

SOMETHING TO REMEMBER, SOMETHING TO CELEBRATE: WOMEN AT COLUMBIA LAW SCHOOL

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INTRODUCTION

In this issue the *Columbia Law Review* joins in the celebration the 75th anniversary of the admission of women to the Columbia Law School. I am grateful to the editors of the *Review* for inviting me to contribute, and for the open-endedness of the invitation (or, in other words, what follows is my fault, not theirs). This has been an opportunity for me to do some research, some recalling and some reflection (and to tell a few stories). My research is incomplete, one might say sketchy, but I trust reliable as far as it goes. My recollections may well not match those of others who were on the scene at Columbia in the times of which I write, but that is in the nature of recollection. My reflections in some instances have surprised me; we shall have to see what you make of them. (And I hope you enjoy the stories.)

I. CIRCA 1900: SO YOU WANT TO COME TO OUR LAW SCHOOL, MISS JONES?

It is said that a woman applied for admission to the Columbia Law School in 1869; having been denied admission, the applicant, Lemma Barkaloo of Brooklyn, “travelled halfway across the country to St. Louis, Missouri, where she became the first woman in the United States to be admitted to law school.”¹ Interesting, if true,² but the real action here at Columbia came several decades later. As far as is indicated by those records I have had an opportunity to scrutinize, agitation for the admission of women to the Columbia Law School got under way in the second decade of the twentieth century, admission itself coming only late in the third decade.³ A leading figure in the effort to get the Law School to admit women was Virginia Gildersleeve, redoubtable Dean of Barnard

* George Welwood Murray Professor of Legal History, Columbia Law School LL.B., 1955. This essay is dedicated to the memory of Harriett Rosen Taylor, '55. I want to thank Whitney Bagnall, Head of Special Collections, Columbia Law School library, for her invaluable assistance, and also to refer readers to her informative article, *A Brief History of Women at Columbia Law School: Raising their Profile, Expanding their Opportunities, Realizing their Aspirations*, *Colum. L. Rep.*, Fall 2002, at 3.

1. Eve Larson, *Women Admitted to Law School After Long Struggle* (pt. 1), *Colum. L. Sch. News*, Oct. 21, 1959, at 4; the second part of this article appeared Nov. 4, 1959.

2. According to Lelia J. Robinson, *Women Lawyers in the United States*, 2 *The Green Bag* 10, 13 (1890), Lemma Barkaloo was the first woman admitted to the law department of Washington University. Larson, *supra* note 1, and Robinson both note that Barkaloo was the first woman in the United States to try a case in court.

3. Larson, *supra* note 1. From 1909, a number of women petitioned for admission. Julius Goebel, Jr., *A History of the School of Law: Columbia University 473 n.21* (1955).

College from 1911 to 1947, whose primary goal, no doubt, was the admission of Barnard women;⁴ surviving 1915 correspondence between Gildersleeve and Harlan Fiske Stone, then Dean of the Law School, tells the story: Stone reports that a majority of the whole faculty believe “that co[e]ducation in any law school, including our own, would be inadvisable.”⁵ Stone himself obviously agreed: “What I would like to see is a serious undertaking to establish an independent school for women. This, I believe, is the proper solution of the problem.”⁶

Stone had told Gildersleeve in June, 1915, that the admission of women would probably go through, and that he “did not want any ‘agitation’ on the subject.”⁷ Gildersleeve expressed concern about the fact that, in collegial deference to Stone she had “suppressed the activities in this direction of the ‘League for Business Opportunities for Women,’” which was intending to launch an organized campaign for admission of women to New York City professional schools.⁸ “At my request they gave up the idea for the present. I now feel rather guilty about this. . . . What do you think? Ought I to start them off again?”⁹ This was not a proposal calculated to appeal to Stone, who reiterated his opposition to agitation:

The conclusion of the Faculty was reached only after very considerable study of the question, and I do not believe that this conclusion would be very much affected by agitation, especially where the agitation is carried on by those who are not intimately acquainted with the real elements of the problem as it is presented to us.¹⁰

4. Also active was a Judge Ingraham, who introduced a petition to the Trustees to authorize the admission of women to the Law School; no action was taken. “In 1917, President Butler reported to the Faculty of Law that Ingraham was pressing for action and that further conferences on the subject were likely.” *Id.* Shortly afterward came a faculty resolution that “[w]hereas . . . it is inexpedient and contrary to the best interests of the Law School that women should be admitted to its classes. . . . Resolved: that the Faculty of Law recommend to the Trustees that the existing conditions of admission to the School of Law be not changed.” *Id.*

5. Letter from Harlan Fiske Stone, Dean of Columbia Law School, to Virginia C. Gildersleeve, Dean of Barnard College 1 (Nov. 4, 1915) (on file with the Columbia Law Review) [hereinafter Stone Letter].

6. *Id.* It is clear from this and other evidence that Stone opposed the admission of women; I do not know of any original source for the widespread impression that he uttered or wrote the words, “No woman will be a student at this school while I am Dean,” but he might well, and might as well, have done so. Harvard did experiment with a separate school for women. See *infra* note 18.

7. Letter from Virginia C. Gildersleeve, Dean of Barnard College, to Harlan Fiske Stone, Dean of Columbia Law School 1 (Nov. 1, 1915) (on file with the Columbia Law Review) [hereinafter Gildersleeve Letter].

8. Gildersleeve Letter, *supra* note 7, at 2.

9. *Id.*

10. Stone Letter, *supra* note 5, at 3. Stone assured Gildersleeve that he had initially thought the measure would go through the Columbia faculty. Gildersleeve Letter, *supra* note 7, at 2.

Enter that bete noire of the hidebound institution, the outside agitator. Was Gildersleeve herself so considered, with Stone too courteous to make the direct charge? So I suspect. What about the President of Columbia University, Nicholas Murray Butler, who (possibly along with the University Trustees)¹¹ favored the admission of women to the Law School? Of other institutions, such as The Women's City Club of New York,¹² there was no doubt: These were outsiders, and they were agitating. In 1917, The Women's City Club (president, Mrs. Learned Hand, vice-president, Virginia Gildersleeve)¹³ published a sixteen page pamphlet titled "Shall Women be Admitted to the Columbia Law School?: Opinions of the Press and of Leading Lawyers."¹⁴ "Opinions" (plural) there were not; unanimity reigned. The statement of the "Leading Lawyers" is particularly significant:

We, the undersigned, realising through experience and observation how close is the connection between law school training and professional achievement, believe that the benefits of sound legal instruction should not be denied to any qualified students, and therefore submit that the Columbia Law School should open its doors to women on equal terms with men.¹⁵

The forty signatories are a powerful group, including Benjamin Cardozo, Learned Hand, Alton B. Parker, Henry L. Stimson, and Robert F. Wagner; seventeen of the forty were Columbia Law School graduates, or had attended the School.¹⁶ One imagines a certain chagrin up at Columbia. In addition to this statement, the pamphlet contains editorials from various newspapers and periodicals.¹⁷ The editorial in *The Evening Post*, Saturday, September 16, 1916, suggests that what had set the agitation in motion, brought in the outside world, was the recent decision at the Co-

11. See Editorial in *The Globe*, reprinted in *The Women's City Club, Shall Women be Admitted to the Columbia Law School* 4-5 (1917) [hereinafter Pamphlet]; the *Globe's* take on this is interesting: The president and trustees want it, the faculty refuses, and the "part controls the whole"; "the professors . . . should not be permitted to refuse to teach a woman." *Id.*

12. Founded in 1915.

13. Published by the Women's City Club of New York officers 1916-1917, 1.3 (1917).

14. Pamphlet, *supra* note 11.

15. *Id.* at 1. See the editorial in *The Globe*, October, 14, 1916: "Since women are allowed to practise law in New York State, it is to the interest of the state itself that women entering the profession should be well trained, and this implies they should not be arbitrarily excluded from a law school of high rank." *Id.* at 7-8 (reprinting Margaret Ladd Franklin, Letter to the Editor, *Trib.*, Nov. 8, 1916).

16. Henry De Forest Baldwin 1887; Charles C. Burlingham 1881; Benjamin Cardozo x1891; William N. Cohen 1881; Henry W. De Forest 1878; J. Hampden Dougherty 1874; Julius Goldman 1872; Charles L. Guy x1882; Daniel P. Hays 1875; Percy Jackson 1887; Wilbur Larremore 1877; Howard Mansfield 1874; De Lancey Nicoll 1876; Herbert C. Smyth x1892; Nelson Spencer x1880; Francis Lynde Stetson 1869; Benjamin Tuska 1889 ("x" = no law degree). *Columbia Alumni Register, 1754-1931* (Columbia Univ. Press 1932).

17. And a letter to *The Tribune*, Oct. 25, 1916, written by Margaret Ladd Franklin, the woman whose tireless efforts brought about publication of the pamphlet.

lumbia Medical School to admit women—a measure accompanied by the appointment of two women to the faculty!¹⁸

And just what were “the real elements of the problem” that these outsiders were not intimately acquainted with? Dean Gildersleeve’s impression was that “the only thing” in the way of coeducation was the fear that it “might drive many of your best men students to Harvard,” then and until 1950 a male enclave.¹⁹ Since, at Harvard, the same concern, *mutatis mutandis*, was retarding progress, stalemate obtained.²⁰ And, loss of male dominance apart, that is all that seems to have been at stake. Although I do not know whether Columbia did lose male students once it admitted women, there is reason to believe that the faculty knew whereof it feared: For example, consider this item in a 1920 Columbia student publication:

A question involving Columbia Law School tradition and unity is the increasing demand for the admittance of women. . . . One of our New York newspapers, in commenting on this question, pointed out what a blow to Columbia Law School tradition the admittance of women would be. But, entirely aside from this, there is a very practical reason against such admittance; namely, that the school is already crowded with the number of men students, and that the enrollment next year will be even larger than this.²¹

Here we see within the student body that standard posture, then and later, of those who stood in the way of women’s entry into, and advancement within, the profession: You may enter only if you will not be taking the place of a man.

Almost thirty years later, at Harvard, the prospect of admission of women to the Law School was decidedly unwelcome to some students; by this time, 1948, Columbia students, having survived coeducation, felt themselves to be among the enlightened, and, reporting the Harvard situation, affected a jocosely superior tone:

SEX AT CAMBRIDGE?

Fair Harvard’s sons are up in arms: —there is no joy in Cambridge; they may let women in. . . . Three arguments have been propounded by the exponents of male supremacy: that the

18. Pamphlet, *supra* note 11, at 2. The Law School was thus the only Columbia graduate school that did not admit women. The Post continues: “The half-way measure adopted last year at Cambridge—the formation of a separate law school for women under Professor Beale as dean—should serve Columbia not as an example to be followed, but as a record to be surpassed.” *Id.* at 2–3.

19. Gildersleeve Letter, *supra* note 7, at 1.

20. This situation Gildersleeve found “sad and unfair”; she suggested that Columbia announce that it would take women as soon as Harvard did, thus removing the barrier to Harvard’s admitting women. *Id.* at 1. Stone thought this unfairly cast the burden on Harvard. Stone Letter, *supra* note 5, at 1–2. Yale was out of this ludicrous competition, having admitted women in 1918.

21. J.W. Kaufman, Editorial, *An Esprit de Corps*, *Law Student Monthly—Colum. Univ.*, Apr. 1920, at 2.

fairer sex's presence will take men's minds of Prosser, Wigmore, Ballantine, et. al.; that the poor sons of the Crimson will have to wait for supper while their wives chase ambulances; and that the last true bastion of the 'man's world' will fall by the wayside.²²

Dean Stone retired in 1924, and in that same year petitions urging the School to admit women were submitted by the League of Women Voters and other groups; whether or not to prove that it would not be dictated to by outside agitators, that year "[t]he Faculty resolved unani- mously that such a concession would be inexpedient and contrary to the best interests of the Law School."²³ On December 10, 1926, however, the faculty resolved (nine to one):

1. That on and after September 1927 students and graduates of Barnard College be admitted to the School of Law subject, how- ever, to such restrictions as shall from time to time be fixed by the Committee on Rules of the Faculty of Law, after consulta- tion with the Dean of Barnard College.²⁴

While it may not be inaccurate to term this "the admission of wo- men," it is misleading. The Law School by this action did no more than carve out a narrow exception to its broad policy, which still stood, against the admission of women; the action was presumably taken either out of a belated sense of fellowship with Barnard or out of a belated sense of obli- gation to the University, or, most likely I think, under University compul- sion.²⁵ That the faculty understood itself to be grafting a narrow excep- tion onto a broad policy is very clear. Thus, an accompanying faculty resolution read, somewhat mysteriously:

2. That announcement of this action, if any, shall be made only at such time and in such manner as the President of the Univer- sity and the Dean of the School of Law shall deem advisable.²⁶

The mystery dissolves when we look at a letter written to Dean Gil- dersleeve shortly afterward by Law School Dean Huger Jervey; after ex- pressing his delight at the faculty action, Jervey added a cautionary note:

I think, however, that it would be unwise to give any publicity to this action . . . because of the likelihood that the resolution of the Faculty would be twisted and the appearance created that the Law School had determined at this time generally to admit women equally with men. If that impression were created and it

22. Sex At Cambridge?, Colum. L. Sch. News, Apr. 2, 1948, at 2.

23. Goebel, *supra* note 3, at 290-301.

24. Memorandum from William F. Taylor, Secretary of the Faculty, Faculty of Law Resolution, passed Dec. 10, 1926, at 1 (on file with the Columbia Law Review) [hereinafter Faculty Resolution].

25. Or, as one account has it, in order to conform to the University Charter, which provided that anyone earning an undergraduate degree at Columbia was eligible for admission to any of its graduate schools; so Edith Spivack, class of '32 reports hearing from Professor Milton Handler. See Edith L. Spivack, *A Woman's Reflections: Difficulties Early in the Century Gave Way to Present Openness*, Journal, Jan. 2001, at 60.

26. Faculty Resolution, *supra* note 24, at 1.

became necessary to correct it, the net result would be unfortunate.²⁷

In the event, admission was not limited to Barnard women. In September 1927, the law faculty admitted, tentatively (a hedge against a mass exodus to Harvard?), a woman graduate of Smith and a woman graduate of Vassar: both did have graduate degrees from Columbia, and so the faculty amended the original resolution to allow for the admission of women holding Columbia graduate degrees.²⁸ Finally, in October 1928, the faculty voted to admit women on the same terms as men.²⁹

Thus the Columbia Law School policy against admission of women was really eliminated in 1928! And here we are celebrating the 75th anniversary of the admission of women in 2002. It's a good thing we aren't the mathematics department, or we'd never live this down.

Well, the point of this heavy-handed humor is not to conclude that we ought to postpone the celebration for a year: While any good (Columbia trained) lawyer could make that case, any good (Columbia trained) lawyer could make as strong a case on the other side.³⁰ Stronger, I think: It is the actual admission (tentative or not) of two woman in 1927 that ought to be considered the critical event;³¹ that was and is cause for celebration, and justification for celebrating the 75th in 2002. But I find it fascinating to see into the historical minutiae, to see how grudging it all was, even more than I had somehow realized on reading earlier accounts.

To watch the door opening just a crack, then a bit more, then, finally, wide, is to understand the tenacity, the ferocity, with which these men clung to the world they knew, tried to keep it inviolate, as if they were able to foresee that in their own century that world was going to be turned upside down.

27. Letter from Huger Jervey, Dean of Columbia Law School, to Virginia C. Gildersleeve, Dean of Barnard College 1 (Dec. 20, 1926) (on file with the Columbia Law Review).

28. Goebel, *supra* note 3, at 291.

29. *Id.*

30. There's a case for 2001 as well.

31. The Columbia Law School has exactly one woman graduate of the 1920s: Margaret Spahr, '29, a Kent Scholar and also the first woman editor of the Columbia Law Review. From 1929 to 1951 "two hundred and fifty women have passed through the doors of Kent Hall to receive law degrees." Edith Fische, *Statistical Survey of Columbia Law School Alumnae—A Tribute To Women, XXXVII Women Laws. J.*, Summer 1951, at 38. They included Viola Beatrice Kneeland, first woman to earn the LL.M (1930), Elreta Melton Alexander, LL.B. (1945), the first African-American woman graduate, and Edith L. Fische, LL.B. (1948), LL.M. (1949), JSD (1950), first woman to earn the JSD, and the first graduate to have earned all three law degrees from Columbia Law School. A good many of the 250 went on to distinguished, rewarding careers in private practice, in public service, on faculties, on the bench. It is a privilege to know these women, to listen to their stories, to have had the opportunity to follow where they led.

II. RECOLLECTIONS OF A COLUMBIA LAW SCHOOL GRADUATE WHO HAPPENS TO BE A WOMAN: STUDENT DAYS

A. *The 1950s: Within the Ivory Tower*

While unacceptable features of the early law school experience have been well documented, and over the decades much outrage has been expressed at the indignities reportedly perpetrated, a surprising number of us who were students here in the thirties, forties, and fifties recall our law school years as good years, remember being well-treated, in some cases believe that it was an advantage to be a woman in law school. And we felt that way at the time. This may be difficult for you who are now law students, or relatively recent graduates, to fathom: What about the infamous “ladies’ day,” and professors who addressed the class as “Gentlemen”; what about the not-a-bit-funny so-called humor, the degrading hypotheticals? When Julius Goebel³² called on only women during “ladies’ day,” didn’t we march out of the classroom? When Dean Young B. Smith, addressing my entering class, said “It is also true that the average capacity of our student body is very high and included among them are many young men of extraordinary ability,”³³ didn’t we boo, or hiss, or yell out the 1952 equivalent of “what are we, chopped liver?” Did we not agitate for the admission of greater numbers of women students? Did we not demand the hiring of women faculty?

The answer is no—and no and no and no. Or, to be precise, my answer is no, I did not; but to the best of my highly fallible recollection, neither did my classmates. And this is confirmed by a look through the contemporary issues of the Columbia Law School News, and more particularly by contrasting the Law School News issues of the 1950s with those of the following decades. In the 1950s evidence of the spirit of protest is absent. Women students did recognize a community of interest, and had formed The Women’s Law Society; speakers were invited to advise women students of career opportunities, signalling recognition that the career path for women might be particularly rock-strewn. But one looks in vain for expressions of dissatisfaction with the insensitivities and insults, or for complaints about the pathetic numbers of women students, the nonexistence of women faculty. It is only when we turn to the pages of the News in the 1960s and, especially, 1970s,³⁴ that we find a different story, the

32. The first George Welwood Murray Professor of Legal History, teacher of the first semester course, Development of Legal Institutions (familarly, if not fondly, DLI).

33. Young B. Smith, A View of the Law Review, Colum. L. Sch. News, Oct. 10, 1952, at 4.

34. My impression is that the emphasis in the 1960s was on general student unrest (including dissatisfaction with the grading system), while the women theme appears only in the late 1960s, see story of a Law School Women’s Group formed to combat sex discrimination, Paula Glassman, Law School Women’s Group to Combat Sex Discrimination, Colum. L. Sch. News, Nov. 11, 1969, at 6; the theme intensifies in the early 1970s, see, e.g., the “bitch-in” of March 2, 1971, asking why the faculty is 99% white male, described in Rod MacDonald, Bitch-In: Serious Charges, Colum. L. Sch. News, Mar. 2,

story of a women's movement, and of the mobilizing of women students ready to fight the good fight. If, dear reader, you inquire 'Why not in the 1950s?', I can only say, unsatisfactorily I know, that the matter is endlessly complex, a cultural phenomenon rooted in the currents and dynamics of the wider culture, and that it cannot be addressed adequately in a few sentences. Manifestly, since here we were, students at the Columbia Law School—'pioneers,' I guess—we did not simply take the world as we found it, were not prepared to acquiesce in all cultural assumptions about sex roles, or to submit to all cultural constraints. I for one rebelled in spirit at any number of manifestations of discrimination encountered as I was growing up and I believe that this kind of rebelliousness was part of the life experience of most of my cohort.

(One variety of discrimination almost had me manning (!) the barricades at a tender age: In the Brooklyn public schools that I attended, boys were given shop classes, where they might develop skill in carpentry, electrical work, and plumbing; girls took one or another form of home economics, so-called. I envied the boys (who, by the way, no more than we were given the freedom to choose: Of course there would have been boys who longed to bake bread rather than build bookcases) but I dutifully cooked porridge and sewed a crooked seam. But one year the Board of Education went too far: Put into a class called "Millinery," I spent the entire year³⁵ making a beanie, a green felt beanie. I have never forgotten that beanie, and have often wondered whether it doesn't, after all, explain quite a lot that was to come.)

It is certainly the case that, overwhelmingly, we women students were treated with respect by faculty and administration, and encountered friendship and collegiality from the men students. That is not to be unregarded, nor was it, nor is it, but it is not at all the same as a cultural shift. The truth is that the presence of a handful of women students at the school was not going to make so much as a dent in the essential maleness of the law school culture, or disturb the web of assumption that underlay the belief system, such as traditional assumptions about sex roles: This was, for example, the era of "The Law Wives," an organization³⁶ of spouses, female, of students, male, who met for tea, planned bake sales, bridge parties, picnics, babysitting pool, fashion shows, and volunteer work for legal aid societies, and invited speakers, one of whom "addressed himself to 'the importance of a well informed law wife (educated but not equal)' [!]"³⁷; although there were some Law Husbands around, it would not have occurred to anyone that this organization ought to be called

1971, at 1; in 1972 Columbia Law School appointed its first woman faculty member, Ruth Bader Ginsburg.

35. (well, maybe half-year).

36. Functioning, off and on, from 1953 to at least 1967, see various items in the Law School News over those years.

37. Law Wives Program Includes Many Events, Colum. L. Sch. News, Nov. 2, 1964, at 3.

The Law Spouses (far less Spouses and Significant Others, a category certainly in existence if not much in evidence), nor would the husbands likely have participated.³⁸

(Speaking of law spouses, when a school appointed a Dean, it often expected to, and did, get two workers for the price of one.³⁹ Just as you would anticipate, expectations and practice underwent a sea change when the Dean was a woman. Although, on the occasion of the Columbia Law faculty's first retreat in 1987, when I was Dean, my husband (as I heard the story) organized a dinner for law spouses (all but he, I believe, happening to be women) and a wonderful time was had by all—or at least by Charles Black.)

It is important to understand that, despite appearances, we “pioneers” shared to a considerable extent in the traditional assumptions and expectations: Many (I should think most) of us assumed that if we married we would be the homemakers, and if we had children we would be the primary (read virtually exclusive) caretakers. Projected solutions to the problem of managing career and family varied widely. As indeed they still do, the difference being that the profession made not even a pretense of looking for ways to help, but unabashedly wielded our dilemma as a weapon against us, proffering it as justification not only for discriminatory hiring practices, but for discriminatory law school admission practices. Justification was, of course, rationalization; the implication that but for the work/family dilemma women would be competing on equal terms with men is a *suggestio falsi* at polite best: Everyone conceded Rosie's skill at riveting, but when Johnny came marching back, Rosie was out of a job whatever her wishes, or domestic situation. And when Rosie applied to the Columbia Law School she had a better chance of acceptance in wartime than she did after Johnny put down his arms and took up his career. Thus, a 1947 Law School News headline reads, “Proportion of Girl Students Shows Decline”⁴⁰ and the decline is labeled “one of the most noticeable changes that has occurred in the student body since the end of the war.” “During the war years, when most able-bodied men were serving in the armed forces, the women's ranks in this school comprised more than forty per cent of the small student body, but current figures show only twenty-two ladies enrolled—a mere three per cent of the total registration.” In my own class, '55, out of a total of 260 enrolled, there were eighteen women, a somewhat high figure for the 1950s, explained by the fact that the Korean War was on.⁴¹

38. It would be interesting to interview the “Law Wives” of the 1950s and 1960s for their recollections and reflections.

39. As June Warren's generous and elegant participation in the life of the Columbia Law School in my era exemplifies.

40. Colum. L. Sch. News, July 25, 1947, at 1.

41. Some other 1950s enrollment statistics: Class of '51: 5 women, 154 men; '52: 10 women, 194 men; '53: 8 women, 249 men; '54: 16 women, 236 men; '56: 10 women, 255 men; '57: 7 women, 258 men; '58: 15 women, 314 men; '59: 11 women, 277 men; '60: 10 women, 289 men.

My generation of women law students wrought change, but we did not have the numbers and we did not have the psychological make-up, the confidence or the consciousness, to bring about a revolution in our day. And, not merely because we were not prescient, but because ours were individual acts of rebellion, we ourselves almost certainly did not understand where history would place us; it is clearer looking back than it was looking forward that we formed the advance guard of a social revolution. Now that that does appear to be established, I say hurray for us, for those who came before us and gave us courage, for those who have come after and compelled the world to reckon with the ideal of equality, and for those still to come, who will, let us hope, see that ideal fully realized.

B. *The 1950s: Beyond the Ivory Tower*

The law school experience, idyll or not, came to an end, and we confronted the prospect of moving onto the broad professional stage. How did we feel and how did we fare?

The latter is a matter susceptible of determination, and therefore not particularly suitable for speculation; although career path data for the Columbia Law School women graduates of my era have not been fully compiled, the oral history project being conducted by the Columbia Alumnae ought to enable this to be done. In the meantime, we do think we know certain things: There was a mere sprinkling of women and only a handful of women partners at the major Wall Street firms, and an interview at such a firm was a chancy thing. Even when one was treated courteously (not invariable), one was likely to hear that 'as much as we would like to hire you, our clients are not happy at the thought of dealing with a woman lawyer,' and one might even be (as a friend of mine was) advised to learn stenography and come back (for a rather different kind of interview, presumably). Firms in general tended to consign the women they hired to certain departments, and to uncertain futures. And so forth. The academy was no more welcoming to women: There were, in 1951, "approximately less than twenty women on the faculties of accredited law schools throughout the country."⁴² It is no wonder that, when I became an Associate in Law at Columbia for 1955–1956, it was made clear to me by an authorized voice of the Columbia Law School that although my three (male) fellow Associates might consider this a first step on the academic ladder, I could not. As for the conditions of work for those few women on faculties, an unusually reliable source has reported that, at one elite school which (by the latter part of the decade) did have a woman faculty member, faculty meetings were at times held at a club that did not admit women, but which did permit this woman faculty member to enter the club for faculty meetings by the back door. And so forth.

Lest you think that all Columbia Law School alumnae of my era either remember, or react to, our shared history as I do, I want to mention

42. Fische, *supra* note 31, at 39.

here a book recently published by a Columbia alumna of the 1950s, F. Carolyn Graglia (nee Pennington), '54.⁴³ The author has, for one thing, a very different take on the familiarly bleak picture sketched above. Mrs. Graglia records her own experience: "I . . . never doubted that I could obtain a good legal job and pursue a career for as long as I wanted. Like most of my classmates, male and female, I set out with my resume and obtained a job."⁴⁴ A job, in fact, with a major Wall Street law firm. "As I recall," she continues, "most of the fourteen women in my class sought and obtained legal positions, although only two of us were on the Law Review and none was first in the class."⁴⁵ Was there, then, no discrimination against women? That does appear to be what Kay Graglia is saying; she identifies, accurately, a different kind of bias:

It is true that the other woman on the Law Review (who was Jewish) did not share my good fortune of receiving an offer from any of the major Wall Street law firms, which did discriminate at that time against Jews and other ethnics. My future husband, for example, who graduated with me—also on the Law Review and with a virtually identical record but without the advantage of being a "Pennington"—was among the many men who could claim they were so discriminated against. . . . The distinction then usually made—but certainly not always—was between white, Anglo-Saxon Protestants and ethnics, not between men and women.⁴⁶

While I could hardly be less in tune with Kay Graglia in recollection, not to mention world view, I appreciate this salutary reminder of the critical fact that ethnic and racial bias were rampant in the legal profession; it is possible, certainly, that in some instances wherein we assume gender bias, we are in truth dealing with ethnic or racial bias; if and when we do analyze the data that are being collected, this is something that must be factored in. Moreover, this account does remind us that, Wall Street or no Wall Street, Columbia Law School women graduates of the 1950s, as of the 1930s and 1940s, did find jobs, did pursue careers, did succeed in carving out for themselves rich and rewarding professional lives, did perform distinguished service to the profession, to the public, to the international community, and have been a credit to the school that, while failing in certain respects, never failed in the pursuit and attainment of educational excellence.

43. F. Carolyn Graglia, *Domestic Tranquility: A Brief Against Feminism* 22 (1998). About the book in a general way, I will only urge upon potential readers that they take the author at her word, and seriously: "Domestic Tranquility" is indeed "A Brief Against Feminism," written with the passion of the committed advocate, and with the formidable skill of a Columbia Law School trained lawyer.

44. *Id.* at 22.

45. *Id.* at 21.

46. *Id.* at 21–22.

III. FURTHER RECOLLECTIONS OF A COLUMBIA LAW SCHOOL GRADUATE WHO HAPPENS TO BE A WOMAN: COMING HOME IN THE 1980S

Some years back, a cartoon appeared that depicted Adam saying to Eve in the Garden of Eden, "Eve, we live in a time of transition."⁴⁷ Point taken, but even so, maybe it isn't entirely fatuous to employ that over-worked phrase in talking about the 1980s here at Columbia; in my memory at least, the institution in that decade was at a kind of tipping point.

Having left New York in 1956 after my stint as an Associate in Law, I did not return until 1984, first as Visiting Professor, then as permanent member of the faculty. At that time, I found a school on which the male culture still had a grip, tenuous perhaps, but palpable, that is to say, experienced as such by the women within the school, and understood that way by many women who, because of that understanding, chose not to join us. The number of women on the faculty was not impressive; skepticism about the new scholarship being done by women, about its claim even to be considered scholarship, was not unknown. Student admissions statistics were not bad, not good: We had not broken through to an enrollment figure of forty percent women for our entering classes though most of our peer schools had. For good reason, women of the Law School certainly did not feel that the fight was over, victory in hand, laurels won and to be rested on. But, at least in my perception, we had equally good reason to anticipate that the days of the male culture here at Columbia were numbered, and few: Whatever the tugs of tradition, of institutional inertia, of custom thought, the reservoir of goodwill here was deep and wide, and the determination to bring equality about was genuine and strong. In, as it were, earnest of that goodwill and determination, at the end of 1985, my colleagues asked me to serve as Dean. Unsurprisingly, the first appointment of a woman as Dean of an Ivy League Law School created something of a sensation, and it had an immediate impact on the admission figures for women: forty-five percent of the class that entered in 1987 were women, up from the thirty-nine percent of the two preceding years.⁴⁸ The lesson was clear; taking a leadership role is not only right, but productive. In the last years of the 1980s, the appointment having become yesterday's news, the figures were less impressive; that had a clear lesson in it too.

It may surprise some to hear that within the student body the fighting spirit of the 1960s and 1970s survived into this period; the student generation of the 1980s (like that of the 1950s) is fixed in the popular mind as conformist, as conservative. But I can testify as of my own knowledge, and with considerable feeling, that by the time I became Dean in 1986, at least at the Columbia Law School student activism was alive and kicking, present and, as it were, incorrect. The evidence was all around, in the Law Women's Association, in Myra Bradwell Day and other such

47. I cannot recall where this wonderful cartoon appeared.

48. Information provided by the Columbia Law School Admissions Office.

events, in the founding of the Columbia Journal of Gender and Law. And, in the ad hoc student organization known as the Coalition for Diversity: In fact, in the Coalition for Diversity there hangs (to coin a phrase) a tale.

The Coalition called for a more diverse faculty, a more diverse student body, and a more diverse curriculum. In the spring of 1989(?), the Coalition planned a 'teach-in' to be held in front of the elevators on the ground floor of the Law School building; at the same time, some members of the Coalition requested a meeting with me, and we agreed to meet in my office right after the teach-in.

The teach-in was held, and I attended, along with a number of my colleagues. At a certain point in the proceedings we were joined by a graduate of the Columbia Law School, who, for a time, held the floor (on which most of us were sitting), and held the crowd spellbound. In the course of his comments, he recommended that the students occupy the Dean's office, opining that they had a legal right to do so. Upon hearing which, a number of students moved onto the escalator and into the elevators, heading for the seventh floor and the Dean's office.

Now, since I did have an appointment to meet with a group of students at that time, I expected that a number of them would indeed, at this point, be going upstairs; the fact that there was mass movement in that direction made no appreciable impression on me, and I proceeded to the seventh floor blissfully unaware that anything out of the way was occurring. Until I reached the area of the Dean's Office, and noticed that a crowd had gathered, and that I had to make my way with some difficulty through this crowd to get into my office—which, I discovered, was itself jammed to the gunwales with students. At this point even I, none too bright as you see, began to grasp the true nature of the event.

As soon as I entered the office, the students announced that they were presenting the school with a list of grievances and a set of non-negotiable demands, and would stay in my office until these demands were met. I, in turn, said that I was happy to discuss all matters with them for as long as I could, but that when I was compelled, through sheer fatigue, to leave and get some rest, they would have to leave with me, if necessary with the assistance of the police, unless one of my colleagues was then available to deputize for me, and continue the discussion; we were to have a dialogue, not an occupation. Discussion of grievances and demands followed, and, when I flagged at about 10 p.m., a colleague did indeed replace me, to be replaced after awhile by another colleague; in the event, the session lasted through the night. The next morning it transpired that the discussants had hammered out a "Blueprint for Progress," which appeared, on study, to be a thoughtful and constructive document, containing a number of proposals whose implementation I thought would benefit the Law School community, as well as a couple that I could not support. I expressed my gratitude to the students for their efforts, and said that I looked forward to working with them to make the Colum-

bia Law School a leader on these matters of concern to all of us. The exhausted students were more than ready to leave, and, with mutual expressions of esteem, we parted.

The follow-up to the night's discussion was, *inter alia*, the appointment of a student-faculty taskforce on women and another on minorities. Both of these did good work and were influential, I believe, in helping us to make progress on both fronts.

Asked recently by an interviewer how I feel about the fact that the period of my deanship was a time of student activism, I thought a moment and responded: "I prefer it to its opposite." That less than ringing endorsement is not just a waffle, but meant to signal that I am both troubled by the students' resort to what is after all a variety of force, and aware that desirable social reform does not often come about through employment of only the most measured of measures. History tells us that institutions like this one cannot be assumed to be dedicated to such ideals as equality; recent experience tells us that, even when they are, they tend, in the rush of affairs, to laxness. At times, a kick in the institutional pants is what is needed, and if our students are the ones to administer it, that seems cause for celebration, rather than otherwise.⁴⁹

It was not only at the Columbia Law School that the 1980s brought activity in the area that we now call gender and law: In the latter half of that decade the legal profession as a whole was in a positive frenzy of activity in this sphere. Just to give examples, drawn from a quite random collection of memorabilia of those days, Bar Associations at every level appointed committees to study the subject; most notably, the ABA appointed a Commission on Women in the Profession (Chair: Hillary Rodham Clinton), which submitted a report in June, 1988. The New York State Task Force on Women in the Courts, appointed in 1984, reported in 1986. The Association of American Law Schools, through its Section on Women in Legal Education and otherwise, took up issues related to women in academia. Every meeting of law teachers, judges, and practitioners devoted some time to panel discussions of the issues. The profession was frenetically professing concern about the fate of the women in its midst, and, as we heard on all sides, there was good reason for concern: Ever since the breakdown of barriers erected against women *qua* women, the primary problem has been the competing demands of family and career. In the 1980s, this issue was highly publicized: This was the era of the 'mommy track.' Law firm practice grew ever more demanding, and we saw a slew of articles with titles like "Women Lawyers Bailing Out: Family Issues and Sexual Discrimination are Forcing Many

49. One question that was raised at the time is the relationship, if any, between the student activism of the mid/late 1980s and the fact that at that time the school had its first woman dean. Was this sheer coincidence, or concurrent symptoms of a change in climate? Or was there a causal relationship? Did students, perhaps, think that they would have a more sympathetic hearing from a woman dean? Or that they would encounter weakness in a woman dean? What do you think?

Into Other Careers" (1988), and "Bringing Up Baby: Attorney/Mothers are Increasingly Leaving Their Jobs, Saying Motherhood and Law Don't Mix" (1988). As the twentieth century drew to its close, the question was whether the profession was making progress, at least moving in the right direction. Columbia Law School decided to look into the matter.

IV. THE TWENTY-FIRST CENTURY

A few years ago, it was suggested to the Dean by our distinguished alumna, Laraine Rothenberg,⁵⁰ that we launch a career path study of recent women graduates of the Columbia Law School. The project was begun, but faltered at first; then, the decision was taken to try to persuade Catalyst, Inc., which is the leading research and advisory organization dedicated to advancing women in business and the professions, to conduct the study. The President of Catalyst, Sheila Wellington,⁵¹ having agreed to do the study, suggested that the base be broadened beyond Columbia graduates: Dean Leebron contacted the Deans of a number of our peer schools, and, in the end, Berkeley, Harvard, Michigan and Yale agreed to join in the venture. A questionnaire was sent to 6,300 graduates of these five schools, equal numbers of men and women, from the classes of 1970–1999; 1,439 responses were received and analyzed, the choices made compared and contrasted, and perceived success factors and barriers identified. The Report appeared in January of 2001. Nothing of this magnitude had ever been done in this area, and a number of unique features make this study a signal event in the history of women in the profession, with, in my opinion, substantial potential for making a difference. Among its virtues, this study compares the experience of women of color with that of white women; it also looks at career path, at advancement, and at work/life balance, and makes the link between these issues. When the study appeared, several newspapers reported on it, and the headlines are somewhat reminiscent of those of the 1980s: *Law Times*, Feb. 5, 2001: "Women leave firms before reaching top"; *New York Law Journal*, Jan. 31, 2001: "Study: Women Less Satisfied With Legal Careers Than Men"; *The Globe and Mail (Canada)* Jan. 31, 2001: "Why women leave law." As these headlines make clear, the overall tenor of the study is not one that would justify complacency in the leaders of the profession, or optimism in those interested in achieving full equality for women in the profession.

The findings of the study are in some instances counterintuitive: For example, I would not have anticipated that equal numbers of men and women would report difficulty balancing personal and professional life.

50. Columbia Law School '71.

51. The old girls' network comes through: Ms. Wellington is a very old friend of mine—that is to say, our friendship is very old. We spent many hours, for many years, raising our children side by side, so to speak. Thus I was aware of the excellence of Catalyst's research on issues of women's professional experience, and in a position to suggest that we turn to Catalyst for the study.

But, on reflection, I would venture that this apparent equality masks a profound dissimilarity, resulting from the fact that women remain primarily responsible for their children's daily care. Men and women both may be unhappy at how little time they have to spend with their families, but for women, burdened by having two jobs to perform, the unhappiness has a special quality. Or in other words, missing a family dinner may be disappointing, but failing to have it on the table brings more complex, and more troubling, emotions. Thus, it makes sense that work/life issues are third on the men's list of why they chose their current jobs, while first on the women's list. It is the women, by and large, who make the compromises, opt for flexible work schedules or reduced work weeks. Thus, sixty-seven percent of women, but only forty-nine percent of men thought family responsibilities were an important barrier to women lawyers' professional success.

Some of the findings contradict received wisdom: For example, that women who have left, or avoided, law firms to work as in-house counsel, often in the expectation of finding more flexibility and opportunity for advancement, have found themselves no better off than they were or would have been in a firm.

And, finally, some of the findings are (alas) unsurprising: For example, that women of color are less satisfied than are white women with their current employer, or with their advancement opportunities; also, that compared to women of color, white women (and even more so white men) underestimate the importance of race to advancement opportunities, client preferences, and the like.

That is just a taste of the Catalyst study, which repays reading as a whole. Equally important is the follow-up, a Catalyst publication called *Making Change: Advancing Women in Law Firms*, that advises firms in very concrete terms on how to deal with the issues of retaining and advancing women; beginning with description of the economic imperative, it goes on to set forth specific strategies.⁵² Both study and follow-up merit wide circulation in the profession: It is time, and past time, to eradicate the vestiges of gender and racial bias, to awaken to realities and act on ideals. The problems, not to be underestimated, are not yet intractable; lawyers, who pride themselves on being problem-solvers, do solve problems of this magnitude. We have data that point the way; the question is whether we also have the will to do the right, the moral, the just—and by the way, the economically sound—thing.

Meanwhile, within our walls, the twenty-first century looks like this: This year the first year class is forty-four percent women; last year fifty-six percent women; the year before fifty-one percent. Of a faculty of sixty-eight, eighteen are women,⁵³ as are a number of our visiting faculty. For years many of our Associates in Law have been women (who may and do

52. Catalyst, *Making Change: Advancing Women in Law Firms* (2002).

53. Still a disappointing figure.

consider this a step toward a teaching career) and a number of our administrative Deans are women. A good deal of faculty scholarship is in areas appropriately labeled feminist legal scholarship, or gender and law; in addition, we have critical race theorists, and scholars of gay and lesbian studies. Our curriculum this year includes courses or seminars in Sex Equality; Family and State in Historical Perspective; Intersectionalities, Race and Gender; Selected Issues in Children and Law; Sexuality, Gender and Human Rights; Topics in Law and Sexuality—and that's just the fall semester. In addition, issues concerning family, children, gender inequality, sexual preference (and so forth) in employment, in the workplace, in education (and so forth) are addressed, in historical, doctrinal, and philosophical perspective, in any number of course, seminar, and clinical offerings. Our student journals include the *Journal of Gender and Law*, the *Human Rights Law Review*, the *National Black Law Journal*, and the *Journal of Law and Social Problems*. Our student organizations include the Law Women's Association, the Domestic Violence Project, the Outlaws, a variety of racially, religiously or ethnically based organizations, and civil rights, human rights, and public interest groups.

Finally, there are our quite extraordinary alumnae; their engagement, generous and energetic devotion of their time and other resources, creative ideas, intelligent and efficient planning and organizing of events, have been of incalculable value to their school, and have earned them the gratitude of all members, women and men, of the Columbia Law School Community.

CONCLUSION: REFLECTIONS OF A WOMAN WHO HAPPENS TO BE A
COLUMBIA LAW SCHOOL GRADUATE

OR

"WHEN YOU WERE A STUDENT HERE IN THE 1950S DID YOU THINK SOME
DAY YOU MIGHT BE DEAN?"

It is just fifty years since I entered the Columbia Law School; I was nineteen years old and scared to death. Having successfully navigated the course of study, received my LL.B., and spent a year as an Associate in Law, I left New York, and lived for the next twenty-eight years in New Haven, CT. When, in 1984, I received the offer to join the Columbia faculty, that was for me the fulfillment of all ambition: To be a member of a great faculty, to hold a chair in legal history, to be back at my law school, to be back in my city. Who could ask for anything more? Not I, certainly. But a year and a half later something more did come along: Perhaps only those who were here at Columbia in the early days can appreciate what it was like for me, class of '55, to be asked by my colleagues to serve as Dean, and to have had an opportunity to offer such guidance as I could, to preserve, and if possible, improve, the institution that has so long meant so much to me. Perhaps also, my contemporaries can best imagine my feelings when, during an interview at the time of my appointment, the (very young) reporter said to me: "When you were a student at the Columbia Law School did you think some day you'd be Dean?" That

she could ask such a question seems to me something of a triumph; the unimaginable, the fantastic, of the 1950s had become thinkable, even taken for granted, in the 1980s. Of course it was still news in 1984, a woman Dean of an Ivy League School, but in a few years it would be unremarkable, as indeed it now is to see women Presidents of Ivy League Universities.

And so, in the Dean's office, for five and a half years, I sat (usually with my feet up) at the desk that was once Harlan Fiske Stone's and reflected, more or less as I have today, on the way it was and the way it is. As to the way it was, we have a cautionary tale: During too much of our history we followed where we might have led, reacted where we might have initiated. As to the way it is, perhaps the most important fact about us is not that many of the numbers are quite good, though they are, or that the atmosphere is healthy, although it is, but that we have learned to lead, to initiate.

It is interesting that Columbia Law School did not commemorate the golden anniversary of the admission of women. But not, on reflection, surprising. We had come both too far and not far enough. By 1977, the goal was, as it should always have been but was not, full and true equality; when one has a goal firmly in place, the small beginnings are significant for their promise, and cause for celebration only when fulfillment of that promise is in sight, the goal within grasp. That was not the case in 1977. In 2002, for all that there is room for improvement, celebration is warranted. And, if there is one thing one learns as the decades wear on it is 'when you have something to celebrate, celebrate.' So, dear readers, let's celebrate.