick, Alice Mary Fitzgerald, LeeAnne Gillaspie, Amy Elizabeth Hackler, Margaret M. Higgins, Mary Vegh Hower, M. Prudence Hutton, Marie A. Johnson, Nanette Louise Kemmerly-Weber, Joan Ruth Knoll, Karen Sue Kyle, Cleo A. Murphy, Ellen Gail Neufeld, Lynn Esther Newmark, Ilene R. Noonan, Cynthia J. Patton, Susan Frances Salisbury, Sarah Bootes Shattuck, Cathryn Louise Thompson, Dorothy Israel Thompson, Linda Joyce Triplett, Adele Ross Vine, Beau Ann Williams, Kathy Lynn Wood, and Nina Ruth Wuestling.

260. Christel Marquardt and Ann Hoover each reported having to recite during a "Ladies Day" event in Professor Fowk's class. Two other women mentioned feeling as if they were not welcome in military law. Anita Mortimer remembers that she was denied financial aid because there were "men" who were serious students and did not have other means for support. Elrod Survey, *supra* note 240.

261. Elizabeth has been in private practice for over twenty years in Topeka.

262. Elrod Survey, *supra* note 240. I credit this group with getting me into family law. I had been teaching Property, Debtor-Creditor, and Agency courses. When John Howe decided not to teach Domestic Relations the year following the pig incident, I picked it up.

263. *Id.* (Joyce Simmons Rubenstein, survey respondent).

In 1977, Washburn graduated its first black females — JoElaine Heaven, Linda Pearl Jeffrey, and Brenda Stidham. JoElaine became the first black female research attorney at the Kansas Court of Appeals, clerking for the Honorable Sherman Parks, the first black appellate judge. Linda worked as an assistant attorney general, County Counselor of Shawnee County, and was the Topeka City Attorney before retiring.

Vivian Wiberg McLeod became the second woman editor of the *Washburn Law Journal* for the 1977-78 academic year; Genie Godfrey the third. Susan Frances Salsbury appears to be the first Hispanic female graduate in 1979. That year Sheila Reynolds and Nancy Maxwell joined the faculty. Both still teach at Washburn.

The women who graduated in the 1970s have had a variety of careers in law.<sup>264</sup> While a few women remember having a tough time finding their initial job,<sup>265</sup> about half, however, reported little difficulty.<sup>266</sup> Many went into private practice.<sup>267</sup> Some took time from private practice to rear children.<sup>268</sup> A few never practiced law.<sup>269</sup> Others started in private practice and then moved into corporate positions.<sup>270</sup> Several women from this decade ended up in Washington,

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264. For example, JoAn Hamilton served on the Kansas Parole Board from 1983 to 1989 and served in the Kansas House of Representatives; Carol Duffy McDowell practiced law, served as Executive Director of the Kansas Trial Lawyers Association, and later became a lobbyist.

265. Anita Mortimer, Ann Hoover, Carol Lyon Rogers, and Nancy Scherer indicated that they had more difficulty getting jobs than their male classmates, even with better grades. Anita became a prosecutor. Ann worked as a research attorney for Chief Justice Alfred Schroeder and has practiced law in Topeka for twenty-five years. After working for U.S. Senator Jim Pearson, Carol moved to Dallas, Texas, and worked in corporate law until she retired in 1995. Nancy has practiced in a small firm doing estate planning and probate work. Pat Scalia, now head of the appellate defender project, went into private practice because she had difficulty being taken seriously. Elrod Survey, *supra* note 240 (survey respondents).

266. For example, Nola Foulston was hired immediately as an assistant District Attorney; Connee Scott became an attorney for a bank; Cyd Gilman worked for legal aid before becoming a federal public defender. *Id.* (survey respondents). Cyd Gilman worked for legal aid before becoming a federal public defender.

267. Linda Richey Graves was in private practice, specializing in real estate transactions with a Kansas City law firm before serving as First Lady of Kansas from 1995-2003; Vivian Wiberg McLeod has practiced in Kansas City since graduation; Kathy D'Agostino Wachsmann practiced with a medical malpractice firm near New York City; Patti Graham worked in oil and gas.

268. *Id.* (Cindy Patton, Nina Kanning Wuestling, survey respondents).

269. Juni Hendrickson Clark never practiced law, but started with a Fortune 500 company in Seattle and now owns her own hotel management company. *Id.* (Juni Hendrickson Clark, survey respondent).

270. *See generally* WASHBURN LAW., Fall/Winter 2002-2003, at 16-20, 22. Sara Miller has worked for years with Northwestern Mutual Life Insurance Company in Milwaukee. Teri Wilford Wood, married to John Wood '78, worked in private practice litigation as an associate and served as an administrative judge at the United States Equal Employment Opportunity Commission before becoming managing counsel for American Express. She currently works as Associate General Counsel for IBM.

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D.C.<sup>271</sup> Others became judges.<sup>272</sup> Some taught or earned advanced degrees.<sup>273</sup>

Washburn women made inroads into a variety of fields. Joyce Simmons Rubenstein spent three years in Navy JAG before becoming the first female attorney at the Johnson Space Center, working for NASA.<sup>274</sup> In 2004, she received the NASA Exceptional Service Medal “in recognition of her outstanding contributions to the Human Space Flight program in the area of contract law.”<sup>275</sup> Washburn women were the first to be selected as research attorneys for the Kansas Supreme Court<sup>276</sup> and the newly formed Kansas Court of Appeals.<sup>277</sup>

By the end of the decade of the 1970s, women ceased being novelties. More women had graduated than in the preceding seventy years. At Washburn there were 157 women graduates.

#### H. *The Gates Are Opened in 1980s*

*Washburn was unique — Its nontraditional students, its many age groups and various cultural backgrounds contributed to a richer educational experience.*<sup>278</sup>

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271. Darci Rock, after clerking for United States District Judge Frank Theis, became a leading litigator, specializing in asbestos cases in the Washington, D.C. offices of the Houston-based firm of Bracewell & Patterson. Imelda Koett served as a deputy counsel for the Bureau of Tobacco, Alcohol, and Firearms in Washington. Sally Stratmoen also works in D.C. at the Department of Agriculture. Jenifer Lucas (Ewbank) has worked for the Federal Energy Regulatory Commission, which regulates interstate transportation of electricity, natural gas, and oil, for over a decade.

272. See e.g., Muriel Harris (District Judge, Wyandotte County); Karen Langston (District Judge, Sedgwick County); Polly Wilhardt Higdon (Bankruptcy Judge, Oregon); Rebecca Crotty (District Magistrate Judge, Garden City); Diana VanDeHey (Municipal Court, Longmont, Colorado).

273. Helen Dupre taught in the legal writing program at the University of Arkansas Little Rock for several years in the 1980s; Christine Hutton, after receiving her LL.M. from Harvard, joined the faculty at the University of South Dakota in 1984; Vicki Brittain is a Professor and Chair of the Political Science Department of Southwest Texas State University in San Marcos. Victoria Kumorowski, who practiced in Hutchinson and served as a District Court Judge, earned a LL.M. in Tax, a LL.M. in Judicial Studies, a Masters of Divinity; and is working towards a certificate in Bioethics. Letter from Victoria Kumorowski, Associate Director of Pastoral Care in Ohio to Linda Elrod, Professor of Law, Washburn University School of Law (Sept. 12, 2003) (on file with author).

274. She says she has gone from being a “lady lawyer” to just a lawyer. Elrod Survey, *supra* note 240 (Joyce Simmons Rubenstein, survey respondent).

275. *Class Actions*, WASHBURN LAW, Fall '03/Winter '04, at 44.

276. Letter from Carol Green, Clerk of the Kansas Supreme Court, to Linda Elrod, Professor of Law, Washburn University School of Law (Sept. 15, 2003) (on file with author). The following women worked as research attorneys for the respective justices: Peggy Gatewood — Justice Owsley, Sept. 1972-Aug. 1974; Helen Dupre — Justice Alex Fromme, Sept. 1976-Aug. 1978; Rebecca Crotty — Justice Richard Holmes, July 1977-Feb. 1979; Ann Hoover — Chief Justice Alfred Schroeder, Aug. 1977-Apr. 1979; Julia Young — Justices Perry Owsley and Harold Herd, Sept. 1978-July 1981; Mary Stuckey Cofran — Justice David Prager, Aug. 1979-July 1981; Anne Baker — Justice Robert Miller, Aug. 1979-July 1980.

277. Janet Chubb became the first female research attorney for the newly formed Kansas Court of Appeals, working with Chief Judge Jerome Harman.

278. Elrod Survey, *supra* note 240 (paraphrasing Susana Valdovinos '88, survey respondent).

Women came to law school in increasing numbers in the 1980s, making the classes at least forty percent women.<sup>279</sup> By the mid-1980s, Washburn had five women in professor positions and numerous women as adjuncts.<sup>280</sup> Women for the most part felt as if they were accepted as equals. With a few exceptions, the men at Washburn have welcomed and supported their women classmates.<sup>281</sup> When the hiring partner of one Wichita law firm failed to interview any of the outstanding women candidates one year, a number of men elected not to interview with the firm.<sup>282</sup>

By the 1980s, it was common for mothers to go to law school.<sup>283</sup> Melissa Ness recalls a conversation with the commencement speaker, Supreme Court Justice Harry Blackmun, who wrote the majority opinion in *Roe v. Wade*. She was eight months pregnant and had attended a small group session with the Justice and mentioned her involvement with the Kansas Chapter of National Abortion Rights Action League. Justice Blackmun walked up to her and her husband at graduation and asked when the baby was due. He then turned to her husband Larry and said, "Take care of her and this baby . . . they've got important work to do."<sup>284</sup>

Susette Schwartz, a mother with four children, including a newborn, appears to be Washburn's first Native American<sup>285</sup> female graduate in 1985, although she did not discover her Osage Indian heritage until later in life. Susie was at the heart of one of the more humorous incidents that resulted from the increasing number of women attending law school — not enough bathrooms. When she complained about not having enough women's bathrooms, a new group was born: WOMBS — Women Ordering More Bathroom Stalls. WOMBS filed petitions and threatened a takeover of the men's bathrooms. Susie

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279. In 1980, forty-two women graduated; thirty-nine in 1981; fifty in 1982; forty-five in 1983; sixty-five in 1984; fifty-seven in 1985; fifty-nine in 1986; sixty-two in 1987; forty-nine in 1988; and thirty-eight in 1989. Washburn University List of Women Graduates (September 2003) (on file with author).

280. Professor Charlene Smith, Clinic Director Nina Tarr, and Professor Cathy Lesser Mansfield arrived in the 1980s.

281. Elrod Survey, *supra* note 240. Pamela Hays Stabler felt she was "one of the boys" although she was the only female masthead editor on the Volume 20 law journal staff. She vividly remembers the editor in chief's bachelor party, which included a Royals' game and partying in Westport before concluding at Charlie Hall's gentlemen's club in Topeka.

282. CONCANNON, *supra* note 139.

283. Of the ninety-five responses that I received, forty-five were married and mothers while in law school. For example, Ann Smith had five children; Paula Hurt had four children and was pregnant, commuting first from Emporia and then from Olathe; Brenda Hoyt Braden had four children as did Susie Schwartz; Mary Beth Mudrick had two; Jane Holt was a single mother with one child. Elrod Survey, *supra* note 240.

284. Melissa Ness, *Legal Odyssey*, *supra* note 109. In response to the survey, Melissa noted, "The skills, perspectives, friendships, shared knowledge and opportunities to make a difference are richer because of my legal education." Elrod Survey, *supra* note 240 (Melissa Ness, survey respondent).

285. It is difficult to know for sure because until the last two decades, there were not ways to identify ethnicity.

remembers the Men's Legal Forum drew a cartoon of her sitting on a toilet and posted it all over the school.<sup>286</sup> Dean Monk averted the crisis by ordering new fixtures.<sup>287</sup>

The 1980s was the first decade with several Hispanic female graduates. These women have followed differing career paths. Anna Juarez, the second Hispanic female graduate in 1983, went to New Mexico to practice law and served as the managing attorney for El Refugio Legal Services, a program which provided free legal assistance to victims of domestic violence. Lillian Apodaca, a partner in an Albuquerque law firm practicing in business and commercial litigation, served as President of the Hispanic National Bar Association for 1998-99. Lisa Mendoza worked at the Department of Corrections before becoming the general counsel for the Kansas Juvenile Justice Authority.<sup>288</sup>

During this decade, two women accepted work at the law school in other capacities and then decided to become lawyers. Guen Villarreal was hired as a law librarian in 1978. She married Allen Easley, a faculty member, in 1980, and started law school one month later.<sup>289</sup> Susana L. Valdovinos launched Washburn's Mediation Clinic in 1985 and then decided to attend law school.<sup>290</sup>

The women lawyers in this decade had an abundance of work options. It appears about half of the women chose private practice,<sup>291</sup> some chose government work,<sup>292</sup> while others joined corporations.<sup>293</sup>

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286. Elrod Survey, *supra* note 240 (Susette M. Schwartz, survey respondent). Susie first worked for Boeing before opening a business called Compliance Associates. She then went into employment and health law and is CEO of the Hunter Health Clinic in Wichita, Kansas. She noted that a law degree is the "best degree you can have because it is so flexible." *Id.*

287. *Dean's Order Averts Restroom Takeovers*, TOPEKA CAP.-J., Oct. 24, 1984, at 1.

288. *Class Actions*, *supra* note 275, at 45.

289. Guen worked for the Kansas Attorney General for over eighteen years before moving to Minnesota in 2004.

290. She came from Mexico to Kansas as a graduate student, married, and stayed. After a divorce, she completed a fellowship program at the University of Wisconsin in Madison in 1989, married Washburn professor Michael Kaye, and taught at Whittier Law School. She hated writing law review articles and came back to Kansas where she was an assistant county counselor before working at the Affirmative Action Office at Kansas State University. Susana Valdovinos, *Legal Odyssey*, *supra* note 109.

291. For example, Linda Parks worked as a business litigator and the only female partner at Kahrs, Nelson for eleven years. She is currently managing partner at Hite, Fanning & Honeyman. Shirley Calvin is in private practice in Garden City, Kansas; Terry Mann practices in the employment litigation area with Martin, Pringle in Wichita, Kansas; Karen Shelor has been in private practice in Kansas City, Kansas, and Johnson County for over twenty years; Linda DeWitt is with a small firm in a smaller community.

292. For example, Nancy Landis Caplinger is an assistant United States Attorney in Topeka; Janice Ueoka Kemp '83 is the Deputy Director of the Hawaii Department of Human Resources; Jill Wolters '86 has worked for the Kansas Revisor of Statutes since graduation; Anna Moretto became a civil rights attorney dealing with discrimination in educational institutions with the OCR at the United States Department of Education; Nola Wright '84 works for the Kansas Attorney General.

293. For example, Sue Jean White '80 is general counsel of Shell Chemical, a division of Shell Oil in Houston, Texas, supervising a staff of over thirty attorneys. She has served on the Washburn Law School Board of Governors. *Profiles of Women in Leadership*, WASHBURN LAW., Fall/Winter 2002-2003, at 14, 17. Jane Chandler Holt '85 has worked for Blue Cross for twenty years

By the mid-1980s, many women had clerked for state agencies or law firms and had little trouble getting their first job.<sup>294</sup>

Several women from the 1980s have been appointed to or elected to the bench.<sup>295</sup> Marla Luckert, a partner with the Topeka law firm of Goodell, Stratton, Edmonds, & Palmer, became a District Court Judge in Shawnee County in 1992. She was the second woman president of the Kansas Bar Association, and in 2003, became the second woman appointed to the Kansas Supreme Court. Quintress J. Gilbert is Washburn's first African-American woman to become a judge, serving as a Juvenile Judge for three counties in Georgia.<sup>296</sup>

Carol Gilliam Green, a Nick Cossman award recipient in 1979-80, became the first woman appointed to hold the office of Clerk of the Kansas Supreme Court.<sup>297</sup> Brenda Hoyt Braden became the first woman to be the Deputy Attorney General for the Criminal Division in Kansas.<sup>298</sup>

A few women from the 1980s found their way into academic positions at Washburn.<sup>299</sup> Jalen O'Neil Lowry, after clerking for Kansas

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and was recently named General Counsel for Blue Cross Blue Shield of Kansas. E-mail from Jane Holt, Associate General Counsel, Blue Cross Blue Shield of Kansas, to Linda Elrod, Professor of Law, Washburn University School of Law (Apr. 1, 2003) (on file with author). Laura Ice '84 is an assistant general counsel with Cessna Finance Corporation in Wichita, Kansas. Kris Schleman works for a top four accounting firm in the international corporate tax area in Washington, D.C.

294. For example, Melanie Caro had clerked for the Kansas Department of Revenue for two years and worked there for five years after graduation before becoming an assistant United States Attorney. Kelly C. Brown had no trouble finding a job because the senior partner liked hiring women because they paid more attention to detail. She has practiced in areas of mental health, veteran's rights, and children. Alison Lindsay Brookins '86 went back to the law firm where she had been a paralegal; Rebecca Rice was hired before graduation because of her lobbying experience. Elrod Survey, *supra* note 240 (survey respondents).

295. Nancy Parrish, once a Kansas State Senator, was appointed in 1994 as a District Court Judge in Shawnee County. She also became chair of the Kansas Supreme Court Advisory Committee on Child Support Guidelines after the death of the Honorable Herbert Walton. Jean Schmidt '84 was appointed to the Shawnee County District Court in 2003, and Evelyn Zabel Wilson in 2004. Kim Parker was on the district court bench in Sedgwick County before becoming a district attorney. Donna Kay Dixon is a district court judge in Roseau County, Minnesota.

296. As a teenager, she helped integrate an all-white female high school in the 1960s. After graduating from Mercer College, she worked at Sears Roebuck before entering law school in 1986. *Profiles of Women in Leadership*, *supra* note 293, at 14.

297. Carol Green indicated that she has not experienced gender discrimination and any skepticism encountered has been dispelled by performance. Elrod Survey, *supra* note 240 (response including letter from Carol Green, survey respondent).

298. She notes that Attorney General Bob Stephan made her life easier by informing the KBI and criminal justice community that they had to cooperate with her. *Id.* (Brenda Hoyt Braden, survey respondent).

299. Laurine Kreipe headed the Paralegal program at Washburn immediately after graduation; Kay Rute became an Associate Professor in the School of Applied Studies at Washburn after years as an administrative law hearing officer; Despo Baltoumas-MacNeill '84 teaches at a small community college. Elrod Survey, *supra* note 240. Shelley Ryan '87 taught as a visiting professor at Washburn from 1990-92, earned an LL.M. at Harvard, and has taught in Oklahoma and South Dakota. Joyce McCray Pearson '89 completed her MLS and was Associate Director of Louisville Law Library before becoming a Professor of Law and Director of the Law Library at the University of Kansas School of Law. Janet Kerr '87 was Director of Admissions at Washburn Law School for over a decade before going to work with the Kansas Department of Social and Rehabilitation Services.

Supreme Court Justices Harold Herd and Robert Miller, taught Civil Procedure, Criminal Law, and Legal Research & Writing as a Visiting Professor at Washburn for almost eleven years. Lynette Petty started teaching in the Washburn Clinic in 1992 as a visiting professor. Lyn Goering, who was editor of the *Washburn Law Journal* in 1986-87, was hired to teach in the legal writing program in 2003.

Several other Washburn law graduates have served as adjuncts. Two have been adjunct professor of the year. Terri B. Bezek, who heads the Central Research Staff for the Kansas Appellate Courts, has been an adjunct professor for Conflicts of Law several times. She earned the Outstanding Adjunct Professor of the Year Award in 1999, 2001, and 2002. Jane Lindhout was an administrative hearing officer in Shawnee County and taught pretrial advocacy at the law school for several years before moving to Utah. She also received the outstanding adjunct award.

There were still some firsts to be had in the 1980s. Donna White-man became the first woman majority leader in the Kansas House of Representatives. Nanette L. Kemmerly-Weber believes she was one of the first female lawyers in Allen County in 1982 and the first female County Attorney. Alice Devine graduated in 1986, earned an LL.M. in agricultural law and worked in Washington, D.C. before becoming the first woman Secretary of Agriculture in Kansas under Governor Bill Graves.

### J. *The 1990s*

*I wanted to be a lawyer since I was nine years old.*<sup>300</sup>

Perhaps one of the biggest differences for the women of the 1990s was that they had never experienced the difficulties that faced the women who tried to enter the profession prior to the 1970s. The women of the 1990s had role models so that they could actually think about being a lawyer as a child. Many indicated that being a lawyer was a lifelong dream.<sup>301</sup> They had attended colleges in equal numbers with the men and were nearly half of every law school class.

Many women in the 1990s were mothers with young children.<sup>302</sup> Ainka Kweli remembers how kind the professors were in allowing her child to come to class when her caregiver fell through.<sup>303</sup> Jan Doran noted that being a mother frequently gave her confidence to make it

300. Elrod Survey, *supra* note 240 (quoting Sue Ann Jantz Goossen '91, survey respondent).

301. Those women were Mitzi Alspaugh, Juanita Carlson, Patrice Petersen-Klein, Linda Knak, Kathy Rein, Jennifer Sesta Blichasz, Deborah Stern (high school dream realized by the time she had been out of high school twenty-five years), Ellen Tracy, and Shelly Wakeman. *Id.*

302. Of the fifty-two who responded, twenty-five had children when they started law school and two had children during school. Paula Rank remembers bringing her baby to class. *Id.*

303. Interview with Ainka Kweli '94, Women Attorney's Conference in Lindsborg, Kan. (July 2003). Ainka is now an administrative law judge.

through law school and reminded her that there was a real life beyond the classroom.<sup>304</sup> Unlike women before the 1970s, seventy-nine percent of the women of the 1990s indicated that a law career was not a factor in marrying and having children.<sup>305</sup> One 1991 graduate did remember that law firms were reluctant to hire her because she was pregnant when she interviewed.<sup>306</sup> As to combining careers and family, some women delayed having children until their careers were started.<sup>307</sup>

Washburn continued to attract a diverse student body with varied backgrounds. Women had been teachers. One had worked in the Peace Corps.<sup>308</sup> Several were older.<sup>309</sup> Some had specific goals. For example, Mary Virginia Moore Johnson (Ginny) started law school at age forty-five wanting to teach law. She founded and funded the Non-traditional Law Student Network.<sup>310</sup>

Most of the graduates had clerked and had little difficulty finding jobs.<sup>311</sup> By the 1990s more complained about “age” rather than gender discrimination. One woman recalls that being an older woman made it difficult to get interviews and jobs — one attorney stated that he did not want to hire a woman near menopause!<sup>312</sup> With few exceptions, the women in the 1990s had an easier time finding work because firms sent women partners and associates to interview.<sup>313</sup>

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304. Jan Doran '96 says she entered law school with a two-year-old “terror female child.” Elrod Survey, *supra* note 240 (Jan Doran, survey respondent).

305. *Id.*

306. *Id.* (Paula Rank, survey respondent). Paula practices with a firm where a woman attorney hired her when she was pregnant with her second child.

307. *Id.* (Julia Dudley Rivera '87, survey respondent).

308. Joyce Grover served in the Peace Corps in the Philippines and worked various jobs before finding her niche with Women's Transactional Care Services in Lawrence. She started law school at age thirty-seven. After serving as research attorney for Chief Justice Kay McFarland, she became Legal Advocacy Coordinator of the Kansas Coalition Against Sexual and Domestic Violence and teaches Domestic Violence as an adjunct at Washburn Law School. Cynthia Tinsley, a former hairdresser, started law school at age thirty-eight, the year her daughter started college and her son high school. “If college gave me more confidence and language, law school gave me more tenacity and punctuation.” *Id.* (Cynthia Tinsley, survey respondent).

309. Many women started law school in their mid-thirties or older — Mitzi Alspaugh, Juanita Carlson, Brenda Kelley, Patti Petersen-Klein, Linda Knak, Susan Loy, Gail Mayer, Ginny Moore, Mary Ann Shirley, Deborah Stern, Ellen Tracy, and Suzan Tucker.

310. She thought a law degree would be “invaluable in helping her achieve the goal of teaching law.” *Id.* (Mary Virginia Moore Johnson, survey respondent). She now teaches Business Law at Southeast Missouri State and is also a court appointed mediator and supervises law interns. *Id.*

311. Shelly Wakeman had offers from both of her clerking jobs. Deborah Huth '91 and Kaylene Brin '92 also worked where they clerked. *Id.*

312. *Id.* (anonymous survey respondents).

313. There was one horrific story about a criminal defense attorney with pornography on the wall during the interview with a young female graduate, and one interviewer asked a woman how many children she planned to have. Respondents wished to remain anonymous. *Id.*

Several women in the 1990s have made their careers in the business world.<sup>314</sup> Many have become principals in firms in private practice.<sup>315</sup> A few have already become judges.<sup>316</sup>

I took over as Editor of the *Family Law Quarterly*, a publication of the American Bar Association Section of Family Law in 1992. Three of the first four student editors were women. Those first years were difficult because we had to start at the beginning. We had to figure out what types of computers we needed; we had to develop procedures for selecting and training staff. Rose Mulvany eliminated my first hard task — finding a student editor — by volunteering and getting Mark McMillan to help with the law in fifty states issue. Even though Rose's interests were in other subject areas, she saw the importance of bringing another journal opportunity to Washburn's students. Laura Smithson-Corl, who came to law school with college-age children, used her extensive computer skills to create programs to make researching easier and stayed for two years as editor. Mike Montero, the first male student editor, was an officer in the Law School Division of the American Bar Association. In addition to upgrading the office computers, he introduced business management concepts and talked Lori Mays Rinaldi, also a business person, into following him as editor.<sup>317</sup> By the end of the first few years, the machinery and students were in place to efficiently edit a 226 page publication four times a year. Through the last ten years, several women and men have helped to establish the *Quarterly* as a respected national publication.<sup>318</sup>

### K. *The Legacies*

*I was a fourth generation Washburn Law Graduate.*<sup>319</sup>

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314. For example, Tracy D. Rockney is the Director of Worldwide Regulatory Affairs for Wyeth Pharmaceuticals. *Women from Washburn Are Making an Impact*, WASHBURN LAW., Fall/Winter 2002-2003, at 18, 20. Donna Lance serves as a commercial transactions attorney with Koch Industries. *Profiles of Women in Leadership*, *supra* note 293, at 15. D. Jeanne Clark '85 is a liability claims supervisor with Sedgwick Claims Management in Omaha, Nebraska. *Alumni Achievements*, WASHBURN ALUMNI, Summer 2000, at 26.

315. For example, Lynn Ward is a principal with Morris, Laing in Wichita; Sarah Loquist is an associate with Hinkle Elkouri Law Firm in Wichita; Gwynne E. Harris Birzer went into private practice after being an assistant district attorney in Shawnee County; Kathy Rein is with Stull & Rein in Pratt, Kansas, and; Jenifer Sesta Blichasz is with a small firm in Tampa, Florida.

316. Amy Harth, who graduated in 1994, was appointed a District Court Judge in Paola, Kansas.

317. Lori earned a J.D. and a M.B.A. at Washburn. After serving as a judicial clerk and in private practice, she became in house counsel for Progressive Insurance Company. *Women from Washburn Are Making an Impact*, *supra* note 314, at 20.

318. The student editors have been Nina Atencio, Raylene Ballard, Rod Brown, Wade Bowie, Donalea Denton, Jamee Fritzeimer, Jennifer Grier, Judy Humphrey, Chris Kellogg, Andrew Kynaston, Travis Lamb, Laura Lewis, Amory Lovin, Myrna Marca, Mark McMillan, Mike Montero, Sarah Novascone, Tina Powers, Elizabeth Sweeney, Tiffany Tant, and Jeffery Wells.

319. Elrod Survey, *supra* note 240 (Lisa Adrian McPherson, survey respondent). Her father, Tom Adrian, graduated in 1969 and her grandmother, Bessie Mae Wills McIntosh, graduated in

Washburn has always had a strong tradition. Just as many men have come to law school because their fathers, brothers, or uncles graduated from Washburn, so too have many women come to Washburn because of their relatives. Kelly McDonald, who will graduate in the Centennial class of 2006, is the great-granddaughter of a member of the first graduating class in 1906 — Hugh McFarland.<sup>320</sup>

Several families have had multiple generations attend Washburn Law School. Sarah Smith Henson, who graduated in 1985, had a grandfather, William Smith (class of 1914), who served as a justice on the Kansas Supreme Court, a father, Don (class of 1950), who served as a district court judge in Dodge City, an uncle, Walker (class of 1948), and a brother, Don Jr. (class of 1979), who all attended Washburn Law School. There are several other women who have family connections with Washburn Law School.<sup>321</sup> Additionally, when Janice T. Ueoka Kemp of Hawaii graduated in 1983, she was part of a long line of alumnae relatives, starting with her father, Meyer, who graduated in 1949.<sup>322</sup>

As noted previously, many women law graduates had lawyer fathers.<sup>323</sup> There are a few graduates with a mother alumna — Sarah

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1940; D.E. McIntosh also graduated from Washburn. Her husband, Boyd McPherson, graduated from Washburn in 1992.

320. *Family Legacies*, WASHBURN LAW., Fall '03/Winter '04, at 26. Hugh McFarland started law school spelling his last name MacFarland. WASHBURN COLL. SCH. OF LAW, WASHBURN COLLEGE BULLETIN 20 (May 1904). He had changed the spelling the next year. WASHBURN COLL. SCH. OF LAW, WASHBURN COLLEGE BULLETIN 21 (Apr. 1905).

321. Anne Garlinghouse had a father (Wendell), uncle (Mark), and grandfather (Louis F.) who were Washburn graduates; Robyn Euler Johnson had a father (J.D.) and an uncle (Jack); Rebekah (Whiteford) Crawford had a sister (Lou Bjorgaard Probasco), as did Marie Landry (Patricia Hamilton); Brenda Kelly had a brother (Dan); Ann Hastings Frigon had a Washburn graduate husband (Don), father-in-law (Bernie), and brother-in-law (Brad); Jackie Rokusek had a cousin (Ron Laskowski), as did Gwen Anderson (Steven Sanford) and Mary Stanley (Jerry Berger); Pamela Hays Stabler had an uncle (Max Hall) and cousin (David Hall) and Christy Harris had an uncle (Michael Harris).

322. Other Washburn law graduates in Jan's family are Arthur Ueoka '62; Paul Ueoka '74; Robert Ueoka '96.

323. In addition to those listed *supra* note 244, among the fathers and daughters are Kathryn Barnett '85 (Jim Barnett '59); Amie Bauer '04 (Cal Williams '78); Candace Brewster '99 (David '68); Michelle Brown '93 (J. Patrick Brazil '62); Jacqueline Butler 2003 (Terry Fuller '79); Beverly Byrne '86 (Rae Batt '50); Sharon Caplinger Keyes '84 (James Caplinger '53); Linda Kelly Coates '81 (Thomas Kelly '48); James Corkill '78 (John '48); Stacey Dungan '87 (William Cook '59); M. Jill Dykes '93 (L. Frank Dougan '56); Barbara Enright Nordling '97 (William Enright '69); Barbara Pringle Erker '82 (Richard Pringle '51); Joni French '81 (Clarence King '57); Janet Frickey '80 (Norton Frickey '51); Anne Garlinghouse '85 (Wendell '31); Candace Gayoso '99 (David Brewster '68); Kim Green 2005 (Gerald Green '78); Catharine Gray 2001 (David Gray '76); Jeannine Haag '82 (Lloyd Haag '49); Jane Hanisch '83 (William Bunten '56); Samantha Harrington '01 (Bruce Harrington '68); Sarah Henson '85 (Donald Smith '50); Amy Hyten '98 (stepfather Pat Nichols '77); Robyn Euler Johnson '88 (Jesse Euler '65); Janice Kemp '83 (Meyer Ueoka '49); Shannon Krysl '80 (Stanley Krysl '43); Susan McKinney '81 (E. Gene McKinney '54); Laurie McKinnon '97 (John McKinnon '62); Lisa McPherson '94 (Thomas Adrian '69); Lisa Mendoza '84 (Manuel Mendoza '58); Angelyn Miller '98 (Bruce Borders '69); Sarah Miller 2004 (Darrell Miller '72); Kari Milliken '96 (James Milliken '69); Stacie Needham '95 (John Sanders '69); Lauri Newton '87 (Bobby Newton '56); Katharine O'Keefe '94 (Maurice O'Keefe '53); Linda Pfalzgraf '81 (Harold Pfalzgraf '62); Margie Phelps '81, Shirley Phelps-Roper '82, Abigail Phelps '91, Elizabeth Phelps '85, and Rachel Phelps '80 (Fred Phelps '64); Charisse Powell '99 (stepfather Dan Walter '77); Amy Raymond 2002 (William Shreffler '78); Jane Sieve 2005 (Phil

Foster (class of 1989) (Jerry Tribble Foster, class of 1958); Amy Girard-Brady (class of 1996) (Barbara Girard, class of 1988); Melissa Doeblin (class of 2005) (Christel Doeblin, class of 2001). Esther Digh (class of 2000) went to law school after her daughter, D. Karen Digh Qualls graduated in 1984.

I could find only three women, Angela Bloomer, Jennifer Crow, and Brandy Porter, with both a mother and father who were Washburn law graduates.<sup>324</sup> At least two men have had both parents be Washburn law graduates — John Shaffer (Mabel and Don) and Bill Roy (Jane and Bill). Jill Bremyer-Archer and Laura Ice both are fourth generation lawyers, just not from Washburn. They are starting their own legacies.<sup>325</sup>

### L. *The Couples*

*I replaced my husband as assistant county attorney.*<sup>326</sup>

Washburn Law School has had hundreds of couples who have gone to school either together or following each other. It would be impossible to locate and name them all because names have changed and there have been numerous divorces and remarriages. Starting with Mabel Jones, the 1918 graduate, who married Don Shaffer, Washburn Law School has seen many couples who have met and married classmates.<sup>327</sup> Several husbands and wives attended law school at the same time.<sup>328</sup> In other instances, the husbands had completed school a few years before the wives went to law school or vice versa.<sup>329</sup>

## V. REFLECTIONS OF HOW TIMES HAVE CHANGED

*Outcome is influenced by confidence and professionalism rather than gender.*<sup>330</sup>

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Sieve '67); Ann Smith '82 (Woody '67); Kala Spigarelli Smith '90 and Angela Spigarelli '98 (Fred Spigarelli '70); Stephanie Spring '84 (Raymond Spring '59); Debra Traster '91 (Donald Concannon '52); Meghan Voracek 2002 (William O'Keefe '67); Stephanie Weeast '95 (Stanley Antrim '65); Heather Wilke 2000 (Kenneth Wilke '68).

324. Angela Bloomer 2001 (Robert '73 and Shelley Bloomer '74); Jennifer Crow 2001 (Michael '73 and Martha Crow '93), and Brandy Porter 2000 (Steven Blackwell '85 and Julie McKenna '82).

325. Elrod Survey, *supra* note 240.

326. *Id.* (quoting Ann Smith, survey respondent).

327. For example, Claudette Borchers, Barbara Pringle Erker, Lauren Lowry, Amanda Bunden McNelley, Stephanie Spring (Henry Cox), Sara Ravenhill Stratton, and Nina Kanning Wuestling met their husbands in law school.

328. *See, e.g.*, Kay Arvin '51 (Lester); Mary Corbett '47 (Bob); Rebecca Crotty '77 (Doug); Linda DeWitt '89 (Daniel); Marla Luckert '80 (Ken Morse); Jane Roy '70 (Bill).

329. *See, e.g.*, Stacey Cooper '97 (David '94); Shelley Bloomer '74 (Bob '73); Marti Crow '92 (Mike '73); Helen Dupre '76 (Duke '73); Sara Miller '76 (Bruce '70); Nancy Parrish '84 (Jim); Patti Petersen Klein (Rick); Janet Haverkamp '79 (Bryce).

330. Elrod Survey, *supra* note 240 (paraphrasing Linda Dewitt, survey respondent). Similar comments were made by several women, including Anita Mortimer and Paula Kidd Casey, who indicated that demeanor, experience, and preparedness, determined how judges, lawyers, and others respond to them.

Women from the 1970s have seen the greatest changes in the acceptance of women in the profession. When Grace Schroer began practicing in 1973 in a small firm in a small town, some of the older men seemed amazed. The young attorneys, however, thought it was no big deal and Grace did not find that gender influenced how judges, attorneys, or juries reacted to her.<sup>331</sup>

Responding to whether she has noticed a change in how attorneys and judges react to her, Marcia Johnston, however, responded, "Are you kidding? Night and day springs to mind."<sup>332</sup> When she graduated, she and classmate Jane Werholtz McAllister opened the first all-female law practice in Topeka because no Topeka law firm would hire them.<sup>333</sup>

Christel Marquardt also has seen a dramatic change in the law firm climate for women. Although she graduated eleventh in her class in 1974 and served as managing editor of the law journal, she initially found it difficult to get a job with a law firm. She did become a partner with Cosgrove, Webb, and Oman, but has said that she felt that she was treated differently than the young, male lawyer hired at the same time who was invited to lunches, dinners, golf, and tennis outings, and offered membership in the, then all male, Lawyers' Club.<sup>334</sup> Christel succeeded in private practice, however, and became the first woman President of the Kansas Bar Association and the third woman appointed to the Kansas Court of Appeals in 1995. Christel served fourteen years as a member of the Board of Governors of the school's alumni association, as its second woman President from 1998-2000, and received the Distinguished Service Award from Washburn in 2004.

Joyce Simmons Rubenstein, who graduated in 1976, recalls answering an ad in the placement office for a law clerk. The sole practitioner said, "When I placed the ad, I'd forgotten that the fairer sex might be in law school."<sup>335</sup>

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331. Grace Shroer states, "I did well with juries — I think because of the kind of person I am, but of course, being a woman made me that kind of person." She retired in 1995. *Id.* (Grace Schroer, survey respondent).

332. *Id.* (quoting Marcia Johnston, survey respondent).

333. Marcia went on to become a partner in one of Canada's largest law firms. She now practices internationally in Calgary, Alberta, Canada, in corporate and securities law. *Profiles of Women in Leadership*, *supra* note 293, at 14. Jane became a partner in a law firm doing criminal, environmental and real estate work in Des Moines, Iowa.

334. Elrod Survey, *supra* note 240 (Christel Marquardt, survey respondent). After fighting to be listed, she earned an A-rating in Martindale-Hubbell. From 1986 to 1991, she was part of Palmer, Marquardt, and Snyder. She then practiced with her son, Andrew '92, in Johnson County.

335. *Id.* (Joyce Simmons Rubenstein, survey respondent). She asked if that meant he would not even accept an application from a woman. He replied affirmatively. She complained to the part-time student director of placement, but nothing was done because he was an alumnus and it was a job opportunity — for a male. As noted earlier, Joyce went on to become the first woman attorney hired by NASA.

JoAn Hamilton has noted extensive changes since she first started working with the Shawnee County District Attorney's office in the 1970s. She remembers the male-dominated defense bar filed affidavits of prejudice because they believed a woman would not be able to defend rape victims! Chief Justice Kay McFarland, then a District Judge, suggested that if JoAn could not represent the State for the victims, then male attorneys could not represent male defendants. The issue was dropped. Even as late as the 1990s, JoAn felt that a different standard seemed to apply to women district attorneys as jurors felt free to criticize women's, but not men's, hair color or style, runs in stockings, and even weight.<sup>336</sup>

Kim Dombrowski remembers early in her practice a judge criticized her for wearing toenail polish under her hose and open toe pumps.<sup>337</sup> Cyd Gilman notes that when she started practicing in 1978, it was unusual to see a female attorney in the courtroom. She notes with pride that she recently appeared in federal court in a case where the judge, the prosecutor, the defense attorney, and the probation officer were all women.<sup>338</sup>

Several women commented that sometimes being a woman meant that men underestimated their abilities, which worked to their advantage.<sup>339</sup> One alumna indicated that being "young, thin and attractive" led to being treated like a child until she opened her mouth and quickly gained respect.<sup>340</sup> While a few women noted that there are still some attorneys and judges from the "old school" (pre-1970) who are demeaning to women lawyers,<sup>341</sup> most of the graduates within the past fifteen years felt they had received equal, if not better, treatment.<sup>342</sup> Women in corporate practice and in government seem to have had the fewest complaints over all. A couple of women attorneys who practice in smaller towns indicated that there remains some resistance to females serving in what have been predominately male roles.<sup>343</sup> Others have loved the small town practice and felt very wel-

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336. JoAn served on the Kansas Parole Board and is now a full-time Public Defender. She relates several instances when she, as a woman voicing strong opinions, was called "a bitch," while a man doing the same was an "aggressive leader." *Id.* (JoAn Hamilton, survey respondent).

337. She notes that gender plays little role today. *Id.* (Kim Dombrowski, survey respondent). Shirley Calvin '82, who has been in private practice in Ulysses, remembers when the judge expected her to appear in court in hose and heels, but the men could appear in anything.

338. *Id.* (Cyd Gilman, survey respondent).

339. *Id.* (anonymous survey respondents).

340. *Id.* (anonymous survey respondent).

341. Some survey respondents noted men and women were treated differently. *Id.*

342. *See, e.g., id.* (Conni McGinness Steininger '84, survey respondent). "If anything, I have been given more courtesy because of my gender." *Id.* (Keyta Kelly '82, survey respondent).

343. *Id.* (anonymous survey respondents).

come.<sup>344</sup> Most women responded that gender is irrelevant as long as one is prepared, articulate, and ready to perform.<sup>345</sup>

Ruth Graham notes that in twenty-three years of private practice, she has only had one male lawyer fail to take her seriously. She believes if you enter a courtroom prepared and dressed like a professional and speak like a professional, you will be treated as a professional.<sup>346</sup>

Others commented that even though they have seen a change in how fellow male attorneys and judges react to them, they are uncertain whether it is due to a cultural shift with the advent of more women into the profession or whether it is “earned” because of experience. Some think that more women in law and on the bench have made a huge difference in perception.<sup>347</sup> Another graduate observed, “I have learned that gender has little to do with success in the practice of law. The cream rises to the top regardless and no one really cares about your gender. It is a difficult, but rewarding, profession for either sex.”<sup>348</sup>

On a national level, there are some who do not feel that the times have changed all that much and that women are still being devalued in the legal profession. At the same time that increasing numbers of women have been entering the legal profession; the practice of law has been changing. Some believe that to prevent the “feminization” and downgrading of the legal profession, women are being relegated to certain areas of the law that are not as prestigious and lucrative.<sup>349</sup> Even women who work “brutal schedules unheard of by male lawyers twenty years ago are finding themselves placed on the ‘mommy track’ at major firms.”<sup>350</sup> Others blame emphasis on the billable hour as a measure of productivity.<sup>351</sup> “[O]nly 11% [of women] are partners in

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344. Bonnie Selby felt that being a woman in a smaller community helped her because clients then had a choice. Sheila Schultz, in Paola, indicates that once the judge and other attorneys realized that she was serious about practicing law, she was accepted as any other member of the bar. *Id.* (Sheila Schultz, survey respondent).

345. *Id.* (see, e.g., Melanie Caro and Jenifer Lucas, survey respondents). Some women lawyers commented, however, that they had experienced some problems with women secretaries or paralegals that would not do their work as quickly as for the men or thought they knew more than the woman attorney. A couple of women noted that they had run into some women judges who held the women lawyers to a higher standard than the male lawyers. Another woman noted that one of the unasked questions on my survey was about the difficulty some male lawyers have accepting women lawyers as friends without thinking there must be a sexual attraction as well.

346. *Id.* (Ruth Graham, survey respondent).

347. *Id.* (Cathleen Reeder, survey respondent).

348. *Id.* (Sondra Newsom, survey respondent).

349. Joel C. Dobris, *The Modern Family Fragmented or Don't Let Your Children Grow Up to be Lawyers*, 22 U.C. DAVIS L. REV. 691, 694 (1989) (“[The] modest truth is that men are arranging the practice of law in large firms in large cities so that many women will choose to opt out of the richer and more prestigious specialties.”).

350. *Id.* at 696.

351. Cynthia Fuchs Epstein, *Women in the Legal Profession at the Turn of the Twenty-First Century: Assessing Glass Ceilings and Open Doors*, 49 U. KAN. L. REV. 733, 736 (2001).

the nation's 250 largest law firms" and women leave law firms in greater numbers.<sup>352</sup> There may be some continuing prejudices against women, but many women choose to forego high-power careers because of family obligations, disinterest in doing business law, or feeling discouraged.<sup>353</sup> As one scholar opined, "survival and success in a law firm are not easy for women. For those trying to balance both a family and a career, the task becomes nearly herculean."<sup>354</sup>

The work/family balance continues to be an obstacle for many women.<sup>355</sup> Several women commented on the difficulty sorting out their professional and private roles. Juggling marriage, family, and career obligations are sometimes hard for women lawyers.<sup>356</sup> As one noted, "As long as women are the ones having babies, we will be caught between navigating the expectation of us as lawyers, mothers and wives."<sup>357</sup> Many women noted that it helped to have a supportive spouse or significant other.<sup>358</sup>

Several women decided to curtail their law careers to stay home with young children.<sup>359</sup> Other women have chosen private practice to give them more flexibility to parent and work.<sup>360</sup> One woman noted, "It is difficult with small kids, but hang in there."<sup>361</sup> Janet Moore Simpson and Lisa Adrian McPherson both noted that law, as a profes-

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352. Jacquelyn H. Slotkin, *Should I Have Learned to Cook? Interviews with Women Lawyers Juggling Multiple Roles*, 13 HASTINGS WOMEN'S L.J. 147, 151 (2002).

353. Epstein, *supra* note 351, at 749. A recent GAO report indicates that while women still earned less than men generally, "[W]omen have fewer years of work experience, work fewer hours per year, are less likely to work a full-time schedule, and leave the labor force for longer periods of time than men." U.S. GENERAL ACCOUNTING OFFICE, WOMEN'S EARNINGS: WORK PATTERNS PARTIALLY EXPLAIN DIFFERENCE BETWEEN MEN'S AND WOMEN'S EARNINGS 2 (GAO-04-35, Oct. 2003).

354. Amy D. Ronner, *Women Who Dance on the Professional Track: Custody and the Red Shoes*, 23 HARV. WOMEN'S L.J. 173, 177 (2000) (discussing the Florida case of *Young v. Hector*, 740 So. 2d 1153 (Fla. Dist. Ct. App. 1988) *rev'd en banc*, 763 So. 2d 1046 (Fla. 2000), in which the panel decision and en banc dissent would have awarded custody to the father because the mother was a partner in a law firm). Minority women may have an even tougher time. See ELIZABETH CHAMBLISS, ABA COMM'N ON RACIAL & ETHNIC DIVERSITY IN THE PROFESSION, MILES TO GO 2000: PROGRESS OF MINORITIES IN THE LEGAL PROFESSION (2000); MORELLO, *supra* note 4, at 147-49, 163.

355. See generally Nancy E. Dowd, *Resisting Essentialism and Hierarchy: A Critique of Work/Family Strategies for Women Lawyers*, 16 HARV. BLACKLETTER L.J. 185 (2000).

356. A couple of women indicated that they had some trouble finding jobs because they had newborns and could not travel or relocate. Elrod Survey, *supra* note 240 (Helen Pedigo, Susan Barker Andrews, survey respondents).

357. *Id.* (Sue Ann Jantz Goossen '91, survey respondent).

358. *Id.* (JoAn Hamilton, Kathleen Urbom, and Dana Niceswanger, survey respondents).

359. Anita Mortimer indicates that she quit practicing after adopting a son. *Id.* (Anita Mortimer, survey respondent). Janet Amerine '80, Linda Jurewicz '81, Jalen O'Neil Lowry '87, Janet Moore Simpson, and Tammy Poage '93 also stopped working after the birth of their children. *Id.*

360. *Id.* (Susan Barker Andrews '86 and Paula Rank '91, survey respondents). After having children, one graduate bought her own building and chose solo practice in order to have more freedom. *Id.* (Robyn Euler Johnson '88, survey respondent). Paula Kidd Casey, who has a private practice in Wichita, Kansas, noted that it gives her the flexibility she needs to also be a wife and mother. Elrod Survey, *supra* note 240 (Paula Kidd Casey, survey respondent).

361. *Id.* (Jackie Rokusek '93, survey respondent).

sion, provides flexibility and a great career for women who want to “have it all.”

## VI. CONCLUSION

*As I look back, I realize how very fortunate I am to have attended Washburn Law. The dedicated faculty made sure that when I walked out into the legal profession I was prepared to tackle any legal challenge.*<sup>362</sup>

As the number of women in each class has grown, the history of women students at Washburn Law School has become simply a part of its ongoing history. The achievements of its women graduates throughout the profession have become far too numerous to mention individually.

Overall, Washburn's women have excelled. Washburn's women have been at the top of their classes. Since 1970, a female law student has had the highest freshman grades fourteen of the last thirty-four years,<sup>363</sup> and a woman has been first in the class sixteen times.<sup>364</sup> While some reports are that women are proportionately under-represented on law reviews at a majority of the top twenty law schools,<sup>365</sup> that has not been the case at Washburn. Of the twenty-one Editors-in-Chief from the class of 1978 through the class of 2005, seventeen were women.<sup>366</sup>

Over eighty-nine percent of those who responded to my survey felt as if they had a positive legal education experience and were accepted as an equal by faculty and students.<sup>367</sup> Despo MacNeill indicated, “I felt that all the professors and staff at the law school would do anything to help us learn and . . . make us the best lawyers we

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362. *Profiles of Women in Leadership*, *supra* note 293, at 19 (quoting Heather Lorenz). Other students from the last three decades echoed these sentiments. Nancy Scherer, “My experience as a law student at Washburn was terrific . . . .”; Nina Kanning Wuestling, “We had so much fun and so many laughs . . . I cannot imagine a better place to attend law school.”

363. Linda Henry Elrod (1969-70), Vicki K. Brittain (1974-75), Carol Green (1978-79), Elizabeth Carson (1979-80), Barbara Coen (1981-82), Janice Clothier (1981-82), Shelley Ryan (1984-85), Bessie Wong (1986-87), Mary Matthews (1988-89), Carolyn Gyger (1992-93), Lisa Agrimonti (1993-94), Victoria Nilles (1995-96), Jodi Hoss (1999-2000), and Starla Borg (2001-02) received the highest freshman grades.

364. Generally, graduates were pleased with the quality of instruction. “When I started at Washburn, I was amazed at the quality of instruction. I never expected professors to have such teaching skill.” Elrod Survey, *supra* note 240 (Marti Crow '92, survey respondent) (adding, “and remember I'm a teacher and served on our school board all the way through law school”).

365. Linda R. Hirshman, *Law Schools Where Women Can Excel*, *GLAMOUR*, Sept. 1995, at 122.

366. The seventeen women editors since 1978 are Vivian Wiberg McLeod, Genie Godfrey, Marta Linenberger, Terry Mann, Lyn Goering, Denise Anderson, Mary Matthews, Kristin Blomquist-Shinn, Stacy Cook, Jill Crumpacker, Teresa Bowles, Sabrina Standifer, Brenda Mesker, Lori Bolton, Jodi Hoss, Robin Carlson, and Sarah Shipman.

367. Margaret F. White '92 indicates she always felt treated equally by all professors and students. Interestingly, forty-one percent of those who felt as if they were treated differently went to school during the 1972-77 time period. Elrod Survey, *supra* note 240.

could possibly be.”<sup>368</sup> A couple of graduates indicated that Washburn was so fair that they were not prepared to meet discrimination in the real world.<sup>369</sup> However, Washburn’s women from the beginning have met the challenges of breaking glass ceilings in the legal profession — Jessie Nye Warren earned respect as a lawyer engaged in the day to day practice of law in Lyon County, Kansas. Marie Russell taught law classes in the 1920s. Kay McFarland had the courage to run for her first judicial office, and then was appointed the first woman on the Kansas Supreme Court. Other women have been the first women lawyers in their corporations, government offices, and private law firms. Washburn’s women have taken seriously the obligations to the profession and community that come with being a lawyer.<sup>370</sup>

The story of women in the legal profession, generally, and of Washburn women lawyers, is constantly evolving as women and men continue to face complex challenges in employment, family, and interpersonal relationships. The pathways have been staked out. The women who travel the paths during the next one hundred years will find the going easier. There are role models. As the daughter of one graduate wrote her mother:

. . . watching a movie about the glass ceiling for women and discrimination in the work force, I realized that the idea of women not being equal or not being able to achieve as much as men has never even occurred to me. I am so lucky to have such an incredible role model . . . . You have proven to me, as well as to the world, that women can succeed. . . . You have demonstrated that being a woman, a wife and a mother does not hold you back from a commitment to a career. . . . Just the fact that you have succeeded . . . in a predominantly male field is a giant step towards a better world for all women that will follow in your footsteps.<sup>371</sup>

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368. *Id.* (Despo Baltoumas MacNeill, survey respondent). Alison Lindsay Brookins ’86 credits Washburn with providing her with positive female role models: Professor Elrod, Professor Reynolds, and Donna Voth. *Id.*

369. *Id.* (Suzan Tucker ’91 and Teresa Anderson ’91, survey respondents); *see also id.* (Linda Graham ’80, survey respondent) (discrimination before law school seemed minimal when compared to after).

370. “The legal profession is difficult . . . being a lawyer carries a responsibility to be active in the profession and your community, more so than any other profession. *Id.* (Laura Ice, survey respondent).

371. Letter from Skylar Kidd to Paula Kidd Casey, Elrod Survey, *supra* note 240.

