

A HISTORY OF WOMEN IN THE LEGAL PROFESSION

IN NEW SOUTH WALES

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CHAPTER I

Law is one of the oldest and most conservative of the professions and in New South Wales at the turn of the century its members were exclusively male. The University of Sydney admitted women as undergraduates in 1881 but they were not encouraged to enter the professions. The first two to graduate in Medicine did so in 1893, the first two in Dentistry in 1906 and the first Pharmacist was registered in 1902. Law, particularly, presented formidable barriers. The profession was conservative and elitist, its members coming mainly from a privileged social class, and it protected its privileges by itself interpreting the law. It took nineteen years, from graduation to admission, for the first woman to be admitted to practise law in New South Wales.

In writing its history, the profession has given little consideration to the difficulties encountered by the first woman seeking entry, or to the prejudice and discrimination other women lawyers have had to face. Consciously or unconsciously man has always appeared to regard himself as superior to woman. Social conditioning which begins at birth influences role attitudes, of both men and women, and has had an inhibiting affect on the career prospects of the woman lawyer. When articles were necessary for admission, few men were willing to article women. In litigation men were reluctant to brief women, and without that experience women were excluded from the senior ranks of the profession and from the bench. Taking silk has proved especially elusive. The procedures enable pure prejudice to be cloaked by an impenetrable silence. Yet as this thesis reveals, the practices upholding discrimination can be identified and the experience elucidated, often with the help of the women themselves.

Historians have made little effort to assess the influence of women in the law, or to acknowledge whether, by her presence, the law itself has undergone change. Legal historians, loathe to admit their profession is less than impartial, fail to look where the evidence of discrimination is to be found, or fail to ask the appropriate

questions.

In Lawyers, a substantial volume dealing with the legal profession in Australia published in 1977 only a segment of one chapter referred to women lawyers. One short paragraph noted the successful attempt of Ada Evans to enter the legal profession and the passage of the Women's Legal Status Act in 1918, which amended the law to remove the barrier to women's admission.¹ No attempt was made to consider why Evans was barred from admission to practise nor to explain the long interval between her application and the Women's Legal Status Act. Earlier, John Bennett in A History of the New South Wales Bar (1969) found three paragraphs sufficient for women,² and in his A History of Solicitors in New South Wales (1984) less than four pages.³

When the New South Wales Labor Government in 1976 instigated an inquiry into the legal profession, a very long and detailed questionnaire, covering all aspects of the profession was forwarded to 1200 practitioners, but in the Report⁴ the only reference to women lawyers, in 625 pages, was three lines under the heading 'Age and Sex of Lawyers'.⁵

An article in Understanding Lawyers continued a one line reference '... since New South Wales rejected the admission of women as lawyers' and this was an appendage to an observation concerning male practitioners.⁶ Again no attempt was made to discover why New South Wales rejected women lawyers at that time.

Feminist historians have given some attention to the late 19th century suffrage movement's concern for women to enter the law. Anne Summers gives brief mention to this.⁷ Daniels and Murnane in their Women in Australia, an Annotated Guide to

1. Julian Disney et al, Lawyers, Sydney, 1977 p. 185.
2. J.M. Bennett, History of the New South Wales Bar, Sydney 1969, p.127.
3. Ibid, p. 305.
4. R. Tomasic and C. Bullard, Lawyers and their Work, preliminary report of findings of 1977 survey of Law Foundation of New South Wales into the legal profession in New South Wales, Sydney, 1979.
5. Ibid.
6. S. Woodman 'Lawyers in New South Wales 1887-1906' in R. Tomasic (Ed.) Understanding Lawyers, Sydney, 1978, p. 291.
7. Anne Summers, Damned Whores and God's Police, Victoria, 1975.

Records document more fully the existence of this interest in woman's admission to law.⁸ It is the subject of Allen's chapter in In Pursuit of Justice Australian Women and the Law 1788-1979,⁹ and in Kok O'Brien and Teale's chapter the circumstances of Evans' admission was briefly examined in an essay covering an eighty year period.¹⁰ Yet the feminist historians have not investigated in detail the circumstances of Evans' exclusion nor addressed other questions relating to women's presence in the law. Scutt has taken particular interest in areas of law where women as clients and victims experience the law, but she has not directed her attention to women lawyers as such or the contribution they have made to the law. Cass, Dawson, Temple, Wills and Winkler in Why So Few? Women Academics in Australian Universities include chapters on women in Science and Medicine, and references are made throughout to Veterinary Science, the Humanities, Social Sciences and other disciplines, but Law is mentioned only in a two and a half line quote taken from an answer by a female lecturer in Law to one of the questions in the questionnaire, the replies to which formed the basis of the book.¹¹ The authors were attempting to answer the question why there were not more women in the professions and why they are scarcer at the top where decisions are made?¹²

This thesis seeks to supply answers to the question why women in law continue to congregate in the lower eschelons sixty years on from their first admission. Additionally by considering where women have been found in practice, and the status of the area in which they practise, to attempt to extend the knowledge and understanding of how women experienced the practise of the law and whether their presence has had an influence on the legal profession.

8. Kay Daniels et al, Women in Australia: an annotated guide to records, Canberra, 1977.
9. Judith Allen, 'Breaking into the Public Sphere' in Judy Mackinolty and Heather Radi (eds.) In Pursuit of Justice, Sydney 1979, pp 111-114.
10. Daphne Kok, Joan O'Brien and Ruth Teale, 'In the Office and at the Bar' in In Pursuit of Justice pp. 181-184.
11. Bettina Cass et al, Why so Few? Women Academics in Australian Universities, Sydney 1983, p.
12. Ibid, p. 1.

The fact that scant recognition has been given to woman lawyers in the past does not mean that their role has been either insignificant or negligible, although, to date, most references have carried an implied overtone that their presence in the profession was of no consequence. They have not influenced the law, it has been said, though the fact of their being congregated in certain areas denotes in itself an influence, if only by pointing to relative status of different areas of the practice.

In a recent publication Power, Privilege and Prestige by Ann Daniels (1983) written as the result of findings from a questionnaire answered by a widely diverse sampling of the workforce, facts were discovered regarding occupations' prestige in Australia. In the rating 1 to 6.8 in the prestige hierarchy (1 being the top rating) a male solicitor was rated 2.3. A female solicitor scored a 2.5.¹³ The fact that the community at large has both recognised her presence and given her a rating only slightly below her male colleague has some significance, but historically women lawyers were less well regarded.

Numerically women now make up 13% of practising solicitors in New South Wales, and in 1985 numbered 1095.¹⁴ There is at present no compulsion on barristers to be members of the Bar Association, and the Association could not supply precise figures in 1985. However the number of women members of the Bar Association in October 1985 was given as 82, most of whom would have been actively practising at the Bar. The Law Almanac publishes lists of practising and non-practising barristers each year, but many women are now identified by initials only, without the prefix of Mrs, Miss or Ms, and a breakdown of entries by sex is impossible.

Where the majority of the early women lawyers were either employed in family firms, other legal firms, or as legal officers in government or quasi-government departments, where generally they were engaged in work of a routine nature, some are now to be found as specialists in partnerships in prestigious firms or as sole practitioners. Many women have successful practices at the Bar, able to specialise in

13. Ann Daniels, Power, Privilege and Prestige, Melbourne, 1983, pp. 204 and 199.

14. Figures supplied by Law Society of New South Wales.

the field of their choice. No longer do women need to rely on briefs in matters dealing mainly with the affairs of women and children. They have established practices where their specialist expertise is recognised and sought, and are represented on the Bench, the Magistracy, government Boards and Commissions.

The opinions of members of the Women Lawyers' Association of New South Wales, which was founded as a small semi-formal group in 1941, are now invited by governments and other organisations on a wide variety of subjects.

The greatest handicap women lawyers in New South Wales had to face was the fact they were born female. A man has suffered no discrimination in his pursuit of a career merely because he is a male. A woman, on the other hand, encounters the social precept that she is destined to be man's intellectual inferior and that her place is one of dependency in a world presided over by men. Most fathers, brothers and husbands accept as of right the role of preferment.

Several of the early women lawyers did not conform to the conventional expectations of their times and chose to carve for themselves a career; many in the process being subjected to censure, prejudice, and on occasions ridicule. The experience of some of these women, daunting though they may have been at the time, are recalled by the women concerned, with humour. Successful practices were built notwithstanding the many difficulties they were forced to overcome. They were women of exceptional courage and determination and deserve a place in any history of the profession in New South Wales.

Valuable information for this thesis has been obtained from interviews, including an interview with the first woman admitted as a solicitor in New South Wales, Miss Marie Byles, who died in 1979. A niece of Ada Evans, the first woman admitted to the New South Wales Bar, provided interesting material, including copies of letters written to, and received from, the Attorneys General of the day regarding the possibility of legislation being passed to admit women.

Relatives and friends of several of the other early practitioners have been generous with their time and assistance and have provided otherwise unrecorded

relevant material. Legal Journals including The Australian Law Journal, the Law Society Journal, the official Journal of the Law Society of New South Wales, and the Australian Law News have been consulted, as have newspapers and magazines. A questionnaire prepared by the author and circulated among members of the Women Lawyers' Association in 1977 produced informative data from the 60 respondents. Statistics were also available from surveys conducted by the Law Foundation of New South Wales in 1977 and the College of Law in 1983. Attendances at law seminars and conferences have provided an opportunity to note and appreciate the changes in the law itself and the reaction of women lawyers to those changes. Legal text books and reported cases also warranted attention. The practise of the law in other Australian States and overseas, especially concerning women in the law, was considered and furnished particulars to be used as comparative data.

The records of the Attorney General's Department, the Barristers' Admission Board, the Supreme Court, the papers of Marie Byles held by the Mitchell Library, some papers of Sibyl Morrison held by the Bar Association of New South Wales, and the records of the Women Lawyers' Association and my own experience while a member of that organisation have helped in the writing of this thesis.

CHAPTER II

STRUGGLE FOR ADMISSION

During most of the nineteenth century women were surrounded by restrictive legal disabilities and only slightly less inhibiting social disabilities. Under the common law a woman's status merged, on marriage, with that of her husband; she had little control over her own property and she was not the legal guardian of her own children. Because the English courts had interpreted the common law to mean that a woman was not entitled to hold any public office, women's activities were confined to those associated with the home. A married woman, with the exception of royalty, was at law incapable of exercising any public function.

Some young women looked beyond the domestic sphere to a pattern of life which would be financially rewarding and self-fulfilling, but to depart from conventional expectations took courage and determination. Nursing and teaching were acceptable occupations for women, but were regarded mostly as 'gap fillers' while awaiting marriage, which was seen to be women's ultimate destiny. In Australia almost all women married 'and almost all married women found themselves homebound'¹ and 'in lives bounded by their biology'.²

The Senate of the University of Sydney resolved in 1881 to open the University to women and 'to afford them all its rights and privileges in complete equality with men.'³ Women were admitted as undergraduates in 1882 in the faculty of Arts, the qualifications attending this course being a desirable background for teachers. The first two graduates from the University of Sydney took their degrees in Arts in 1885, but the number of women attending the University remained small; 13.9% of the total

1. Patricia Grimshaw and Lynne Strahan (Eds.) The Half Open Door, Melbourne, 1982, p. 4.
2. Ibid., p.5.
3. Senate Minutes of the University of Sydney, 6 April 1881, University of Sydney Archives.

student body in 1900⁴. The Bulletin, with its customary misogyny, pronounced 'Higher education for women is a monstrous farce...a girl who has received a higher education is generally a prig or a poseur'.⁵

Male academics may have shared this view. The Deans of the faculties of Medicine and Law were noteworthy for their unwillingness to accept female undergraduates. Professor Anderson-Stuart was 'not in favour of women in medicine.' He thought their proper place was in the home and their proper function that of wife and mother. In his view women could not 'take the place, or be equal to men in general medical work'.⁶

The first undergraduate in Medicine received high marks in her first year, 1884, but was not successful in the following three years, and completed her studies in England, qualifying in 1893.⁷ The first two women graduated in medicine at the University of Sydney in 1893,⁸ but the women were not accepted into the teaching hospitals in New South Wales for another sixteen years.⁹ They were forced to complete their training in other States or qualify overseas.¹⁰

The legal profession was to prove even more resistant to women. Ada Emily Evans graduated in Arts from the University of Sydney in 1895 with the idea of making teaching her career, and with her sister opened a school at Summer Hill. She had attended Sydney Girls High School, where she came under the influence of the notable

4. Ursula Bygott, 'Women at the University of Sydney: 1882-1982'. Special publication to mark the centenary of entry of women to the University of Sydney, University History Research Project, 4 June 1982, p. 2.
5. The Bulletin, undated, quoted in Margaret Mulvey, 'History of Women in Medicine', RPA Magazine, Winter 1982, Special Centenary Edition, Royal Prince Alfred Hospital, p. 31.
6. William Epps, Anderson Stuart, M.D. Sydney, 1922, p. 118.
7. Margaret Mulvey, op. cit. p. 31.
8. John Atherton Young et al (Eds.) Centenary Book of the University of Sydney, Faculty of Medicine, Sydney 1984. There are several points of view as to why Dagmar Byrne left Australia to complete her studies in England. Marjorie Neve-Hutton in This Mad Folly considered she had not been treated fairly by Anderson Stuart, and this was also the view of Dr Mulvey who felt she had been 'victimised'. John Atherton Young expressed the view that Anderson 'on the surface at least' seemed not to have 'raised any objection to her presence'.
9. Margaret Mulvey, op. cit., p. 32.
10. Ibid., p. 31.

headmistress Mrs Gavan who encouraged her students to seek tertiary education, and there were lawyers in her family. In her later life she spoke of a visit to the House of Lords where a relative sat her on the Woolsack and jokingly told her she was the first of her sex to occupy it.¹¹

While at the University she was involved in welfare work and with Kate Hogg, later Dr Kate Hogg, she visited many underprivileged and sometimes destitute women in the inner suburbs of Sydney. She observed the failure of the legal system to ensure relief for these women, particularly the payment of maintenance under court orders made against erring husbands. Men made the laws, men interpreted the law, and men supervised the legal process, often indifferent to the hardship women experienced when forced to support themselves and their children. There was a need, Evans could see, for women trained in the law, to assist and represent women before the law.¹²

She applied to enter the Law School. Jethro Brown was acting Dean during the absence of Professor Pitt Cobbett and he enrolled Evans as a law student. Pitt Cobbett is reported to have said on his return 'Who is this woman? There followed a series of doors slamming, chairs banging on floors and bells ringing'.¹³ She was summoned to his presence and he attempted to dissuade her from continuing her course: she 'did not have the physique'; medicine was 'more suitable', but encouraged by Jethro Brown, 'If you cannot reap all the reward of your toil, the greater glory may be yours of sowing that others may reap - the glory of the pioneer',¹⁴ she continued her course. She graduated on 19 April 1902.

11. Information supplied by Ila Kyngdon, a niece of Ada Evans in an interview at Bowral on 22 June 1978.
12. Information supplied by Ila Kyngdon, Bowral.
13. Bek McPaul, 'A Woman Pioneer', Australian Law Journal, 20 May, 1948.
14. Letter Professor Jethro Brown to Ada Evans, McPaul, *ibid*.

The New South Wales Supreme Court was empowered by the Third Charter of Justice in 1824 to admit to practise those persons who had been admitted or practised in England, Ireland or Scotland and 'as many other fit and proper persons to appear and act as Barristers Attornies and Solicitors as may be necessary according to such rules and qualifications as the said Court shall for that purpose establish'.¹⁵

The profession is divided by law into two branches, Barristers and Solicitors, but from 1847 and the passing of the Attorneys' Bills and Conveyancing Act (11 Victoria No. 33) into a third branch, Conveyancers.¹⁶

Under the Barristers Admission Act of 1848 (11 Victoria No. 57), a Board comprised of the Judges of the Supreme Court, the Attorney General and two practising barristers was given the power to regulate the admission of Barristers in New South Wales. The Act stated no candidate was to be admitted unless of good character and 'every candidate whom the said Board shall approve as a fit and proper person ... shall be admitted as a barrister ... any law or usage to the contrary notwithstanding'.¹⁷ (Sections 2 and 3).

The Barristers' and Solicitors' Admission Boards were responsible for recommending who should be admitted as Barristers or Solicitors. All admissions were subject to and in accordance with the Rules of the Supreme Court, and until the foundation of the University of Sydney Law School in 1890 the Court, through the two Boards, was responsible for legal education. University degrees in Law were recognised by the Court but the Boards nominated the type and term of practical training required and had to be satisfied that a person seeking admission was 'of good character'. For a barrister no practical training was required by law but a term as a student-at-law was necessary. Notice in writing fourteen days before the first day of any Term was to be given to the Board when applying for registration as a student-at-law. An Arts graduate was required to serve a term of two years, be of 'good fame

15. Historical Records of Australia, Series IV, Vol. 1 Clause 10, 5. 512.

16. Attorneys Bills and Conveyancing Act 1847 (11 Victoria No. 33).

17. Barristers Admission Act 1848 (11 Victoria No. 57) ss 1 and 2.

and character' and a bona fide resident of the Colony to be eligible for admission as a Barrister.¹⁸

Ada Evans apparently applied by letter dated 14 December 1898 to be registered as a student-at-law. No trace of her letter has been found but copy of the reply from the Chief Clerk of the Supreme Court, A.G. Saddington exists. This letter dated 19 December 1898 states:

I duly received your letter of 14 December and in reply thereto have to inform you that I can give you no definite answer until your letter has been submitted to the Judges. I fear that this will cause considerable delay as in consequence of vacation it is improbable that more than two judges will be in town for the next two months.

There will be a meeting of the Judges about 16th February next and I do not think the matter will be considered before then.¹⁹

Saddington was also Secretary of the Barristers Admission Board. Its first meeting in 1899 was held in February with the Chief Justice, Sir Frederick Darley and Justices Simpson and Cohen present.²⁰ There is nothing in the Minutes concerning Ada Evans, nor has a search revealed any mention of her in any other Board Minutes.²¹ At a meeting on 3 May 1899 it is recorded 'Three gentlemen were admitted as students-at-law'.²² On 31 May 1899 there issued from the Supreme Court the following - 'This is to certify that Miss Evans is a Law Student attending lectures of the Law School of the University', signed by Saddington.²³ She was not registered as a student-at-law. The delay of five months from the date of application suggests the Judges and the Board were unsure that they were correct in refusing to register her.

No record has been found of the matter being placed before the Judges. If, as Saddington's letter suggests, it was about '16th February', it would most likely have

18. New South Wales Law Almanac, Rules for Admission of Barristers, 1899.

19. Letter A.G. Saddington to Ada Evans dated 19 December, 1898 Supreme Court Letter Book, NSW SA 4714, p. 372.

20. Barristers Admission Board Minutes, February 1889 to 1908 NSW SA 4/8350.

21. Ibid.

22. Ibid., 3rd May, 1899.

23. 'Certificate' signed by A.G. Saddington, Acting Prothonotary held by Ila Kyngdon with Ada Evans' papers.

been at a sitting of Judges in the Banco Court listed for 17 February 1899²⁴ when the Chief Justice sat with Justices Owen and Simpson. Evans' name did not appear in the Court listings, and the Chief Justice's Letter Book, Judges' Note Books, or the Supreme Court Letter Books²⁵ failed to uncover any mention of her.

Her own correspondence later refers to an application she made before graduating in law for permission to take the examinations required for admission as a Conveyancer.²⁶ She was refused. Conveyancing was a limited area of practice which had been regulated by a Statute in 1847 (Attorneys' Bills and Conveyancing Act) to become a third branch of the law in New South Wales. It was not in contemplation in 1824 at the time the Charter of Justice empowered the Court to admit Barristers and Solicitors, and Conveyancers were subject only to the Statute which created them. They were unaffected by the common law. The 1847 Act provided inter alia that words importing male gender extended also to female (Section 15). The Legal Interpretation Act 1897 made it unnecessary for this Section to be included in the consolidating Legal Practitioners Act of 1898, an Act which regulated the admission of Barristers, Solicitors and Conveyancers.

In her later correspondence Evans stated she had been informed by the Court it would be necessary to change the law before a woman could be admitted.²⁷ There is mention in a transcript of a deputation to the Attorney General in 1915²⁸ of the Chief Justice, Sir Frederick Darley having placed the matter [of her entering the legal profession] before the full Bench of Judges and of their having decided it was a matter for Parliament. It will be argued the law as it stood at the time of Evans' first application was adequate for the Board to accept her as a student-at-law, or if

24. Court List - Judges sitting in Banco.

25. Supreme Court Letter Book, containing correspondence re Barristers admission to practise, May 1899 to December 1901 NSW SA 3/4768.

26. Letter Ada Evans to Attorney General Wade, 18 September 1905 with Special Bundle of Papers re Shoplifting including papers from Department of Attorney General and Justice, NSW SA 3/3165.

27. Letter to Ada Evans to Premier, 28 July 1917, *ibid*.

28. Transcript of deputation to Attorney General requesting opening of legal profession to women 18 August 1915, *ibid*.

necessary, to change its rules. She was entitled, subject to complying with the Courts requirements of satisfactorily completing the examinations and being of good character, to be admitted as a Conveyancer. In the absence of evidence to the contrary it would seem the Board and the Supreme Court were relying on woman's common law disability to hold public office.

Woman's common law disability to hold public office rested on inveterate usage, but on several occasions during the nineteenth century women in England had challenged their exclusion from public office under individual statutes. The common law disability had been raised against a woman in 1867 in *Chorlton v. Lings*²⁹ though the judgment against woman's eligibility in a borough election in that case was dependent on the Court's construction of the relevant statute.³⁰

In 1887 in *Re Duke of Somerset*³¹ the common law disability was again raised against a woman who petitioned to be appointed guardian ad litem to an infant defendant, and again the refusal of her petition rested on grounds other than common law disability. The Court found she was not acceptable because under Statute law as a married woman her responsibility for costs was limited to her separate estate. However in a third case where woman's common law disability was raised, *Beresford-Hope v. Lady Sandhurst*³² (1889), one Judge, Lord Esher, made it the single ground for disqualifying Lady Sandhurst from office. She had stood for election as county councillor and had received a majority of the votes cast. Lord Esher said 'by neither the common law nor the constitution of this country from the beginning of the common law until now can a woman be entitled to exercise any public function.' No one appears at the time to have disputed this statement which can be shown to be inaccurate. In 1569 the daughter of the Duke of Buckingham acted as Constable of England,³³ in 1738 the Court ruled a woman could occupy the position of sexton³⁴ and

29. *Chorlton v. Lings*, 1868 L.R. 4CP 374.

30. Representation of the People Act 1867.

31. *In re Duke of Somerset* - 1887 34 Ch. D 465.

32. *Beresford Hope v. Lady Sandhurst* 1889 23 Q.B.D. 79.

33. 1569 *Dyer* 285 b.

34. *Olive v. Ingram*, (1738) 7 Mod. 263.

in 1738 the court decided a woman could hold the office of overseer of the poor.³⁵ Possibly Lord Esher's misleading statement influenced the New South Wales Judges, the Barristers' Admission Board and Evans herself to believe an enabling statute would be necessary to override the recently upheld common law disability.

Similar misrepresentations were made in a Scottish case, *Hall v. Incorporated Society of Law Agents* in 1901.³⁶ Margaret Hall appealed against the Board's refusal to accept her application to take the examination leading to practise as a Law Agent (Solicitor) and lost her case when the Court ruled that where a term was ambiguous (the Law Agents Act 1873 referred to person) 'that meaning must be assigned to it which is in accordance with inveterate usage'. With legal logic rather than common logic it interpreted person to mean male person.

The Society's statement to the Court that no woman in England and Ireland had been admitted and none had sought to be admitted went uncontradicted. Yet in 1879 a woman in England applied to the Council of the Incorporated Law Society to sit the preliminary examination and was refused. The Council was reported to have replied 'they do not feel themselves at liberty to accept the notice of any woman'³⁷ Also in 1879 a woman wanting to become a barrister applied to one of the Inns of Court and was informed that under the Regulations ladies were not allowed to enter as students.³⁸

None of these cases constituted precedents for the refusal of the New South Wales Board to register Evans as a student-at-law because of the Statute from which the authority of the Board was derived. The Legal Practitioners Act 1898 was passed after the Interpretation Act (NSW) 1897 by which in subsequent Acts the male pronoun was interpreted as including the female.³⁹ Thus in the Legal Practitioners Act 'person' meant male person and female person. If there was any doubt that the

35. *R. v. Stubbs*, 2TR 395, 11 E.R. 213.

36. *Hall v. Incorporated Society of Law Agents*, 1901 3 F. 1059.

37. Solicitors Journal - (English) - Vol. 24 1879 p. 139 and The Times, London 13 December 1879, p. 10.

38. Solicitors Journal, op. cit.

39. Interpretation Act (NSW) 1897 s. 21 (a).

Interpretation Act was applicable to the Legal Practitioners Act of 1898, it was dispelled by the marginal notation which indicated Sections 2 and 3 of the earlier Barristers Admission Act 1848 had been brought into Sections 9 and 10 of the later Act, thus retaining the effect of the words 'any law or usage to the contrary notwithstanding'. With those words the common law disability was made incontrovertably inapplicable in regard to the admission of women as barristers in New South Wales.⁴⁰

The barrier to Evans was not the law, but the ingenuity of the Judges in interpreting it to keep law as a male reserve. As rights were being created for men in the nineteenth century by Statute Law, recourse was had to the common law to prevent the extension of those rights to women. When gendered terms were replaced with the word person, legal construction restored the gendered term male person.

In *Re Edith Haynes*⁴¹ in 1904 in Western Australia, the Judges revealed their clear intention of excluding women from the profession of law until directly instructed by the legislature to admit women. The Western Australian Barristers' Board had registered Haynes' articles of clerkship in 1900 stating ambiguously 'although of opinion (with some doubt) that women were eligible for admission under the Legal Practitioners Act the Board could not guarantee such admission'. In 1904 when refused permission to sit examinations she applied for a writ of mandamus and the Acting Chief Justice and two Judges heard her case. The construction of the Judges was that there was nothing in the Act to require the Board to admit a person and thus the Board was free to exclude any candidate it considered unsuitable. The comparable section in the New South Wales Act was positive not negative: Section 10 of the New South Wales Act read 'every candidate' approved by the Board 'shall be admitted'. Nonetheless, probably the significant sentence in the West Australian judgment is the

40. The Legal Practitioners Act 1898 was a consolidating Act bringing together all previous enactments dealing with the admission and practise of barristers and solicitors and conveyancers. Sections 9 and 10 were those regulating the admission of barristers.

41. *In re Edith Haynes*, W.A.R. Vol. VI, 209.

last of Justice Burnside's stated reasons that 'When the legislature in its wisdom confers the right on women, then we shall be pleased to admit them'. The legislature had already removed gendered language from the Legal Practitioners Act in 1893. Macmillan J. reasoned that if women were eligible for the Bar then they were eligible also for the Bench and that he was not prepared to accept. A change of such importance he stated 'should be made, and in fact can only be made by the Legislature'. Access to the Bench was not then at issue.

The Courts had made it clear that the profession would continue to exclude women until amending legislation was passed to require them to admit women.⁴²

On 24 February 1904, members of the Women's Progressive Association,⁴³ led by their President, Miss Annie Golding, attended on the Attorney General (Wise) in deputation calling for specific reforms, included in which was the admission of women to the legal profession.⁴⁴ They pointed out that women had been admitted to the Bar in France and the United States and were allowed to practise in Russia and New Zealand: No precedent should be needed 'in a democratic country like New South Wales'. Members of the delegation claimed the appearance of a woman practising before the Courts would have the effect of 'avoiding the degrading questions and insinuations that are sometimes made'. No avenue should be closed, it was claimed with reference to Ada Evans, to one who was capable. On the question of the eligibility of Evans, the Attorney General held the view that the law as it stood excluded women; legislation would be necessary.

42. J.M. Bennett's in his History of Solicitors in New South Wales made mention that before the Women's Legal Status Act it was impossible for a woman on 'somewhat apocryphal' grounds to practise law in New South Wales (p. 272). He too may have had some doubts as to the correctness of the decision to refuse Evans applications although he did not refer to them.
43. The Women's Progressive Association was formed by a breakaway group from the Womanhood Suffrage League in 1901 and included the three Golding sisters.
44. Transcript of 1904 deputation to Attorney General, Special bundle of papers re shoplifting, loc. cit.

Wise terminated the interview with the statement 'I hold the view that women are not adapted either physically or intellectually in the work of advocacy in Courts of Law.'

The following day Ada Evans wrote to the Attorney General ⁴⁵ asking if he 'would lend assistance to getting a Bill introduced into Parliament'. She informed him the Victorian parliament had the previous year passed the Legal Profession Practice Act, (1903) whereby sex was no disability to practise as a barrister or solicitor. The Attorney General declined to introduce such legislation though he said he was prepared to support a Bill for that purpose if introduced as a private bill.⁴⁶

The Women's Progressive Association, through their President, again took up the question. On 17 July 1905 Golding wrote to the Attorney General, C.G. Wade, enclosing a copy of a motion passed unanimously at a meeting of the Association, that '...the time had arrived when women in New South Wales should be admitted to the legal profession'. The reply this time was that legislation was not necessary: '...it really depends on the practice and rules of the Supreme Court.'⁴⁷

Evans again wrote to the Attorney General stating she had been informed in 1902 that the Act relating to the admission of barristers and solicitors did not apply to women.⁴⁸ There is a record of a reply acknowledging the letter but none following.⁴⁹ The matter remained unresolved.

Golding then approached Sir Frederick Darley, C.J., but he replied it was 'absolutely' a matter for Parliament. No copy of this letter has been found but Golding referred to it.⁵⁰

In 1913 a further deputation, on this occasion to D.R. Hall, the Minister of Justice and Solicitor General in a Labor Government, which had been helped

45. Letter Ada Evans to Attorney General Wise dated 25 February 1904 Special bundle re shoplifting, op. cit.

46. Letter Attorney General to Evans dated 10 March 1904 with Evans' papers at Bowral.

47. Transcript of 1913 deputation to D.R. Hall, Minister of Justice Special bundle re shoplifting loc. cit.

48. Letter Ada Evans to Attorney General Wade, 28 July 1917, Special bundle re shoplifting, loc. cit.

49. Ibid.

50. Transcript of 1913 deputation, loc. cit.

electorally by individual members of the Women's Progressive Association,⁵¹ had the support of 'ladies representing all shades of opinion' and 'all sympathetic with women entering the legal profession'.⁵² It would, she said 'be just like trying to crush an oak tree back into an acorn as to try and crush women back into the sphere of the house and kitchen'. Women would no longer accept that they were never supposed to have an opinion on any progressive or intellectual subject.⁵³

Hall had been called to the Bar in 1903 and admitted to knowing of a young lady who had not been allowed to practise even though 'the government gave her full opportunity to study and took her fees from her'.⁵⁴ He was a miner's son and his own studies for the law had been undertaken while employed as secretary to the Minister for Lands and as a member of parliament. Possibly his own struggles made him more sympathetic than Attorneys General Wise and Wade, both Oxford educated and members of the Middle and Inner Temple respectively. More likely the rising proportion of women choosing to exercise their right to vote was having some political influence. Hall professed to be sympathetic to the delegation's request.⁵⁵

The Daily Telegraph was less sympathetic -

Miss Golding is probably quite correct in her remark that women refuse to be 'crushed back' into the domestic sphere. But as that is the sphere which woman has occupied during the period of recorded history, her dramatic departure from it can hardly fail to dislocate the machinery of society very seriously until some other agent - possibly electricity - has been discovered which will be capable of rocking the cradle thereby leaving women free to rule the world. ... Family life is the unit of society. It must be sound if the State itself is to be sound.⁵⁶

Two years later uncertainty still persisted regarding the entry of women to the legal profession, and the Minister was again expressing doubts about the necessity for legislation: 'I do not think we can ask the Supreme Court Bench to take the

51. Annie Golding was the sister of Kate Dwyer who was the first President of the Women's Organizing Committee of the Political Labor League and a member of the Labor Party executive.
52. Transcript of 1913 deputation loc. cit.
53. Ibid.
54. Transcript of 1913 deputation loc. cit.
55. Ibid.
56. Daily Telegraph, 22nd September 1913.

responsibility'.⁵⁷ A Bill was introduced in 1916 but it was withdrawn at the second reading on technical grounds.⁵⁸ Another delegation in 1918 representing several thousand women attended on the Attorney General for the Bill to be re-introduced.⁵⁹

On 21 December 1918, the Women's Legal Status Act became Law. It stated specifically that women could be admitted and practise as barristers and solicitors and conveyancers and further that 'A person shall not by reason of sex be deemed under any disability or subject to any disqualification.'⁶⁰

After a struggle of sixteen years, and the persistence of a dedicated group of feminists committed to social reform, a woman was finally entitled to practise law. Ada Evans had to serve her two year term as a student-at-law before she could be admitted to the Bar. On 21 May 1921,⁶¹ nineteen years after her graduation, she became the first woman admitted as a barrister in New South Wales.

On 2 June 1921 she was offered a brief to appear on behalf of women clerical officers of the Public Service Association in an application for equal rates of pay for men and women in their branch of the Public Service. She declined the brief. The long delay, indifferent health and compelling family commitments influenced her decision not to practise.⁶²

While Ada Evans was qualified and anxious to practice law in New South Wales, but was denied the right until she felt it was too late, women in all States except West Australia, had the right, but were slow to take advantage of it. Apart from Victoria, where Greta Flos Greig was admitted in 1905 after the passing of the enabling Act in 1903, some years elapsed in the other States between the date of the enabling Act and the first admissions. Tasmania passed its Act in 1904. The first female admission was in 1935. Queensland followed with a 1905 Act. The first woman was admitted in 1915. The South Australian Act was 1911 and the first admission 1917. Western Australia was the last to pass the enabling Act, in 1923. No female was admitted until 1930.

57. Transcript of 1913 deputation, loc. cit.

58. NPD Vol. 64 (23 August 1916) pp. 1095-9.

59. Transcript of 1918 delegation, loc. cit.

60. Women's Legal Status Act 1918 s. 2(b).

61. Supreme Court Records and The Evening News, May 12, 1921.

62. Australian Dictionary of Biography, Ada Emily Evans, Vol. 8 1891-1939 p. 443.

CHAPTER III

PIONEERING DIFFICULTIES - 1924-1933

After the formal barrier to woman's admission to practice had been removed formidable practical barriers remained. The course of study undertaken to qualify as a barrister or a solicitor was a matter of choice. A candidate could complete a degree course through the University of Sydney or take the examinations of the Barristers' Admission Board,¹ if the intention was to go to the Bar, or the Solicitors' Admission Board if the choice lay with a solicitor's practice. In all cases application for admission was through the Supreme Court and in accordance with its rules. An intending solicitor was required to obtain practical training by entering into articles of clerkship with a practising solicitor and serving varying periods of up to five years.²

In the fifteen years following the passage of the Women's Legal Status Act, only nine women were admitted as solicitors³ and only two, including Ada Evans, as Barristers. Four graduated in Law⁴ but did not apply for admission. The small number attempting to enter law suggests continuing opposition to women from the profession. All these women chose to enter by University degree rather than by taking the Solicitors' Admission Board examinations. The first difficulty to overcome therefore was the means for prolonged study. In effect supportive and encouraging parents were necessary, and those parents additionally had to be in a position to finance a daughter's tertiary education. The further problem was obtaining articles or, in the case of a Barrister, in securing rooms and finding a senior member of the Bar prepared to accept a woman pupil. A period reading Law with an experienced

1. A Board of Examiners was created in 1877 to be responsible for examinations and for the admission of solicitors and came to be known as the Solicitors Admission Board. J. Bennett, *A History of Solicitors in New South Wales*, op. cit., p. 213.
2. Victor Windeyer, 'Learning the Law', in *Australian Law Journal*, Vol. 35, 1961, p. 104.
3. Information from records of the Supreme Court of New South Wales Solicitor Roll.
4. University of Sydney Calendars.

Barrister was part of the practical training and the accepted way of learning the art of advocacy. Connections in the legal profession were helpful though not essential in overcoming these difficulties. When qualified the problem became that of finding work.

Any woman contemplating Law as a career in these years needed strong motivation and considerable determination. Not all have happy memories of their years in the Law School, often as the only woman in the class. Marie Byles recalled the textbook on Bills of Exchange had been written by a Justice Byles, a distant relative and if reference was made in class to Byles on Bills the class stamped furiously. Her account of this episode in her autobiography reveals clearly she was embarrassed by these demonstrations.

They were exceptional women. When Marie Byles enrolled to do an Arts/Law course at the University of Sydney in 1918 the legal position of women wanting to practise law had not been determined. The Bill was before the House and there were indications it would pass but an earlier Bill had been withdrawn, but she commenced studying. She had done well at school being Dux and Head Prefect in her final year at Presbyterian Ladies' College Pymble, and she was a good debator.⁵ Others of these early women lawyers were singled out at school for exceptional ability and most of them attended good private Schools. Three attended Presbyterian Ladies' Colleges, one in Melbourne and two in Sydney. The Presbyterian Ladies' Colleges had an outstanding record in encouraging able young women to undertake University study. Two of the women had been to Abbotsleigh, another excellent School. One at Methodist Ladies College, Burwood. In 1917 Marie Byles won an Exhibition to the University of Sydney and she graduated in 1920 with first class Honours in History.⁶

5. Information from unpublished autobiography of Marie Byles held with her papers at the Mitchell Library, ML MSS 3833, page 2.
6. Information supplied by Presbyterian Ladies' College, Pymble and from unpublished autobiography, op. cit.

Sibyl Enid Morrison became the first woman to practise at the New South Wales Bar; she was admitted on 2 June 1924.⁸ Marie Byles, admitted on 4 June 1924, was the first Solicitor. Christian Jollie Smith, already admitted in Victoria, followed. She was admitted as a solicitor on 30 October 1924. Blanche Kirkpatrick was next, admitted as a solicitor in 1925, Muriel Hudson, Jessie Hargrave and Mary Thompson in 1929, Jean Oxley in 1931 and Florence Thurles Thomas in 1933. Three others graduated but did not apply for admission, Elaine Shorter, LL.B 1926, Margaret Donoghue, B.A. LL.B, 1927 and Sheila McLeod, B.A. LL.B, 1929. Muriel Hudson won the Rose Scott prize for women students in Private International Law.⁹

The parents of these women were professional and business people, several with connections in the legal profession. Studies of the legal profession reveal recruitment into it by and large is from this kind of background,¹⁰ so to that extent women followed the trend. Ada Evans' father had been an architect,¹¹ Byles' father was an engineer,¹² Jollie Smith's was a Professor of Hebrew and Old Testament Studies¹³ at the University of Melbourne, McLeod's a doctor,¹⁴ Thurles Thomas's a chemist,¹⁵ Hargrave's father a solicitor.¹⁶ Elaine Shorter's father and brothers were in the importing business.¹⁷ Several of the women had relatives in the legal profession, Evans, Byles (a distant relative), Morrison (a half brother), Hargrave (father and brother).¹⁸ Judged by the occupation of their fathers the background could be

8. New South Wales Law Almanacs 1925-
9. Information from records of the Supreme Court New South Wales, Solicitors Roll and from University of Sydney Calendars.
10. R. Tomasic and C. Bullard, Lawyers and their Work, Sydney 1978. Preliminary report of findings by the Law Foundation following 1977 survey of legal profession in New South Wales.
11. Information supplied by Miss I. Kyngdon, a niece of Ada Evans, at an interview 22nd June 1978.
12. Information from manuscript of unpublished autobiography of Marie Byles loaned to the author by Miss Byles, p. 20. This manuscript differed in content and arrangement from that in the Mitchell Library.
13. J.M. Bennett, A History of Solicitors in New South Wales, Sydney 1984, p. 273.
14. Information supplied by Elaine Shorter.
15. Ibid.
16. Bennett, op. cit. p. 273.
17. Information supplied by Miss Elaine Shorter in a telephone conversation 6 July 1978.
18. Bennett, op. cit. pp. 273-274.

presumed politically conservative. The women themselves, especially those who persisted and were successful in practice, were radical, mildly so in Marie Byles's case, distinctly so with Jollie Smith.

In recent studies of professionally qualified women the influence of mothers is evident¹⁹ both in encouraging daughters to undertake careers and to adopt independent views. Marie Byles leaves strong evidence of this. Her mother had been a supporter of women's suffrage and before emigrating to Australia had marched with the suffragettes; she also wore shortened skirts before it was fashion to do so. Marie recalls her saying to her as a child: 'When you grow up you must not copy me; you must earn your own living'.²⁰ Jollie Smith's mother had been a teacher.²¹

Marie Byles published while a student an article in The New Outlook advocating relaxation of the White Australia policy, at least in regard to the intellectuals,²² and she continued her journalism in the early years of practice to supplement a meagre income from her legal practice. Her uncle, Stanley Unwin was well known in British publishing.²³ In an article for Australian Home Beautiful Byles deplored the fact that a woman changed her name on marriage. Taking the husband's name was 'an awkward custom' she wrote which dates back to the time 'when wives were little better than their husband's chattels'.²⁴ Morrison made the disadvantages of women under divorce law her particular concern.²⁵ Jollie Smith's practice was centred around perceived disadvantages, to industrial workers, regarding civil liberties and more generally, concern for the underprivileged.²⁶

Obtaining articles was for most of the women contemplating practice as a solicitor a difficulty, for some an impossibility. Entrenched prejudice continued to

19. Grimshaw and Strahan, The Half Open Door op. cit., and Madge Dawson and Heather Radi (Eds.), Against the Odds, Sydney, 1985.

20. Unpublished autobiography loaned to author, op. cit., p. 14.

21. Information supplied by Niki Grassat, Melbourne, 22nd May 1984.

22. Unpublished autobiography op. cit., p. 45.

23. *Ibid*, p. 33.

24. Australian Home Beautiful, 1 November 1933.

25. The Sun, 23 May 1926 and Daily Telegraph, 8 March 1926.

26. Tribune, 16 January 1963.

keep women out of the profession after the legal barrier had been removed. Under the Rules of the Supreme Court there were other options: a person aged twenty five years or over, who had ten years experience as a solicitor's clerk, five of those as a managing clerk, and who had passed the intermediate and final law examinations, was eligible for admission, as was a person who had served ten years as a legal clerk in a government department and had complied with the Rules of Court,²⁷ subject in each case to being of good character. Neither of these ways of entering offered much prospect to women, their sex being a handicap to their appointment either as managing clerk or as a legal clerk in the public service. Women were restricted to the lower divisions of the public service and preference for ex-servicemen was further restricting their employment in the public service.

Marie Byles graduated LL.B in 1924 winning the Rose Scott prize for women students in Private International Law²⁸ but she had difficulty in obtaining articles. One solicitor granted her an interview only to tell her she would be better 'thumping a typewriter'. Another, whom her father approached, an older man, exclaimed 'A girl! Thank heavens I shall soon be out of it'. With the help of a friendly neighbour, who was Commissioner of Stamp Duties, she was finally placed. A premium, by way of a training fee, was payable to the master solicitor, the acceptable amount at the time being 100 pounds. She was required to pay 200 pounds, and the articles of clerkship stipulated her father should provide 'all manner of necessary and becoming apparel'. The premium was in fact repaid during her clerkship by payment of a salary of 4 pounds a week.²⁹

Jollie Smith qualified for admission in New South Wales by having already been admitted in Victoria,³⁰ where, much earlier than in New South Wales, an enabling Act

27. New South Wales Law Almanac - Rules Regulating Admission of Solicitors.

28. University of Sydney Calendar, 1925.

29. Unpublished autobiography of Marie Byles, ML MSS 3833, p. 2.

30. Bennett, History of Solicitors in New South Wales, op. cit. p. 273.

had been passed in 1903.³¹ Christian Jolie Smith graduated LL.B. in 1911 and was admitted as a Barrister and Solicitor in Victoria in 1912, the profession there not being divided. She was employed for some time as a Professional Assistant to the Commonwealth Crown Solicitor³² but in 1919 turned to teaching.³³ Presumably she was not being given the kind of legal work which would interest her, as a later distinguished career in law seems proof of a deep commitment to the practise of the law. Joan Rosanove, admitted to practice in Victoria in 1919, presents a gloomy picture for women lawyers at that time: 'only a handful ... Few if any made appearances in court. Tradition and prejudice was against them...'³⁴. Jollie Smith joined the socialists in Melbourne establishing contacts with other intellectually and politically active women, including Katherine Suzannah Pritchard.³⁵ Probably through her socialist connections she came to Sydney in 1921 to teach at the Labour College,³⁶ later absorbed into the Workers Educational Association. The Trades Hall connection was valuable after she returned to legal practice. When she was admitted as a solicitor in 1924 she worked in a firm handling industrial matters before founding her own firm of C. Jollie Smith & Co. in 1927.³⁷

Elaine Shorter, graduating LL.B. in 1926 experienced difficulty in obtaining articles. Her father had asked a solicitor to take her but at the interview he treated her, she says, 'like an idiot' showing he had no intention of employing her. His initials were B.F. and she reported to her father that he had 'abolutely lived up to his initials'. She ultimately obtained articles through a friend, but after qualifying could find no one to employ her, though she approached many solicitors. She abandoned the

31. Legal Profession Practice Act 1903, sometimes referred to as the 'Flos Greig Enabling Act' as it enabled Flos Greig (Grata Flos Matilda Greig) to be admitted as a barrister and solicitor in Victoria on 1 August 1905. See Ruth Campbell, A History of the Melbourne Law School 1857 to 1973, University of Melbourne, 1977, p. 28.

32. Who's Who in Australia, Johnston, 1962, p. 457.

33. Ibid. 1950, p. 382.

34. Isabel Carter, Woman in a Wig, Joan Rosanove Q.C., Melbourne 1970, p. 15.

35. Druisilla Modjeska, Exiles at Home, Australian Women Writers 1925-1945, Melbourne, 1981, p. 46.

36. Who's Who in Australia, Johnston, 1962 p. 457.

37. Bennett, op. cit. p. 273.

Law and joined the family business of 'Shorters' importers of fine china and glassware, where she became a Director and remained until her retirement.³⁸

Finding employment was as, if not more difficult than obtaining articles. Solicitors were not ready to employ a female solicitor. The stereotype of woman being unable to retain confidences had been raised against them when first seeking the right to practise.³⁹ New stereotypes were forming of women being unable to manage money or handle the criminal side of the law.

Byles was about to enrol for a Masters Degree, discouraged by repeated rejection by legal firms when the Dean of the Law Faculty, the influential Sir John Peden, intervened on her behalf and Henry Davis took her on at a salary of six pounds a week.⁴⁰ Perhaps there were grounds for the profession's obvious reluctance to employ women. Both Byles and Shorter state that they had been taught very little while articulated. In her autobiography Byles says most of her time was spent filing letters and running errands. She recalled the occasion she was required to serve papers on a dentist and to do so she made an appointment and got as far as the dentist's chair before handing him the document.

Jean Oxley, admitted in 1931, seems never to have practised. Thurles Thomas, after securing articles, was unfortunate as her master solicitor became a victim of the Depression.⁴¹ She was admitted on 26 May 1933 but stayed with the firm only long enough to do what had to be done to close down the office. Failing to find another position in the law, she returned to her old School, Abbotsleigh, to teach.⁴¹ Margaret Donoghue was another unable to obtain articles and though she graduated LL.B. in

38. Information supplied by Elaine Shorter in a telephone conversation, 6 July 1978.

39. Opinion of Sir John Madden, Chancellor of the University of Melbourne 1905 quoted in *The Argus*, Melbourne and referred to in Farley Kelly's Degrees of Liberation, A Short History of Women in the University of Melbourne, Melbourne, 1985, p. 21.

40. *Autobiography of Marie Byles*, op. cit., ML MSS 3833, p. 3.

41. Information supplied by Thurles Thomas.

1927 was reported in 1940 to be managing a dress shop.⁴² Muriel Hudson, 'set for a brilliant career' it seemed when she graduated in 1928 winning the Rose Scott prize, served articles with Piggott Stinson Macgregor & Palmer and was admitted in 1929, but married and seems not to have practised.⁴³ Mary Thompson admitted in 1929 seems not to have found employment in the law and in 1940 was reported to be secretary to the Macquarie Club.⁴⁴ Sheila McLeod after marriage completed the law degree in 1929 but did not apply for admission. She went as Librarian to the Bar Association.⁴⁵

One who did practise was Blanche Kirkpatrick who was admitted as a solicitor in 1925 and employed by Sly & Russell,⁴⁶ the Sydney firm which was later one of the first of the large prestigious firms to take a woman as a partner.⁴⁷ Kirkpatrick left to establish her own practice after two years and perhaps had difficulty finding clients as she left in 1932 to start a practice in Scotland where she is reported to have continued in practice until her retirement in 1960.⁴⁸ About the time she left Byles was doing journalism to supplement her income and only Jollie Smith and Hargraves seemed to be in successful practice.

Jessie Hargraves was admitted in Victoria in 1922. She was the daughter of a solicitor with an established practice in the border towns of Yarrawonga, in Victoria and Oaklands, in New South Wales. She took over the Yarrawonga practice when her father died in 1926 and sought admission in New South Wales to enable her to run the Oaklands office. She was the only woman in practice in New South Wales outside Sydney for many years and built a reputation for her tenacity. Bennett wrote of her

42. The Hon. Sir Thomas Bavin, The Jubilee Book of the Law School of the University of Sydney, Sydney 1890-1940, Sydney 1940.

43. Information supplied by Elaine Shorter.

44. Bavin, op. cit.

45. Information supplied by Elaine Shorter.

46. Bennett, op. cit. p 273.

47. Sydney Morning Herald, 15 May 1984, p. 2. The item reported over a third of approximately 300 solicitors in the firm were women; of the 63 partners she was the only female.

48. Bennett, op. cit., p 273.

'no case was too hopeless for her'.⁴⁹

Marie Byles had gone overseas in 1927, remaining away until 1929. She travelled in Norway, Canada, and New Zealand and became a keen mountaineer.⁵⁰ In the later twenties, Kirkpatrick, soon to leave, Jollie Smith in Sydney, and Hargraves in the country were the only women in practice. After the effort to mobilize women to support passage of legislation to enable women to practise, it was a disappointing outcome. With hindsight it is apparent why all the women proposing to enter the legal profession in this period, undertook the long and arduous training of LL.B. and articles, rather than the Solicitors' Admission Board examinations. The University course provided instruction otherwise inaccessible to women. The prejudice against women in the profession, apparent from the difficulty even the ablest of the graduates encountered in securing articles and employment, is proof enough that the other route remained barred to them. To attempt the Solicitors' Admission Board Examinations without lectures and experience in a solicitor's office was too intimidating to contemplate, and, given the intricacies of the law, unlikely to result in success. When women who had demonstrated their ability at University were not accepted as articled clerks there was little hope of those undertaking the Solicitors' Board examinations to obtain the necessary experience. Hargraves alone of the women qualifying in these years had the benefit of full practical training. Her father and her brother were in practice and had trained her to conduct the firm's business. The others, who secured articles, often on the plea of a male relative, learnt little from their master solicitors.

Sibyl Enid Munro Morrison (nee Gibbs) was the only woman to practice at the Bar in this period and with the prevailing prejudices, and no woman solicitor independently in practice until 1927, her prospects at the Bar were not promising. The Bar was the hardest branch of the profession in which to establish a practice as a woman. There was the problem of Chambers, male members of the profession being unwilling to have a woman on their floor. Few senior members of the Bar were prepared to accept a

49. Ibid, p. 274.

50. People, 13 November 1957 p. 23.

woman to read with them. A barrister practises alone and depends on work from solicitors, and male solicitors were reluctant to brief a woman. The Bar requires a certain amount of showmanship as an advocate and a personality strong enough to withstand barbs and ridicule. Without support from within that branch of the profession it was nervewrackingly lonely; and without briefs from solicitors practise at the Bar was impossible. Morrison recognised the difficulties stating that 'private means are needed to tide you over the lean years'.⁵¹

Sibyl Gibbs, as she then was, had interrupted her law course in 1923 to travel overseas and in London on 1 October 1923 she married Charles Carlisle Morrison, described on the marriage certificate as a 'ranch owner'.⁵² She returned to Sydney and completed her Law degree graduating in 1924. The marriage was not successful. Her father was a wealthy pastoralist with business interests,⁵³ an uncle was the architect of St Andrews College, University of Sydney,⁵⁴ and another uncle, Dr W.J. Munro a noted skin specialist.⁵⁵ Her half brother had entered the legal profession in Queensland.⁵⁶ J.A. Browne, a senior member of the Bar and an independent Labor Member of the Legislative Council accepted her to read law with him and she obtained rooms when D. Edwards, a former lecturer at the Law School, vacated his Chambers on being appointed to the District Court.⁵⁷ She received her first brief from D.R. Hall who as Attorney-General had steered the Women's Legal Status Bill through Parliament.⁵⁸ The brief was for a widow in an application under the Testators Family Maintenance and Guardianship of Infants Act 1916 for which Hall also had responsibility in Parliament. Under that Act the Court was empowered to rectify a situation where a husband had not by his will made adequate provision for his wife and children.

51. Daily Guardian, 5 December 1925.

52. Copy marriage certificate dated 4 June 1980.

53. Information supplied by step-niece of Sibyl Morrison.

54. Sunday News, 15 June 1924.

55. Ibid.

56. Ibid.

57. The Sun, 15 October 1924.

58. The Sun, 19 December 1924.

She was an attractive woman in appearance and well groomed; the fact that she was working in what had been an exclusively male arena brought her press publicity.⁵⁹ Interestingly, the press reveals she was receiving briefs from the two women practising as solicitors, though neither at that date had set up their own firm. Jollie Smith was the solicitor when Morrison appeared in February 1926 for Jessie Keith, suing an employer for wages said to be due. The Daily Guardian delighted in stating 'Two Portias will make a magistrate blink at the Water Police Court this morning'.⁶⁰ On another occasion, the Daily Telegraph noticed Morrison had appeared twice in one day instructed by Miss Marie B. Byles, on each occasion securing a decree nisi for a woman petitioner.⁶¹ Whether she was called on only at this final stage in the divorce proceedings to handle what was essentially a routine matter is difficult to tell. The press may have been pleased to feature only those cases where three women were involved as client, solicitor and barrister, or Morrison may have found little work other than that brought to her by the other women. There was clearly not enough work for her, though she was well known for her involvement in the women's movement. She was Convenor of the Law Committee of the National Council of Women (NSW) and prepared papers for it on the desirability of a uniform matrimonial and divorce law. She represented the New South Wales National Council of Women in 1926 in Brisbane when she delivered a paper on divorce law.⁶²

She seems not to have been able to maintain a practice and in 1930 was in London being presented at Court.⁶³ She was called to the English Bar through the Middle Temple but did not establish a practice.⁶⁴ Morrison had divorced her husband in 1928.⁶⁵ She was interested in art and had many friends in literary and artistic circles⁶⁶ and with independent means she did not need to depend on the practice to

59. Daily Telegraph, 18 February 1926.

60. Daily Guardian, 25 February 1926.

61. Daily Telegraph, 5 November 1926.

62. The Sun, 23 May 1926.

63. Who's Who in Australia, 1962.

64. *Ibid.*

65. Information from Supreme Court Records.

66. Information supplied by step-niece of Mrs Morrison.

support her.

Perhaps her experience in the law is summed up in The Sun's⁶⁷ report of her invitation to the Governor's levee in 1925 -

All members of the higher legal profession are "gentlemen" by Act of Parliament. And all ladies too. Mrs S. Morrison B.A. LL.B, barrister at law, is today a "gentleman" for the purpose of the Governor-General's levee. She received a communication addressed: Mrs Sibyl Morrison B.A. LL.B. Esq..

Marie Byles returned from her overseas travels in 1929 and commenced her own practice. For 15/- a week she rented part of the foyer of the Duke of York Theatre at Eastwood and there 'with an office table, three chairs, a small safe and a brass plate'⁶⁸ she awaited her first clients. She received some support from the local bank manager who directed clients to her.⁶⁹ Through an introduction to the Public Trustee of another State Probates were sent to her for re-seal in New South Wales; work which was consistent and provided a steady income.⁷⁰

Conveyancing was a profitable area of business in the 1920s as Sydney's population increased absolutely and relative to country towns. Suburban growth was rapid and accompanied by some speculative purchases. The location of new manufacturing plant in what were then outer suburbs generated a demand for worker housing. Byles' suburban practice probably survived on conveyancing.

Several women about this time entered the profession as conveyancers, which was a limited form of legal practice. To become a Conveyancer a candidate was required to make application to the Court, complete the qualifying examinations and be a person of good character. A certificate was then issued which was enrolled in the office of the Registrar of the Supreme Court and the applicant became a certificated Conveyancer.⁷¹ Possibly the women who applied to be Conveyancers had sought articles unsuccessfully, or possibly they had been daunted by the covert sanctions

67. The Sun, 26 October 1925.

68. Interview with Marie Byles.

69. Ibid.

70. Ibid. Although the incumbent changed periodically the office continued to send the work.

71. Legal Practitioners Act 1898 Sections 16-20.

imposed on women seeking entry to the legal profession. Perhaps they sought conveyancing as less demanding than legal practice. All that can be said is that in this way they were able to enter the profession without having first to find a master solicitor willing to give them articles.

Mary Philomena Halligan was the first woman to be registered as a Conveyancer in New South Wales. She first appears in the Law Almanac in 1929 and she practised at 16 Barrack Street, Sydney until 1936 when she took advantage of the 1935 amendment to the Legal Practitioners' Act 1898 to transfer to the roll of solicitors.⁷² She was admitted as a solicitor on 29 May 1936 and became a partner in the legal firm of Weaver & Allworth.⁷³ Winifred Joan Harris completed the qualifying examinations for a Conveyancer in 1930 and was employed by her uncle as a Managing Clerk in the firm of Seabrook & Co. where the handling of subdivisions became her special interest. She continued with the firm after she married in 1932, later leaving to commence her own practice from her home in Sutherland.⁷⁴ Another who joined a firm of solicitors, although apparently retaining her status of conveyancer was Lily Hamilton. She is shown in the Law Almanac of 1934 as a conveyancer. Miss R.L. Royle was also a registered Conveyancer who practised for many years in the City.⁷⁵

There were never more than 72 registered certificated Conveyancers in New South Wales, and only about a third of those actually practised.⁷⁶ Many male members of the profession qualified as conveyancers to enable them to include the additional qualification on their letterheads while practising as solicitors. If only twenty four were practising the four women who were registered accounted for nearly 20 per cent of the number. Here is the first clear instance of women bunching in one

72. After an amendment to the Legal Practitioners Act in 1935 no further certificates were issued to conveyancers and this branch of the profession gradually fell into desuetude. Any practitioner registered as a Conveyancer was entitled to transfer to the roll of solicitors.

73. New South Wales Law Almanac.

74. Information supplied in a telephone conversation with Winifred Joan Scarff (formerly Harris), 12 March 1985.

75. New South Wales Law Almanac.

76. Bennett, op. cit. p. 337.

area of law. It lacked the prestige and the larger incomes of other branches of practice and possibly women were more readily accepted in this area.

Men have always held preconceived ideas of the type of work best suited to women, and within the legal office system had, at least until the fifties and sixties, assigned to them matters related to conveyancing, probate and divorce. The work involved did not, usually, call for any special skill or resourcefulness, and was repetitive and confining. Male members of the staff were thus left free to pursue more interesting and challenging areas of practice. This had an inhibiting effect not only on the intellectual advancement of the women by narrowing ^{her} professional experience, but because of these limitations she was prevented from rising through the office hierarchy to partnerships and profit sharing. She was confined to lower status positions and salary, while she saw her male colleagues, sometimes less competent and carrying a lighter workload, quickly overtake her. She had little redress. A complaint or a threatened resignation could have left her without a job with limited prospect of finding another.

CHAPTER IV

THROUGH THE DEPRESSION AND WAR - 1933-1949

The women lawyers faced a challenge to succeed in a profession where they were not welcome; changing circumstances within the community presented even greater challenges. The years of depression adversely affected employment, and as men were generally preferred to women in the workforce, women's prospects in an unfavourable economic trough were further diminished. As the depression years gave way to international unrest and the possibility of a second world war, businesses, including legal practices, were wary of commitments. Staff was being curtailed rather than expanded.

Little encouragement was given, in the thirties, to those women attempting to establish a practice in the law. There was some improvement in the forties, especially for those who had relatives in legal offices. Where sons in the family intending to do law previously went straight into family firms, a few daughters were now also doing this. Women throughout Australia were increasingly considering the possibility of establishing an identity of their own away from the home, and areas of employment once regarded as exclusively male, were being regarded not only as suitable for women, but their necessary contribution to the war effort. Government departments began to employ legally qualified women, and opportunities were offering in other law-oriented occupations.

Two women qualified as solicitors in 1933, Florence Mary Thurles (known as Thurles) Thomas LL.B., and Lilian Goldsmith, the first woman to enter through the Solicitors' Admission Board.¹ Only four others had been admitted solicitors by the outbreak of war, Mary Halligan, the Conveyancer in 1936, Gwendoline Moffitt and Olga Sangwell in 1938 and Stella Shatin (Rothschild) in 1939.² Four were admitted as

1. From records Supreme Court of New South Wales.
2. Ibid.

barristers, Nerida Cohen 1935, Kathleen McGarry 1936, Jean Malor 1937, and Hilda Maddocks 1938, all having taken law degrees.³ By the outbreak of the Pacific war in late 1941 five more women had entered the profession as solicitors and three others as barristers. The pace then quickened, 32 solicitors and 6 barristers, including the first to complete the Barristers' Admission Board examinations, were admitted in the years 1942-1950.⁴ Though several in this later period qualified by taking the Solicitors Admission Board examinations, the majority took law degrees. The family backgrounds seem very similar to that of the earlier intake with possibly some broadening towards the end of the period.

It is the argument in this chapter that at least until the outbreak of World War II the obtaining of articles remained a major barrier to women's entry to the profession. The high proportion admitted as barristers rather than as solicitors in the 1930s, despite the great disabilities facing women at the Bar, and the failure of all but one of these women to establish a practice, point to ongoing prejudice against women in the profession. Other evidence to support this argument comes from the association between family firms and family connections in the more numerous later entrants. The inference to be drawn is that family support remained very important in overcoming the problem of obtaining articles, and in securing employment in a profession still deeply suspicious of the presence of women. Both the circumstances in which women succeeded in qualifying through the Admission Board examinations and the tendency for women to congregate in certain areas of employment point to continuing difficulties in practice. The use of their legal training in public service appointments, in legal publishing and other areas also suggests barriers were still substantial.

In addition to the 11 women admitted in the years 1933-39, one other Margaret Brandt, graduated in Law in 1934⁵ but did not seek admission. Only five of these

3. Information from Calendars of the University of Sydney, Supreme Court records and Law Almanacs.
4. Information from Supreme Court records.
5. Calendar of University of Sydney.

twelve women served articles in New South Wales. Nerida Cohen whose admission was as a barrister, had been uncertain as to which branch to choose and after some difficulty had received articles with Piggott Stinson Macgregor and Palmer while a law student. Jean Malor, the next to obtain articles, had been educated at Ascham⁶ and was a brilliant Arts/Law student.⁷ She graduated with 1st class Honours in Law, won the Rose Scott prize in Private International Law shared the Pitt-Cobbett prize for Public International law and the John Daley prize for the most distinguished student of the year.⁸ Sangwell, not admitted until 1938,⁹ had also distinguished herself as an undergraduate, taking an Arts degree in 1931 and a Law degree in 1934 with Honours and the Rose Scott Prize for Private International Law.¹⁰ She was described by one of her contemporaries as one of the brightest in her year. Gwendoline Moffitt presumably was helped in her search for articles by her father Justice Moffitt.¹¹ Nothing is known of the circumstances in which Shatin was articulated. It seems outstanding ability, or family connections remained a pre-requisite for fulfilling the admission requirements for solicitors, and two at least of these women later reported their experience had been rather limited. Jean Malor did mostly conveyancing and always under supervision¹² and Nerida's experience was in probate and conveyancing, again under supervision.¹³

Gwen Moffitt married Reginald Gates and although her name was incorporated into the legal firm of Gates Moffitt, which had a city and suburban practice, she is reported not to have been an active partner in the firm.¹⁴

Lilian Goldsmith, the first woman to complete the Solicitors' Admission Board

6. Information supplied by Jean Mullin (Malor), interview and telephone conversations 1978-1985.
7. Calendar of University of Sydney.
8. Ibid.
9. Records Supreme Court New South Wales.
10. Calendar of University of Sydney.
11. Information supplied by Lilian Craft (Goldsmith), interview 1978.
12. From answers to questionnaire, which were the basis of a survey of women lawyers in New South Wales conducted by Joan O'Brien in 1977.
13. Ibid.
14. On enquiry from legal firm of Gates Moffitt.

examinations,¹⁵ had been employed for some years as a secretary and law clerk with a firm of city solicitors, Whitehead and Ferranti. She was encouraged by partners in the firm to qualify for practice. She served as a Managing Law Clerk, then an alternative to articles, as a method of obtaining practical experience, and having satisfactorily completed the examinations was admitted on 17 November 1933.¹⁶ No doubt she obtained some coaching before attempting the examinations. Goldsmith remained with her firm until 1938 leaving to travel overseas and on her return established her own practice.¹⁷

Four of the eleven women admitted in these years 1933 to 1939 qualified as barristers. Nerida Cohen alone established a practice. Mary Tenison Woods had qualified in 1917 in Adelaide and in practice with Dorothy Somerville had formed the first all woman partnership in Australia. From 1935 her permanent residence was in New South Wales and she joined the legal publishing company of Butterworth & Co. (Aust.) Ltd. as annotating barrister and editor.¹⁸ Although she does not appear to have been admitted as a barrister in New South Wales she became an active member of the profession in that State.

Jean Malor also used her legal training in publishing. On graduation she accepted a retainer as Senior Legal Adviser to the Law Book Company and remained with that company until her retirement.¹⁹ Kathleen McGarry, it is thought, went into the office of the Parliamentary Draftsman. Hilda Maddocks admitted barrister in 1938²⁰ found employment in the Department of Road Transport as a legal officer.²¹ Hers is an interesting case as at the expiry of a five year interval, she took advantage of the provisions of the Legal Practitioners Act, which entitled her to transfer to the

15. Records of Supreme Court of New South Wales.

16. Information furnished by Lilian Craft (Goldsmith), interview, 1978.

17. Ibid.

18. Sydney Morning Herald, 23 April 1945.

19. Information supplied by Jean Mullin.

20. Records of Supreme Court of New South Wales.

21. Information supplied by Lee Hutley (Leila Frances Walshe), interview 8 November 1985.

roll of solicitors. She made application and was admitted as a solicitor in 1944.²² It is not known whether an earlier wish to be a solicitor had been frustrated by a failure to obtain articles. Her father who was a non-practising barrister had been Commissioner of Road Transport and Tramways²³ and possibly his knowledge of the Department's activities had encouraged her to seek employment there. She was one of many women to employ their legal qualifications in the public service.

Nerida Cohen, daughter of a government analyst, educated at Lismore High School, graduated in Arts from the University of Sydney in 1932 and in Law in 1935.²⁴ When she was admitted to the Bar on 25 July 1935, Jessie Street and women from several organisations devoted to improving woman's legal and social position attended;²⁵ Nerida was already in contact with the women's movement. It was to be a valuable connection, a source of briefs when she commenced practice, and possibly the important contributing factor in her ability to sustain independent practice for several years.

In these years chambers were almost impossible to obtain. It involved more than just finding a room. Barristers' chambers were usually grouped together on separate floors of a building, each with a floor committee who considered whether an incoming occupier was acceptable. The cost of establishing chambers - room, furnishings and library - was beyond the financial resources of most of the women at the time. Single women could not obtain a loan through a financial institution without a male guarantor. Even if chambers were established there was no optimistic expectation that work would be forthcoming from male instructing solicitors, or from the network of barristers who shared briefs among themselves. It was usually the Clerk to the floor who suggested a substitute if the barrister requested by the solicitor was unavailable. Seldom, if ever, did a clerk recommend a woman.

22. Supreme Court records and New South Wales Law Almanac.

23. Who's Who in Australia, 1933-1934 published by The Telegraph 1935.

24. O'Brien Survey 1977.

25. Information supplied by Nerida Goodman, interviews personal and by telephone 1978-1985.

Nerida Cohen, after many unsuccessful attempts, approached W.B. Simpson, born in Balmain and an old boy of that renowned school for the socially mobile, Fort Street Boys High. Simpson was a senior member of the Bar, later a Judge. He agreed to assist her in finding premises, and he took her as a pupil. He later told her that on his first court appearance after she had joined him, Maxwell J., before whom he was appearing interrupted him after saying 'I appear with my learned friend...' saying 'I beg your pardon Mr Simpson, did you say you appear with your girl friend?' When he replied that he had not said so, the Judge jokingly said 'Oh, it's all right Mr Simpson, one sometimes hears things you know'.²⁶ Obviously the advent of a woman into what had been regarded for so long as an exclusively male preserve had made an appreciable impact. Nerida Cohen built up a practice, mainly in industrial and matrimonial law and in 1942 entered the Commonwealth Public Service with an appointment in the Department of Labour and National Service attached to the Women's Employment Board.²⁷

Thus the number of women in practice in the 1930s remained small - Marie Byles, Jollie Smith, Jessie Hargrave, Lilian Goldsmith, Nerida Cohen and Mary Halligan - and they tended to fill rather special niches. Hargrave, Halligan and Goldsmith for most of the period continuing with the firm where they had done the more routine work of clerk for years before qualifying and possibly continued to make much the same kind of contribution, doing conveyancing probate and petty sessions work.

Byles also was doing conveyancing to some extent. She had branched out from her suburban practice in 1932 to open a second office in the city and had taken on Leonard Giovenelli as an articled clerk.²⁸ But in that year she was supplementing her meagre income with journalism. Lilian Goldsmith opened her own office in 1939,²⁹ she was the second woman to take on a city and suburban practice; in her case

26. O'Brien Survey, 1977.

27. Ibid.

28. Information supplied by Marie Byles.

29. Information supplied by Lilian Craft.

attending to the Liverpool practice of H.A. Teakle when he joined the army.³⁰ Neither admit to finding too little work in the one office as the reason for opening, in Byles case, another office, in Goldsmith's taking charge of another, but the dual enterprise may indicate they had not succeeded in attracting sufficient clients to their original offices. Suburban practitioners were obliged to have a City Agent within five miles of the General Post Office for the purpose of service of documents and as a venue for settlements of conveyancing matters. It may have been that Byles preferred to have her own office in the City for this purpose rather than appoint a City Agent. Goldsmith left to enter the public service in 1942³¹ Byles made Giovenelli a partner in 1938³² leaving the practice in his care when she attempted the climb of Mt Sanseto, an unscaled 20,000 ft mountain in Western China. When he later enlisted she resumed responsibility.³³

The practice of the other two, Jollie Smith and Nerida Cohen, seem to some extent, to have reflected their personal interests. Jollie Smith with her strong Trades Hall connection handled industrial cases and in the 1930s civil liberties work. She briefed Piddington in the protracted proceedings in 1934-35 when the Australian government tried to prevent the visit of Egon Kisch.³⁴ Kisch had been invited by a group of Australian pacifists to speak at the Congress against War and Fascism scheduled to take place in Melbourne at the same time that city was celebrating its centenary. The anti-war congress was seen by the Federal Government as an attempt by the Communist Party of Australia to extend its membership by an appeal to the public's antagonism to war. On his arrival by ship in Australia Kisch was not permitted to land and the legal struggle which followed became a cause celebre. Jollie Smith acted also for the Communist Party when the Commonwealth Government took steps to suppress its publications,³⁵ and acted for those

30. Ibid.

31. Ibid.

32. Information supplied by Marie Byles.

33. Ibid.

34. Egon Kisch, Australian Landfall, 1969.

35. Tribune, 16 January 1963, p.8.

arrested in the anti-eviction battles during the depression.³⁶ She later acted for the Waterside Workers.

Nerida Cohen's practice also involved industrial arbitration. About the time she was admitted some unions had taken up the cause of equal pay. The women's movement had spoken out for equal pay for several decades but without union support it had been unable to make any impact on the traditional 54 per cent of male wage for women. During the depression some unionists began to support equal pay as a defensive measure against the displacement of male labour by less expensive female labour. Other unions sought to achieve similar results by having the Arbitration Courts prescribe certain tasks as being male work and to set quotas for males and females. Cohen appeared in a case of the latter kind when briefed by certain women's organisations to intervene before the Industrial Commission in the Shop Assistants' case in 1937.³⁷ At that time 85 per cent of shop assistants were female, receiving 54 per cent of the male wage. The Union had applied to the Commission to approve a quota system of half women and half men shop assistants, or alternatively, equal pay. Nerida opposed the quota system which would have resulted in women losing their jobs merely because they were women. A compromise agreement was reached providing women's pay for women working in women's section, men's pay for men in men's section and equal pay for those working in departments employing both men and women.³⁸

She also appeared as Intervener ^{of} behalf of women's organisations representing female clerical staff in a Union application for equal pay for railway employees. Although she supported equal pay, she put the proposition that any increase in women's wages be phased in over a five year period which would give employees the benefit of a gradual increase and allow employers time to adjust to the added outlay.³⁹ This

36. She acted for the unemployed workers in what were known as the Bankstown, Newtown and Tighe's Hill eviction cases in the thirties, *ibid.*

37. Information from Nerida Goodman also from *Who's Who of Women in Australia*, p. 204, and the *Sydney Morning Herald*, 12 December 1981, p. 39.

38. Information supplied by Nerida Goodman.

39. *Ibid.*

approach, which was not accepted by the Court, was criticised by women trade unionists and deeply divided the movement for equal pay.

While the political interests of each of these two women, Socialist in the case of Jollie Smith, Feminist in the case of Cohen, may have shaped their practices, the circumstances at the time of their entering also need to be taken into account. In the 1920s when Jollie Smith began to be briefed in industrial cases legal representation before the Arbitration Court was still relatively novel. The Employers' Unions briefing of silk was however pushing the trade unions into legal representation. To this extent the newly admitted woman developing an industrial practice was not competing against an entrenched interest in the profession. Something similar could be said about her civil liberties activities in the 1930s. There was an upsurge of censorship and repression in the Depression aimed largely at Communists. Nerida Cohen similarly, entering practice at the time equal pay was being strenuously contested, undoubtedly benefited from being the sole female barrister in practice in New South Wales. Cases came to these women for such reasons.

During the war the barriers to women entering legal practice weakened a little. This was not a simple matter of women coming in to replace men who were absent on military service, and not a reflection of some wartime sensitivity about fairness and treating people as equals. Some legal firms, especially family firms, may have been more disposed to take a female relative to replace the son or nephew on military service, but the numbers doing so were not of such proportion as to amount to any great change. The additional considerations, operating possibly in conjunction, were the acute manpower shortage by 1941 and the remarkable expansion of the Commonwealth public service, the one tending to open up opportunities for articles and the other relieving the difficulty of securing employment for women without relatives to help them enter the workforce.

The admission of 48 in total in the years 1941-50,⁴⁰ - but an average of just over three a year throughout the war, is evidence of still considerable difficulties for women seeking a career in legal practice.

Numerical Strength of Women in the Profession

1941-1950

	Barristers	Solicitors	Degree	SAB	BAB	Total
1941	2	4	6	-		6
1942	-	4	3		1	4
1943	1	2	3			3
1944	-	3	1	2		3
1945	-	3	3			3
1946	1	3	2	2		4
1947	-	6	5	1		6
1948	3	3	5	1		6
1949	1	2	2	1		3
1950	2	8	8	1	1	10
	10	38	38	8	2	48

The proportion seeking admission as barristers was noticeably lower than in the 1930s, 10 barristers to 38 solicitors compared with five barristers and seven solicitors in the thirties. Interestingly it is in the third year of war that the proportions change, just long enough for a slight easing of the difficulty in obtaining articles to show up. Thereafter the balance is clearly in favour of entry as solicitors with 1948 a possible exception. Perhaps the return of the servicemen accounted for the renewed, though apparently temporary, difficulty in qualifying with articles. Eight women were admitted through the Solicitors' Admission Board examinations, three having trained in

40. Compiled from Supreme Court Records and from University of Sydney Calendars.

country towns, and two woman completed the Barristers' Admission Board examinations.⁴¹

The administration of the vast complex of wartime regulations generated the need for legal services, from private practitioners for those affected by the regulations, and for additional legal officers in the Departments administering the regulations. The work of the Crown Solicitors and the Attorneys' General Departments considerably expanded. ~~Through the war the legal profession~~

~~still made further gains, but~~ Much of the work was in the lower courts neither especially lucrative nor constituting the kind of challenge to make it attractive to those well established in the profession. Some of this work came to women recently admitted.

In one instance regulations under the National Emergency Act 1941 altered the provisions of the Landlord and Tenant Act to meet wartime conditions, and for those whose practice involved appearances in the lower courts increasing demands were made for them to act for both landlords and tenants disadvantaged by the new regulations. This created a source of revenue for some legal practitioners and in one particular case, for a woman.

Veronica Pike, who had worked since 1929 in her brother's office as his typist and clerk, was admitted in 1940 as a solicitor, and became expert in matters involving the Landlord and Tenant Act. Their legal firm had a city office and a branch in Redfern, a suburb then with a low owner occupancy rate. Her 'baptism of fire' was in the Redfern Court of Petty Sessions. The government took over some accommodation under the National Security Regulations. Rent control was adversely affecting the interests of landlords, especially from 1942 when the presence of the American forces, along with the A.I.F. troops put increased pressure on the rental stock. She recalls days with several cases listed where she had 'to reverse her argument after appearing

41. From Supreme Court Records.
~~_____~~

for a tenant, to support a landlord client'. Veronica Pike's services seem to have been in heavy demand as the housing situation deteriorated and landlords were tempted to increase rents, or in some instances forced to take their case to court to secure occupancy for themselves. On another occasion, acting for a client in what she termed 'a neighbours' backyard squabble', on the evidence at the hearing it was evident that her client was at fault and the verdict went against him. He was overheard saying he had lost his case because 'Pike sent his missus'.⁴³

Another who had some work from the wartime regulations was Christian Jollie Smith, who, on at least one occasion briefed Nerida Cohen in the 1920s tradition of women solicitors supporting women barristers.⁴⁴ Others admitted to the Bar at this time, and briefly in active private practice include Ann Bernard, 1941 and Beatrice Bateman 1942. Not much is known about their practices except that Bernard is reported to have been briefed in industrial and matrimonial cases, and Bateman practised part time while raising a family.

Within the public service the war years provided employment for several women. As well as Maddocks, already a legal officer with the Department of Road Transport, Lilian Goldsmith went as legal officer to the Crown Law Office in 1946,⁴⁵ Mary Bleechmore admitted to the Bar in 1941, worked in the Commonwealth Crown Solicitor's Office briefly, and Leila Walshe admitted to the Bar in 1943 also went to the Crown Solicitor's Office.⁴⁶ When Maddocks transferred to the roll of solicitors in 1944 she also entered the Commonwealth Crown Solicitors's office. Olivia Fiaschi, admitted solicitor 1942, took employment with the Universities Commission. Nerida Cohen from 1942 was attached to the Women's Employment Board in the Department of Labour and National Service. Two women joined the New South Wales Crown Solicitor's Office as legal officers, Marie Ellens on her admission as solicitor in 1945 and Valma Step in 1947. Marie Kinsella, called to the Bar in 1949, was Associate to

43. Interview with Veronica Pike, Leura, 6 June 1985.

44. Information supplied by Nerida Goodman.

45. Interview with Lilian Craft.

46. Interview with Lee Hutley, 1985.

her father and later entered the office of the Commonwealth Attorney General.⁴⁷ In all nine women found employment in either State or Federal public service, ten if Joyce Shewcroft who became legal adviser to the Australian Broadcasting Commission, is included.⁴⁸

Not all these women remained public servants. Mary Bleechmore married and accompanied her husband, an officer in the permanent Army, to his postings and practised where possible during that time.⁴⁹ Nerida Cohen and Leila Walshe left the Public Service, Nerida to marry and Leila (Lee) in 1946 to study medicine. Others stayed on though promotion for women in both the State and Commonwealth Public Service was slow and if women married they were not eligible for permanency or for promotion.

It was rare for the women who entered the public service as legal officers in the war years to have developed interest in a particular aspect of law at their time of appointment. Nerida Cohen was the only one who came in with an obviously specialist interest. The Women's Employment Board was created under special legislation to monitor the employment of women taken into traditionally male areas of work after 1940, and to determine the wage rates which would apply for those women. At the termination of war the Board ceased to exist and its special awards ultimately lapsed, but for the war years its decisions raised wages for a minority of women to bring them closer to equal pay. Nerida Cohen's experience in equal pay cases before the war meant she was able to pursue her already developed specialist interest in this appointment. Other women did litigation and more routine legal work.

The ten women who went into public service were a significant proportion of those in practice during the 1940s. They included only one woman known to have a family connection to the legal profession, Marie Kinsella, whose father was Justice Kinsella, District Court Judge in 1943, Judge of the Supreme Court from 1950. To go

47. From records kept by the Women Lawyers' Association.

48. *Who's Who of Australian Women*, Sydney 1982, p. 407.

49. Information supplied by Lee Hutley.

into the public service may have seemed the patriotic thing to do when the men were away and the women's auxiliaries to the army, navy and air force could recruit the numbers they required without difficulty, although only Nerida Cohen records her appointment to the Women's Employment Board as a decision to offer her services to the war effort. Lilian Goldsmith tried to join the WRANS but was refused release from her position in the Crown Law Office.⁵⁰ To others, war time public service probably meant employment when private practice was still not easily secured. Women with family connections appear to have shared their male colleagues' preference for private practice.

Joyce Shewcroft, the only woman to have become a barrister by taking the Barristers' Admission Board examinations, admitted in 1942, may also initially have reviewed her employment as a legal adviser to the ABC in much the same way. Nothing is known of her family's circumstance nor of how she acquired practical experience. She soon was an expert in matters of copyright, patents and defamation law and she became head of the ABC Legal Department. Like several other pioneer legal women her career was closely associated with the pioneering of new aspects of law. She mastered the technical development in radio and television and such novel developments as the application of copyright law to radio and television. Her standing in her specialist areas was to be acknowledged by her appointment to the Attorney General's Committee for the amendment to the Copyright Act, 1979. She was awarded an OBE in 1978.⁵¹ The ABC's own history extends only a dozen or so years beyond her association with media law.⁵²

The group of women known to have family connections in law outnumbered those who found public service appointments in the 1940s and these women joined firms where relatives were partners or entered partnerships with husbands. The family firm

50. Interview with Lilian Craft.

51. Sydney Morning Herald, 3 January 1978, p. 10 and Who's Who of Women in Australia pp 407-408.

52. K.S. Inglis, The Beginnings of Radio in Australia, Stirling Memorial Lecture, Adelaide, 1980, p. 1.

solved the problem of articles and employment. All, with the exception of Shewcroft, Bleechmore and Kinsella, were admitted as solicitors.

Veronica Pike, admitted in 1941, joined her brother Vincent Pike in a partnership. When he had commenced practice in 1929 during the depression his financial resources did not extend to staff, so Veronica became his typist secretary and general clerk. She became interested in the law, and encouraged by her brother, qualified and joined him in partnership in 1941.⁵³ Betty Turton's father had a successful conveyancing practice which she joined after graduating in Arts and Law and being admitted in 1941.⁵⁴ Hilary Ford, 1941, became a partner in her father's firm Emil E.J. Ford & Co. and remained until her marriage and retirement in 1973.⁵⁵

Lesley Nield also admitted in 1941 was the daughter of a Judge. She obtained articles through a friend of her father and later practised with Greenwell & York.⁵⁶ Jean Hill and Alison Christie, both admitted in 1943, had fathers in legal practices which they joined. Jean Hill became a partner in the family firm of Hill, Thomson & Sullivan and is today (1985) a senior partner in that firm.⁵⁷ Alison Christie, admitted 1943 and her sister Georgina Christie, admitted 1947, each practised for a time in the firm of Garrett, Christie & Buckley, where their father was a partner.⁵⁸ Georgina was a partner in the firm in 1950. Molly Westgarth worked in her father's firm of Dudley Westgarth & Co. after her admission in 1945,⁵⁹ and Marjory Connolly is thought ^{to have} joined the established practice of Warrington Connolly & Co., in which her father and brother were partners, after admission in 1946.⁶⁰ Another with a father in a legal firm was Peggy Hickson, who worked for a time in the firm of Hickson, Lakeman & Holcombe after her admission in 1948.⁶¹ She married Lakeman, one of

53. Interview with Veronica Pike.

54. Within the knowledge of the author.

55. Informed by Hilary Nock.

56. Informed by Lesley Bowles.

57. Informed by Jean Hill.

58. Particulars from New South Wales Law Almanac.

59. Ibid.

60. No evidence of this.

61. Particulars from New South Wales Law Almanac.

the partners.

As well as these nine, Patricia Brandt, who followed Marie Byles into articles with Henry Davis & Co.,⁶² was admitted in 1941. She was the sister of Margaret Brandt who graduated BA LL.B. in 1934 but did not apply for admission. Margaret Oldenbury, admitted in 1949 practised with her husband at Kingsgrove, Lindfield and Chatswood.⁶³ Two who went to country practices had connections in the profession. Mary Egan admitted 1942, practised with her husband (Tucker) in Grafton later in Tumut.⁶⁴ Evadne Lusher qualified through the Solicitors' Admission Board before joining the Wagga firm where her father was a partner.⁶⁵ Pamela Weeks (Green) served articles with her father in Maitland before being admitted in 1948 when she joined a Newcastle firm. She later worked with City legal firms and for the past 19 years has been a legal officer on the staff of the Vice-Chancellor at Macquarie University. Most of these women with family connections remained in practice, marriage seemingly being no bar.⁶⁶

Most women entering the profession in the 1940s came through the University and served articles. The special circumstances of those who undertook the Admission Board examination indicate success by this route was also rather dependent on personal contact in the profession for the necessary practical experience and coaching. Three women undertook the Solicitors' Admission Board examinations after practical experience as articled clerks in country practices, Evadne Lusher in 1944, Joan Spruitt 1947, after articles at Goulburn and Pamela Weeks 1948. Little is known of Katherine Sanderson qualifying in 1944 except that she became a partner in the legal firm of Edgley Brown and Sanderson in 1946.⁶⁷ Mary Haynes qualified through the SAB, was admitted in 1948 and became a partner in the Sydney legal firm of Dan Dwyer & Co.⁶⁸

62. Information supplied by Marie Byles in an interview.

63. New South Wales Law Almanacs.

64. Informed by Lesley Bowles.

65. New South Wales Law Almanac.

66. Information supplied by Pamela Green, 1985.

67. New South Wales Law Almanac.

68. Within the knowledge of the author.

Another who qualified through the SAB was Joan O'Hara (O'Brien) admitted in 1949. Her husband had been killed in action in New Guinea in 1942 and her son was born six weeks after her husband's death. In an endeavour to assist in the rehabilitation of those who had spent time in the services during the war, the government introduced the Commonwealth Reconstruction and Training Scheme (CRTS) in 1944 which provided ex-service men and women, and the widows of those who had been killed, with the opportunity of acquiring educational skills which would not otherwise have been available to them.⁶⁹ University fees were paid if a degree course was chosen, or approved expenses in qualifying other than through a University were met.

Faced with the prospect of being the sole support of herself and her son, O'Hara applied to undertake a qualifying course in law through the SAB. She had worked in a legal office before her marriage. No guidance or lectures were available through the Board's course of study but under CRTS her books were paid for, also examination fees, and money was made available for coaching. With the help and encouragement of two practising barristers she completed the examinations and the required term of practical training and was admitted as a solicitor on 19 August 1949. She remained with the firm with whom she had served her clerkship until she left for overseas in 1950. On her return she joined a friend in a suburban practice, engaged mostly in conveyancing and family law but sharing all matters handled in a busy suburban office. It is her view that coaching was very important, probably essential, for anyone coming to the study of law, without the benefit of lectures.

There is some evidence from this period of women being accepted for articles, but given very limited experience. Malor remembered from the 1930s that her

69. On enquiry from the Department of Veteran Affairs in 1978 it was advised that an estimated 24 women had received financial assistance whilst undergoing law courses in New South Wales from 1944 to 1977, but there was no available information as to how many had sought admission as barristers or solicitors. Letter from Department of Veteran Affairs to author 19 June 1978.

experience was mainly in conveyancing.⁷⁰ Walshe articulated with Campbell & Campbell, a firm whose clientele included oil exploration and mining, remembers fitting into the firm's business without difficulty attributing this in part to her knowledge and interest in geology.⁷¹ Those who came in through family firms were probably taken more seriously and received more wide ranging experience than those serving articles in the 1920s. Some may have been allotted more routine work in the firm replicating within the firm that allocation of work that was more readily perceived earlier, with women being thought more suitable for conveyancing and matrimonial causes than for commercial and criminal law, and within the matrimonial jurisdiction best suited to handle undefended divorce actions and matters in the lower courts. Nerida Cohen recalls her first brief was from Marie Byles to appear on behalf of a client at Ryde Court in a maintenance case.

At the end of the forties the representation of women in the legal profession was still very limited. In solicitor's firms there were around 30 women gaining useful and varied experience but they were nearly all young and among the most recently admitted. From 1945 the servicemen were competing for available articles and those qualifying in 1948 and 1949 were nearly all men. At the Bar only Beatrice Batemen remained in practice and she was raising a family and her practice was intermittent. Nerida Cohen had intended returning to private practice when her employment with the Women's Employment Board terminated, but in 1945 chambers were difficult to obtain and she married and did not return to practice.⁷² Two others admitted to the Bar were not in regular practice in New South Wales. Joan Rosanove, a solicitor and barrister in Victoria, was admitted to the New South Wales Bar in 1948 to appear for clients on the Victoria/New South Wales border. Bek McPaul, 1948, a non-practising barrister, joined the Law Book Company, a legal publishing firm.⁷³

70. O'Brien survey.

71. Information supplied by Lee Hutley in an interview, 8 November 1985.

72. Information supplied by Nerida Cohen.

73. Women Lawyers' Association records.

CHAPTER V

GATHERING STRENGTH 1951-69

Women continued to be thinly represented in the legal profession across the years where there was a marked expansion in the tertiary education institutions, with the founding of new universities, more generous Federal funding, an expanded Commonwealth scholarship scheme and the creation of the Institute of Technology and College of Advanced Education. At the University of Sydney one in five students in 1950 was a woman.¹ By 1965 the proportion was one in three. In Madge Dawson's 1959 investigation of women graduates from Sydney University (published as *Graduate and Married* 1965) only 1.23 per cent of all women ever to graduate were graduates in Law. In 1950 the number of female solicitors with practising certificates was 15, 1% of all practising solicitors. 1955 there was one woman practising at the New South Wales Bar, 0.03%. By 1969 there were 161 women with practising certificates, 5% of total, and in 1965 there were 9 female barristers, 2% of total.²

In the expansion of the Universities science and technology were the priority consideration. Federal funding of Universities was closely linked to the postwar industrial expansion. By the early 1950s there was concern that Australian technology was imported from other nations and Australian talent was not being fully utilised. The thrust was towards supplying from Australian Universities more of the highly qualified technical staff needed in industry.³ To this extent recruitment to the University was heavily science based and may have drawn away some part of the traditional male recruitment to Law and may even have influenced female choice away from the profession. Numbers enrolling in law increased but as a proportion of

1. Cass et al, Why so Few? Sydney 1983, p. 249.

2. Disney et al, Lawyers, Sydney 1977, p. 188.

3. Allan Barcan, A History of Australian Education, Melbourne, 1980, pp. 339-343.

all female undergraduates, the women undertaking law declined in the years 1950 to 1968. Of thirteen faculties in which women graduated at the University of Sydney in 1968, graduates in Law accounted for 8 per cent the second lowest percentage; engineering being the lowest. Thirty one per cent were science graduates and 20 per cent medicine.⁴

One aspect of this reorganisation of University education was of ongoing value for women. The award of Commonwealth scholarships to all who attained a satisfactory standard of performance in the final examination at school, and as undergraduates, enabled women whose parents might not have been able, or willing, to pay University fees, to enroll. The quite marked increase in the ratio of women to men overall is evidence of some easing of previous constraints. The more durable result of the availability of scholarships, was the gradually increasing presence of women in the Law faculty after a quota on entry was introduced in 1963. In 1963 the overall enrollment in the faculty was limited to 350.⁵ The introduction of the Higher School Certificate aggregate mark as the measure of performance for the purpose of quotas gave parents hard evidence of a daughter's ability, and a basis for comparison, if comparison was desired. Parental support remained important since the scholarship paid fees but living allowances were means tested.

The background of women entering the profession in the years 1950-1969 seems not to have much changed. In Dawson's sample of 1070 graduates in 1959 only seventeen were law graduates. On a seven point scale eight came from the top status group and five others from group 2-3.⁶ This is consistent with the response to the O'Brien questionnaire in 1977. Of the nineteen respondents admitted in the 1950-69 period, five had parents (one mother) in the law and three were professionally

4. University of Sydney Women Graduates as Proportion of Total Graduates by Faculty, Careers and Appointments Service, University of Sydney, 1985.
5. Information supplied by Special History Unit, University of Sydney.
6. Madge Dawson, Graduate and Married, Sydney 1965, p. 153.

occupied. Ten had attended private schools.

Less often from this period are there reports of women encountering difficulties in obtaining articles or complaints of their receiving little instruction while articulated. Nor is there reference by the women themselves to repeated rejections of their applications for positions,⁷ although there are grounds for thinking discrimination continued. In an unpublished research paper prepared by three undergraduates at the University of New South Wales in 1974, 'Women in the Law', the result of a survey with 135 responses from women lawyers, one of the conclusions was that employment was the main area in which women experienced discrimination. Many respondents had experienced difficulty in obtaining articles. One had written 160 letters before receiving a reply offering an interview. Another had 70 interviews before gaining articles.⁸ They found relatives and friends played a major role in providing employment opportunities.⁹ Family connections remained conspicuous. At least four of Dawson's seventeen respondents had fathers in law and five were married to lawyers. From O'Brien questionnaire, one was in partnership with her husband.

As in the earlier period, women who did not begin in practice in a family firm or in partnership with a husband, were disproportionately represented in the government sector. The expansion of public service positions slowed in the 1950s as a Liberal Country Party at Federal level eased some of the remaining wartime controls and for budgetary reasons twice imposed restrictions on public service recruitment, and the long serving State Labor government tended to avoid new initiatives. Nevertheless several women are known to have entered State or Federal public service in these

7. O'Brien Survey, 1977.

8. Unpublished undergraduate research paper, uncatalogued in University of New South Wales Law Library, p. 3.

9. Ibid, p. 6.

years.

Aline Fenwick admitted solicitor in New South Wales in 1954 had previously been admitted in South Australia and had done postgraduate research work at the London School of Economics. She joined the Commonwealth Attorney General's Department and appears to have transferred to the Department of External Affairs. Eleanor Scarpara was with the New South Wales Government Insurance Office, Joan McPaul was with the Department of Public Works. Mrs Pape went to New Guinea to the Public Solicitor's Office at Port Moresby.¹⁰

The 1960s saw a slight quickening of the intake. By mid '69 161 women were listed as practising solicitors in New South Wales. The majority were in city practices though the number in the country slowly increased. A woman seeking another woman as her legal adviser could find one practising in Albury, Charlestown, Broken Hill, Coffs Harbour, Goulburn, Gunnedah, New Lambton, Orange, Tamworth, Tumut, Wagga Wagga, West Wyalong, Windsor and Wollongong. More women had joined suburban practice, several in partnership with husbands. In Balmain, Bankstown, Bexley, Crows Nest, Drummoyne, Eastwood, Kingsgrove, Mayfield, Narrabeen, Neutral Bay, North Sydney, Parramatta, Rosebery, Wahroonga and Yagoona women were in practice.¹¹

In 1969 ten women were in practice at the Bar. At this date no woman had taken silk or been elected to the Council of the Bar Association and the majority were non-practising barristers employed in a variety of offices and departments. Dawson found all the women lawyers in her study had practised, some on a part-time basis as they brought up families. Marriage did not seem a bar to employment, though it was a serious disability in the New South Wales Public Services until 1963 and remained so in the Commonwealth Public Service where married women were denied permanent appointment and therefore were ineligible for promotion. The high proportion of

10. Information from records of the Women Lawyers' Association.

11. New South Wales Law Almanacs.

female barristers choosing to be non-practising seems unlikely then to be a consequence of marriage. Bek McPaul, admitted in 1948, continued to prefer legal publishing to practice.¹² Zena Sachs admitted in 1950, was another attracted to academe through her work with Professor Julius Stone.¹³

When Klara Rudlow came to Australia in 1938 and decided to practise law in New South Wales she was doubly disadvantaged. Admitted as a Doctor of Laws in Vienna in 1933, her qualifications were not recognised in New South Wales and to qualify she took the Barristers' Admission Board examinations. Her limited mastery of the English language made it impossible for her to obtain articles. So aware of the provision in the Legal Practitioners Act which enabled a practitioner to transfer from one branch of the law to another after being in practice for five years she was admitted to the Bar in 1953, the only avenue open to her to gain entry as a solicitor.¹⁴ She was unable to obtain chambers and did very little work at the Bar; as a means of livelihood she coached students (for the SAB and BAB examinations), many in the country studying by correspondence. In 1959 her name was voluntarily struck from the roll of barristers and she was admitted as a solicitor. She was then required to spend a period of twelve months as an employed solicitor before she was issued with a full practising certificate. She commenced her own practice in 1960.¹⁵

More of the women coming to the Bar in the 1960s had the experience of working in a solicitor's office before being called to the Bar. Janet Coombs, the daughter of the Governor of the Reserve Bank, H.C. Coombs, who later was Chairman of the Australian Council of Aboriginal Affairs, completed five years articles with the city firm of Remington & Co. before going to the Bar in 1959.¹⁶ Cecily Backhouse

12. Records of Women Lawyers' Association.

13. Information supplied by Zena Sach in an interview.

14. Information supplied in telephone conversation with Klara Rudlow. The Legal Practitioners Act 1898 s14 provides any barrister of five years standing can transfer to the roll of solicitors.

15. Information supplied by Klara Rudlow.

16. Information supplied by Janet Coombs in an interview.

had practised as a solicitor for several years.¹⁷

As well as valuable practical experience the period in a solicitor's office made it possible for a woman to become known among solicitors, from whom her future work would come. The Bar remained unfriendly to women, even though more firms were willing to give them articles.

Mary Gaudron graduating with first class honours and the University Medal in Law in 1965 admitted to the Bar in 1968, recalls no encouragement from the Law School and difficulty in securing chambers. As a student one of her lecturers discouraged her from participating in a moot presuming she was 'not going to take the practice of law seriously'. She had no family connection in law. She gained a Commonwealth Scholarship to the University, but completed her law degree as a part-time student. She is reported as saying she was refused Chambers 'on a number of occasions' because it was felt the company of a woman on the floor would be either disruptive, or, at the least 'not congenial'.¹⁸

Of the 10 women practising at the Bar in 1969 all were recently admitted. Until Janet Coombs admission in 1959 there had been no woman in full-time practice since Nerida Cohen (now Goodman) had left to join the Department of Labour and Industry in 1942. In her early years as a barrister Coombs found much of her work came from solicitors or senior barristers on 'mentions'. She would appear in Court on behalf of a client whose matter came into the list when for some reason Counsel or the solicitor was not ready to proceed. When the matter was mentioned, an adjournment, or further adjournment was applied for and a future convenient time fixed or if the matter had been settled the Court was so advised. The clerk of the floor saw she got a fair share of the briefs which the busy barristers passed over and she gradually extended her experience in other jurisdictions.

17. New South Wales Law Almanacs.

18. Article in Law Society Journal, 'Women at the Top' featuring Elizabeth Evatt, Mary Gaudron, Daphne Kok and Mahla Pearlman August 1984, p. 431.

Daphne Kok noted in her study of women in practice in 1969 that three women law graduates from the University of Sydney were University Medalists and several had gained Honours degrees. The Law Society's prize for the most distinguished student completing the Solicitors Admission Board Course in 1969 was awarded to a woman.¹⁹

By the end of the sixties many women admitted in the earlier years were well established. Marie Byles had prospered and moved into her own premises at Eastwood. Appointing a locum, she was able to travel overseas on extended holidays. Sadly in 1966 she was attacked by an unknown intruder at her home in Cheltenham and received injuries from which she never fully recovered. She no longer took an active part in the practice. Helen Larcombe, who had previously done locums for her, then ran the practice in partnership with her, and subsequently on her own account, under the name of M.B. Byles & Larcombe until late in 1975 when she took up an appointment as a Stipendiary Magistrate, and the practice was sold.

Well ahead of her time in office management, Marie Byles had introduced a scheme of 'permanent part-time employment' for her all female staff of from ten to twelve. By arrangement of a regular timetable clerks and secretaries were able to organise their working hours to fit in with domestic commitments. Bonuses were paid to staff based on annual profit, which was an incentive for the staff to work hard, which they did.

Christian Jollie Smith practised until shortly before her death in January 1963. She had been a union advocate representing several industrial organisations in wage claims, and had offered unpaid legal service to many who could not afford to pay her fees.

Jessie Hargreave practised with her brother in partnership at Mulwala until her death in 1956. Pike and Pike had a successful partnership and offered employment to

19. Daphne Kok, 'Women in the Law' Law Society Journal, June 1970, pp 83-84.

other women solicitors. Joyce Shewcroft was co-founder and one time chairman of the ABC Credit Union and co-founder and director of ABC Building Societies while continuing to act as legal adviser to the Australian Broadcasting Commission.

Elizabeth Evatt after practising briefly at the New South Wales Bar left Australia to study for a Master of Laws degree at Harvard University and then spent some years in England where she was called to the English Bar. She worked with the English Law Commission in the sixties, considering family law reform, an appropriate background for positions she held later in Australia - Chairman of the Commission on Human Relationships, and of the Family Law Council, and later her appointment as Chief Judge of the Family Law Court in 1976.

Although the number of women in the legal profession at the end of the sixties had increased, there was no woman on the bench, none had taken silk, and none were represented on the Council of the Bar Association or the Law Society. The seventies were to be more rewarding.

CHAPTER VI

THE WOMEN LAWYERS' ASSOCIATION

Male practitioners had always been advantaged by social contact within the club system which was a channel through which new clients and their legal work frequently flowed, providing a wider clientele. A woman's area of contact had been far more restricted. There was little client potential in the traditional women's groups attached to church activities, community welfare and local projects, which were the common meeting ground for most women. The male network extended to community groups, sporting bodies, clubs, associations and organisations covering a wide range of activities. In all these areas women were usually excluded, or at best allowed entry only as an associate member with limited rights. As is natural in any group, people with common interests tend to gravitate together and male lawyers frequently found themselves mixing in a relaxed social atmosphere where it was natural to discuss and exchange ideas on legal topics. Women lawyers were not able to enjoy these social encounters, and as a minority group, with no formal structure, they were outside the mainstream in their professional life.

It was the lack of opportunity to share their knowledge and experience within the profession and the need for the stimulus and encouragement which comes from discussion with members of the same occupation that prompted the women lawyers in 1941 to arrange regular meetings among themselves. For some time they met in an informal atmosphere, not wishing to be bound by a formal constitution, though eager to meet to share legal problems, to entertain and to hear guest speakers, and to join in discussions pertinent to the legal issues of the time.

From 1951 the Women Lawyers' Association formalised the meetings for women in the profession and maintained contact with similarly constituted organisations, and also became an important channel for communication between the profession and the government. As members of the Association, and with authority delegated to them by

the State, members attended international conferences and represented Australia in agencies at the United Nations. In turn their work there had influential consequences within Australia on government programmes.

In the events leading up to the formation of the Women Lawyers' Association and in the support it obtained from members of the profession two associated developments contributed to its gradual strengthening. One was the ad hoc support of one woman for another at a personal level, the other was the involvement of legally trained women alongside a great many other women (and in some associations with men) in organisations and movements which were interested in legal reform, or more widely in activities which impinged on the operation of the law, often giving rise to new or amending legislation. Consideration is given to these informal contacts before moving to examine more closely the role of the Association itself.

While women were a small minority in the profession, regarded by most men with some suspicion, their ability to help one another was extremely limited, although as has been noted the earlier women did on occasions give a brief to a woman barrister. The total absence of women in practice at the Bar between 1942 and 1959, and the predominantly junior position of solicitors in practice in the following decade restricted seriously the extent to which women Barristers could expect briefs from women solicitors. Writing of the situation in 1969 Daphne Kok in her 1970 article reported women barristers rarely received briefs from other women.¹ In her 1975 study she drew attention to the difficulty of the juniors, employed, or in family firms, exerting any influence on the selection of the barrister to be briefed, and with that in mind rather modified her earlier statement about the lack of support for women barristers from women solicitors.²

1. Daphne Kok, 'Women in the Law', Law Society Journal, June 1970 p. 84.
2. Referred to in Lawyers, Disney et al. pp. 187-188.

Women solicitors have been noticeably unhelpful to women barristers - partly no doubt due to a reluctance to press too far the client who has accepted a woman adviser once. A more important reason may be that until the later 1960s and early 1970s the number of women solicitors who were actually principals in their own businesses and independent of family pressures, rather than being tied to their male employer's policies, was fairly small. Moreover, many women solicitors were, due often to limitations in training opportunities during articles of clerkship, restricted to non-litigious fields of practice and had little reason to brief any barristers at all.³

At entrance, in employment and in partnership, women gave help to other women. Marie Byles after the war gave articles of clerkship to law student Margaret Crawley, thereby becoming the first female 'master solicitor'. Margaret remembers her 'master solicitor' as being 'extremely hardworking and expecting efficiency from her staff' which was at most times all female, but also remembers her as 'being encouraging and helpful to those who sought advice'.⁴ Byles also offered employment when she could to female practitioners. During her several absences overseas she appointed a woman to act as her locum when possible. Mrs Lee Hutley (Leila Walshe) at one time acted in this capacity for several months. Another who managed the practice as a locum was Mrs Helen Larcombe, the daughter of one of the solicitors in the firm with whom Miss Byles had worked in her first job as a solicitor. Larcombe later became a partner in the firm of M.B. Byles and Co. and the sole proprietor after Miss Byles retired in 1970.

Chris Ronalds in a recent film documentary featuring the life of Marie Byles, stated she had drawn inspiration as a young girl from Byles and from the all woman office, her mother being one of the staff.⁵ She qualified in the 1970s, worked at the Anti-Discrimination Board and is the author of *Anti-Discrimination Legislature in Australia* published in 1979.

Veronica Pike whose admission in 1940 had been moved by Nerida Cohen also appears to have given encouragement and practical assistance to other women.

3. Disney et al *Lawyers*, p. 187.

4. Information supplied by Margaret Crawley, 1985.

5. Documentary 'A singular Women' shown on ABC Television, 1985.

Sandra Vagg, a 1963 graduate in Law, was employed by Pike and Pike⁶ and Aline Fenwick, then overseas, joined the firm as a partner on her return in 1964.⁷ It was Pike who organised the first meeting of the women lawyers.

Pike's practice before the Land and Valuation Court brought her into contact in 1967 with Jenny Blackman, then acting as Associate to Mr Justice Else-Mitchell, and after Blackman was admitted to the Bar in 1968 Pike frequently briefed her to appear in the Land and Environment Court.⁸ Blackman specialised in local government matters, the only women barrister at the New South Wales Bar to specialise in that area.⁹

Several women practised together in partnerships, Margaret Degotardi and Zdenka Payk formed a partnership and practised in the City, the O'Connor sisters, Rosemary and Beatrice practised together at Balmain. Lee Hutley (Leila Walshe) was employed by Alison Christie for a short time when she commenced her own practice. Pat Hinch admitted 1953 entered partnership with Margaret Melzer in 1967 and have continued in partnership as Melzer and Hinch.¹⁰

A second generation were to find encouragement from mothers already in the law. Beatrice Bateman^a moved the admission of her daughter, Beatrice Ann Bateman, to the Bar in 1968. Patricia Tomkins (admitted 1977) answering the O'Brien questionnaire, reported her mother was 'articled to a firm of solicitors in Cowra in the late 1930s; she was considered quite adventurous at the time...' Beatrice Ann Gray (Bateman) in her reply to the same questionnaire mentioned Janet Coombs helped her to obtain articles. Janet also shared her chambers for six months with a newly admitted barrister who had been unsuccessful in her search for rooms.¹¹ Joan O'Hara (O'Brien) moved the admission of her son, Michael when he was admitted as a solicitor

6. New South Wales Law Almanac.

7. Information supplied by Veronica Pike.

8. Information supplied by Veronica Pike.

9. S. Wyndham, 'Women at the Bar' Good Weekend, The Sydney Morning Herald Magazine, 27 October 1984, p. 4.

10. Jan Stockley, 'The growing role of women in the Law', Law Society Journal, September 1984, p. 564.

11. Information supplied by Janet Coombs.

in 1969.

In a wider network women lawyers were active in many organisations, often serving as honorary solicitors or in other ways representing it. Nerida Cohen had appeared for the League of Women Voters of which she was a member and had joined the Council of Action for Equal Pay and chaired the Council of Women in War Work (1942-5). She was a member of the Australian Federation of University Women and the Women's Club, and a member of the provisional executive of the Liberal Party of Australia 1943-45. She was awarded an MBE in 1981.¹²

Aline Fenwick, who qualified in South Australia was active in the Girl Guides in New South Wales by 1953 and later was very prominent in Zonta,¹³ Thurles Thomsas also had a long association with the Girl Guides. Joan O'Hara (O'Brien) was a member of the Committee of St. Joan's Alliance (NSW) a branch of St Joan's (International) Social and Political Alliance based in London. She was one of the Australian delegates to the Pan Pacific Women's Association conference held in New Zealand in 1952 and for a time a member of that Association's Constitution Committee.

Other women were notable for their membership of the Australian Federation of University Women, the Business and Professional Women's Club and the National Council of Women. Eleanor Platt was convenor of the Law and Suffrage Standing Committee of the New South Wales National Council of Women during the 1960s. A great many served on local church and community organisations, and two Janet Coombs and Lee Hutley (Walshe) served as aldermen on local councils.¹⁴ Jean Malor was a member of the Child Welfare Advisory Council of New South Wales and at various times held executive positions.¹⁵

Two areas in particular attracted the legally qualified women. One was the treatment, and especially the law influencing the treatment, of women and children, the other was the legal status of women internationally.

12. Who's Who of Australian Women op. cit., p. 204.

13. Who's Who of Women in Australia, op. cit., p. 176.

14. Janet Coombs served on the North Sydney Council 1963-65.

15. O'Brien Survey.

In 1928 a Board of Social Study and Training was established in New South Wales in cooperation with the University of Sydney to oversee the training for social work. By the mid 1930s the Department of Child Welfare was arranging training for child welfare officers. It was in this area that Mary Tenison Woods was to become influential. She was the first woman admitted to the practice of law in South Australia, practising there in the 1920s in partnership with Dorothy Somerville.¹⁶ From 1935 she was permanently resident in Sydney. While employed by Butterworth and Co. (Aust.) Ltd as annotating barrister and editor she became involved in the moves to push through amending legislation for child welfare. She was appointed to the Board of Social Study and Training and lectured on legal aspects of social work. Sponsored by the New South Wales Child Welfare Advisory Council, the Australian Council for Educational Research and the Walter and Elizabeth Hall Trust in 1942 she travelled overseas studying developments there in child welfare.¹⁷

In 1945 she was invited by the International Labour Office to sit on a committee of experts in child welfare and the protection of youth to meet in Montreal in May of that year.¹⁸ In 1950 she was appointed Chief of the Status of Women Section of the Human Rights Division of the United Nations resident at Lake Success.¹⁹ In the same year she was awarded the OBE for her services to child welfare.²⁰ She was a woman of outstanding ability remaining with the United Nations until 1958, and reported as having been the first woman in the British Empire to become a notary public.²¹ She had been involved with many community associations. Her career exemplifies some of the broader impact of the admission of women to the legal profession. Her professional training in law was the basis for a long period of work outside legal practice in precisely those areas where the ladies who had campaigned earlier in the century for Ada Evans had seen a necessity for the presence of women.

16. Sally Kennedy, *Faith and Feminism*, Melbourne, 1985, p. 235.

17. Sally Kennedy, *op. cit.* p.235.

18. *Sydney Morning Herald*, 23 April 1945.

19. *Ibid*, 8 June 1950.

20. *Ibid*.

21. *Ibid*.

Two other women lawyers are known to have had strong connections with international organisations intent on an improvement world-wide in the legal status and rights of women. Veronica Pike was to represent the Women Lawyers' Association at the biennial conventions of the International Federation of Women Lawyers on many occasions. The International Federation had been formed in 1944 following the United Nations promulgation of the Universal Declaration of Human Rights. Its initial constituents were women from the United States, Cuba, Mexico, El Salvador and Puerto Rico who formed the Federacion Internacional de Abogadas (known as FIDA) with the object of promoting the rights of women. The objects of the organisation were broadened later to include human rights for all. Women lawyers from other countries were invited to join and the Federation became an ongoing organisation with members world-wide. In 1983 there were 70 member countries.²²

Many distinguished women served as Presidents and executive members of FIDA. One, the Hon. Angie Brooks of Liberia held the office of President of the United Nations General Assembly. Helvi Sipila of Finland was the first woman Assistant Secretary-General of the United Nations. In the United States two FIDA members became the first women to receive judicial appointments in Federal Courts of Appeal.²³

Much earlier when Australian women were still fighting for the vote, they had corresponded with suffrage organisations in Great Britain and the United States. The connection had been maintained in a number of ways in the interwar years, a woman always being included as an alternate delegate, or delegate, in the Australian delegation to the League of Nations, and other women directly representing Australian women's organisations attended at international conventions of women. Australian

22. Article (unsigned) 'What the International Federation of Women Lawyers Does', Law Society Journal, October 1983, p. 444.

23. Ibid.

women's exercise of the right to vote many years before most European nations, gave them a special incentive in maintaining international connections, and the early women lawyers were great travellers. Possibly contact at the personal level helped Aline Fenwick's distinguished career at the United Nations. She followed Mary Tenison Woods at the United Nations and was deputy chief of the Status of Women Section, Division of Human Rights, and Secretary of the United Nations Status of Women Commission 1959-63.²⁴ She played a major part in the drafting of the International Convention on Age of Marriage, Consent to Marriage and Registration of Marriages, which the United Assembly adopted in 1962. In 1967 she was councillor, Australian Branch of the International Law Association.²⁵

Veronica Pike later much travelled and 'the roving Ambassador extraordinaire' for the Women Lawyers' Association,²⁶ in 1941 suggested to other women lawyers in Sydney that they might form a Society of Women Lawyers. She was only recently admitted, but on her initiative regular quarterly meetings began. The first was at her home and the interested women decided to continue on an informal basis.²⁷ In 1943 permission was given by the then Incorporated Law Institute of New South Wales (now the Law Society of New South Wales) to use the address of the Institute for the purpose of establishing a permanent mailing address.²⁸ Lilian Goldsmith was appointed permanent Convenor and a list was kept of all qualified female practitioners, who were notified of the date and place of quarterly meetings and the name of the guest speaker, if one had been invited. From time to time the possibility of formalising the Society was canvassed, but the informal arrangements stood for

24. Who's Who of Australian Women op. cit., p. 176.

25. Who's Who of Australian Women op. cit., p. 176.

26. Women Lawyers' Association Newsletter, No. 6 1979/80 December 1979, p.2.

27. Karyn Kinsella, 'Why the Association was formed', Law Society Journal, September 1984, p. 592.

28. History of Woman Lawyers' Association (Two page roneo sheet) 1969 with records of the Women Lawyers' Association, p. 1.

nearly a decade.²⁹

In November 1951 Beatrice Bateman wrote to members suggesting they meet to discuss the formation of a Women Lawyers' Association and affiliation with the International Federation of Women Lawyers. She was listed as a practising barrister but had not maintained a permanent practice, being for the most part homebased and busy with children. She would, however, have been familiar with the difficulties of women at the Bar.

The meeting was held at the Pickwick Club and was attended by thirty women lawyers. It was resolved a provisional Association, to be known as the Women Lawyers' Association of New South Wales be established and Joan O'Hara (O'Brien), a practising solicitor was appointed provisional President. Marie Kinsella, a non-practising barrister and Meg Degotardi, a practising solicitor, became provisional secretaries.³⁰

The inaugural meeting of the Women Lawyers' Association of New South Wales was held on 6 March 1952. ^{23 women attended.} It was the first such ^{N.S.W.} Association in Australia. The aims and objects as set out in the constitution were -

- (a) to provide a common meeting ground for women lawyers;
- (b) to foster the growth of a corporate spirit among women lawyers;
- (c) to make suggestions and work for the reform of the law and the administration of the law particularly as affecting women and children;
- (d) to assist with such movements for the advancement of women as the Association may from time to time decide;
- (e) to participate as a body in matters of interest to the legal profession; and
- (f) such other objects as the association shall in general meeting from time to time decide.³¹

29. Ibid.

30. Sunday Herald, 11 November 1951, p. 16.

31. Constitution of Women Lawyers' Association of New South Wales - 1952.

Nerida Goodman (Cohen) was elected as the first President with Marie Kinsella the first Secretary. Committee members were Margaret Crawley, Jean Hill, Helen Levy, Joan O'Hara and Veronica Pike. With the exception of Kinsella, a non-practising barrister with the Department of the Attorney General and Goodman who had retired from the Bar, the members of the Executive and Committee were in private practice, although two were recently admitted. It was decided at this meeting not to affiliate with the International Federation of Women Lawyers.

At an executive committee meeting held on 24th March 1952 it was resolved that notices of the newly formed Association be sent to the 74 women lawyers in New South Wales informing them of the formation of the Association and inviting them to become members. Forty two responded and became financial members.³² At this meeting Veronica Pike was nominated by the Committee to attend the convention of the International Federation of Women Lawyers to be held in Turkey later that year and to report back to the Association. She attended the Convention³³ and most of the later biennial conventions held by FIDA in various parts of the world until her retirement.

Already an informal Research Committee existed, Jean Malor, Dorothy Shain and Pat Hinch, and continued until 1953 when it was formally constituted with Jean Malor, Convenor, Dorothy Shain, Pat Hinch, Joyce Shewcroft members. Dorothy Shain was acting convenor in Malor's absence and Vera Dunsmore made a member.³⁴ At Lake Success Mary Tenison Woods was working with the United Nations on the status of women; one of the Research Committee's first brief was from the Australian Department of External Affairs seeking a comprehensive report on the position of women and children in Australia under Australian Nationality Law.³⁵ The work of the Research Committee was to be one of the main activities of the Association for many years, and stimulated the Sydney University Women Graduates' Association to form a

32. Minutes of Committee Meeting of Women Lawyers' Association, 5 May 1952.

33. Ibid, 20 April 1953.

34. Third Annual Report of Women Lawyers' Association, p. 2.

35. Ibid.

similar committee.³⁶ In 1953 a report as to the position of permanent alimony in New South Wales was prepared by the Research Committee and enabled the Association to support the League of Women Voters in its efforts to have the law relating to permanent alimony amended.³⁷ Miss Shewcroft was a member of the deputation to the Attorney General to request that an amendment of the law be made and at the request of the Attorney General suggested the terms of the amendment to the Matrimonial Causes Act by adding a sub-section to section 40 which read -

If the husband afterwards becomes able to make payments greater in amount than those ordered by the Court, the Court may increase the amount of money ordered to be paid having regard to the increase in the husband's ability to pay.³⁸

The Act was later amended.

Also in 1953 at the request of the Department of External Affairs the Association prepared a detailed brief for Mrs Jean Daly Australia's representative at the Ninth Session of the United Nations Status of Women Commission. The brief contained useful information on the status of women in Private Law, in relation to Family Law and Property Rights, the various State Divorce Laws in Australia, a report on Adoption Laws in New South Wales and in regard to Permanent Alimony.³⁹

For members of the Association the contact with other women with similar interests was the most useful aspect of the Association. The position of President was limited to every two years and members of the Committee were elected annually. While the numbers in practice remained small rotation of office involved a significant proportion of membership in the Association's operational activities. Its regular meetings served to maintain contact and helped women keep in touch with new developments in the law.

In 1953 the Association was invited by the Incorporated Law Institute of New South Wales 'to prepare a paragraph concerning the Association's activities' for inclusion in the Annual Report of the Institute published each year in the Institute's

36. Ibid.

37. Ibid.

38. Ibid, p. 4.

39. Ibid.

Journal.⁴⁰ This was done and has been included every year since. A permanent central venue for committee and general meetings was made possible by the Sydney University in 1954 by permitting the use of the Senate Room of the Law School.⁴¹

In 1959 the Women Lawyers' Association affiliated with the International Federation of Women Lawyers.⁴² Membership of the International Federation and regular representation at its biennial conventions enabled women who enjoyed overseas travel to extend their international contacts.

Back home from the early fifties the Association frequently entertained prominent women visitors. In 1952 Madame Regala and Miss Innocenecia members of the Bar in the Phillipines, and Miss Kirkpatrick, on visit from Scotland, were entertained at the Women's Club.⁴³ Madame Regala remained in Australia while her husband was Ambassador for the Phillipines and was made an honorary member of the Association. She took an active interest in its affairs and attended many of its functions. Professor Moran, a distinguished lawyer from the Dublin University was entertained, with the Women Graduates Association as joint hosts, at the University of Sydney in 1953.⁴⁴ Miss Voila Smith an American lawyer who had been in the American Diplomatic Service and Trade Commission for the States in China, spoke to the Association of her experiences in 1957.

In the 'sixties, Mme Baydur a lawyer and wife of the Turkish Ambassador to Australia was a guest, and in 1969 Aline Fenwick was able to arrange for Mrs Sipila a former President of FIDA,⁴⁵ a practising member of a law partnership in Finland and associated with the United Nations Family Planning Commission, to meet members of

40. Minutes of Committee Meeting of Women Lawyers' Association, 10 September 1952.

41. Ibid, 15 February, 1954.

42. Why the Association was Established, op. cit., p.592.

43. Minutes of Committee Meeting, op. cit., 24 March 1952.

44. Ibid, 31 August 1953.

45. Nineteenth Annual Report of Women Lawyers' Association, p. 2.

the Association. Mrs Fumi Suzaki⁴⁶ a practising lawyer in Japan was entertained and discussed with members of the Association the Japanese Family Court System. On her return to Japan she forwarded 'several copies of comprehensive information on the Japanese system' useful to the Association at a time proposals for the establishment of a Family Court System in Australia were being discussed.

Veronica Pike, who in her travels had made many international friends, arranged in 1969 for members to meet Mrs Beng Oon a lawyer of Malaysia.⁴⁷ In this way links with practitioners in other lands were established and in some cases maintained.

Regular quarterly luncheons became a part of the Associations activities and guest speakers were invited to speak on topics of interest, often of their own experiences.

Two guest speakers in the early fifties, Dr John McGeorge a noted psychiatrist, who spoke on 'Murder and the Mind'⁴⁸ and Sir Garfield Barwick who spoke in 1953 of his experience in appearing before the Privy Council, opened the mind of the listeners to new and exciting aspects of the law. Sir Garfield advocated in his address a simplification of procedures in the Court system and the Association undertook to look at ways in which this could be done in the New South Wales Courts.⁴⁹

Probably only a minority of the members actively promoted the Association's objects of 'the advancement of women' and 'the reform of the law and the administration of the law particularly as affecting women and children', but for some members this aspect of the Association's activities was very important.

In child welfare in the 1950s the emphasis on a child's relationship with parents especially with the mother, brought welfare and adoption practices under review. The importance placed on family relationships led to the formation of marriage guidance services. The older practice of confining the mentally unwell to asylums was being challenged from a civil liberties point of view and new treatments were being adopted

46. Nineteenth Annual Report of Women Lawyers' Association, p. 4.

47. *Ibid.*

48. Third Annual Report of Women Lawyers' Association, p. 2

49. *Ibid.*

for voluntary inmates and outpatients. Such concerns brought the women lawyers into collaboration with other professional associates and particularly women professionals.

In 1954 there began regular annual meetings of the Medical Women's Society of New South Wales and the Women Lawyers' Association at which the medical and legal aspects of divorce, child welfare, adoption, marriage guidance and allied topics were discussed. As treatments changed in medical practice new legal issues were raised. The emphasis earlier was more on maintaining family stability and the psychological health of members of the family, this changed later with advances in scientific and technological knowledge posing problems for both the legal and medical profession.

In 1957 a paper entitled 'Child Welfare - Its Legal and Medical Aspects' was prepared by the Research Committee for the annual joint meeting with the Medical Women's Society, and dealt with the normal legitimate child, the neglected child, the illegitimate and legitimated child, the adopted child, the product of a home broken by death or divorce and the child delinquent.⁵⁰ The material in this paper was later useful when the Association collaborated with the Australian Federation of University Women in a report on child delinquency.

By the 1960s the work of the Research Committee had given the Association public standing; where legislative changes of significance for women and children were in contemplation the public authorities sought advice from the Women Lawyers' Association. The relationship with the National Council of Women was strengthened with the participation of legally qualified women in the Council's standing committees.

A broadening of the Association's interests is detectable at the end of the 1960s. Within the legal profession it took an important step towards assisting young women Barristers at the outset of their career by the purchase of a room in 1974 in Frederick Jordan Chambers which was made available on a subsidised rent for a year to a woman beginning practice at the Bar. The letting of the room was left to the

50. Paper with the records of the Women Lawyers' Association.

three Trustees, Janet Coombs, Jenny Blackman and Priscella Fleming. Occupants of the room went on to establish successful practices.

In the mid 1960s when several hundred new chambers became available in a new building the Bar Association had reserved five rooms for women. When these had been filled, and by the late 1960s the number of women being admitted to the Bar was rising, rooms again had become a problem.⁵¹ Mary Gaudron admitted in 1968 had experienced great difficulty. The problem of securing chambers was temporarily eased but not resolved. By the mid 1970s a token woman a floor seemed to be the practice.⁵²

Discrimination continued, as one woman became aware when she overheard the clerk inquire of a male solicitor if he had any objection to a woman barrister. She did not think the clerk would have asked a woman if she had objections to a male barrister. An awareness of the discriminatory workplace practices was having a dual effect of bringing some women more actively to support other women in the profession and bringing the Association into campaigns for the removal of discriminatory workplace practices and for remedying difficulties experienced by working women with their care of children.

The widening of the Association's interest can be marked by the executive's close association with the Women's Electoral Lobby in the early 1970s and by its own initiatives on tax deductability for child care expenses for women in employment.⁵³ The Women's Electoral Lobby took up the equal pay issue and made a lengthy submission to the 1972 equal pay case. In 1971 the executive of the Women Lawyers' Association submitted a case to the Commonwealth Treasurer for expenses for child care to be deductible and informed the Institute of Accountants and Taxpayers Association of their submission.

Their case to the Treasurer was in terms of the greater revenue which could be

51. Disney et al, Lawyers, p 187.

52. Ibid.

53. Minutes of Committee Meeting Women Lawyers' Association, 9 June 1971.

generated by an increase in the number of income earning women. The issue of child care tax deductability was linked to that of the adequacy of existing provision of child care in supervised centres, and the need for more centres. Alongside the approach to the Treasurer the executive was gathering information on child care schemes including the Swedish situation.⁵⁴ Though careful to deny that it endorsed one form of child care over another, the tax deductability issue implicitly carried approval of arrangements other than full-time care by the mother. A decade earlier the thrust of the Association's reports had been to acknowledge the importance of the mother's relationship with the child. Twelve years on from this approach to the Treasurer the Association sponsored a test case on child care expenses. The Association has been supported by the New South Wales Women Accountants Group of the Australian Society of Accountants.⁵⁵

In 1984 the Association initiated action for permission to appeal to the High Court against the decision of the Federal Court of Appeal to disallow an appeal from the decision of Mr Justice Hunt in the Supreme Court in October 1983. (*Martin v. Commissioner of Taxation* (83 ATC 4722; 14 ATR 838)) which had gone against the taxpayer.⁵⁶

In 1971 the executive of the Women Lawyer's Association discussed the desirability of establishing a Women's Legal Advice Bureau. Concern about the advice available to women from chamber magistrates (all of whom then were male) was part of their concern. There was also recognition of the financial difficulties in securing legal representation for many deserted wives and unmarried mothers.⁵⁷ Removal of all discriminatory measures was to become a major concern of the Association in the 1970s.

54. Minutes of Committee Meeting of Women Lawyers' Association, 9 June 1971.

55. A Case for Deductible Child Care Expenses, Law Society Journal, 3 April 1983, pp 152-154.

56. Child Care Expenses, Law Society Journal, February 1984, p. 54.

57. Minutes of Committee Meeting of Women Lawyers' Association, 11 August 1971.

CHAPTER VII

SOME RECOGNITION 1970-1984

In the 1970s women began to assume the proportions in the new intake to the legal profession which in medicine women had achieved by the 1960s. At the University of Sydney women were 7 % of the LL.B graduates in 1971, 12 % in 1974, 21 % by 1976 and 23% in 1978. By 1981 one third of its graduates were female.¹ In the new Law Schools opened, University of New South Wales 1971, Macquarie 1976 and the New South Wales Institute of Technology in 1978, the intake of women undergraduates in law rose sharply as shown in the Table prepared on figures contained in Judge Mathews paper The Changing Profile of Women in the Law, in 1982.²

Proportion of Female to all Undergraduates in Law
1971-1981

	1971 %	1972 %	1974 %	1976 %	1978 %	1980 %	1981 %
University of New South Wales	13	17	20	27	32	34	36
Macquarie University				22	22	28	36
New South Wales Institute of Technology					20	25	28

The number of practising barristers had risen to 28 by 1975 but constituted only 5% of all practising at the Bar. Women solicitors in the same period had increased to 304, 6% of all practising solicitors.³ By 1981 the numbers had again risen. Forty

1. University of Sydney - Women Graduates as Proportion of Total Graduates by Faculty - 1968-1984. Careers and Appointments Service, University of Sydney, June 1985.
2. Jane Mathews, The Changing Profile of Women in the Law, Conference Paper, 1982, p. 6.
3. Disney et al, Lawyers, p. 188.

three women were practising at the Bar, but the proportion remained at 5%.⁴ In 1982 there were 816 female practising solicitors comprising 12% of the profession, and in 1986 1,444 women held practising certificates.⁵

The law itself was expanding into areas which provided employment possibilities for women, and many were moving into newly created government funded offices established to meet community needs. The extension of Legal Aid and the founding of an increasing number of regional offices is one example. Women were also beginning to move into the area of corporate law, and into University teaching posts. The Women Lawyers' Association was gaining more publicity and establishing a reputation within the community. Women lawyers as a class were moving forward with confidence.

The decision to abolish payment of University fees may have helped more women to undertake Law degrees. Mature aged women, especially those without income of their own, are believed to have made more use of University education after fees were abolished. The opportunities offered to mature age students to enter Universities and other technical colleges, coupled with the persuasive propaganda from what had been termed 'the second wave of feminism', encouraged many women who had married and reared a family to seek higher education and some to qualify as a lawyer and pursue an independent career. The demise of the articulated clerk system of practical training for those entering the profession as a solicitor, also made it easier for a woman to gain the necessary practical experience.

Probably the most significant change in the 1970s, and certainly the most welcomed by women planning to practise as solicitors was the decision in 1973 to end the articulated clerk system of training. The Solicitors' Admission Rules of the Supreme Court of New South Wales were amended in 1973 in accordance with a resolution of the Judges, whereby the system of Articles of Clerkship was replaced with practical

4. Mathews, *op. cit.* p. 18.

5. *Ibid*, p. 14, Appendix No. 2.

training to be provided by a College of Law.⁶ While many established solicitors were sceptical as to the benefit of institutionalised training, women students joyously acclaimed the end of a system which had for them presented serious problems.

The aim of the College was 'to provide a practical training course to produce a lawyer well equipped with basic professional skills and methods to permit immediate and effective participation in the practice of a solicitor'.⁷ While these aims may have appeared overly optimistic in intent, the course did offer training in a wide field of subjects and made an attempt to give the student an understanding of the efficient conduct of a legal office.

The factor which many practitioners saw as lacking in the training was the face to face relationship with clients and the development of a personal rapport which can only be experienced in the real world, but a glance at the skills programmed in the six months training period would tend to convince the most pessimistic, that the knowledge acquired in the training course would outweigh any perceived advantages derived from client contact. Subjects listed for study included Administration of Estates, Advocacy, Civil Litigation, Commercial Law Practice, Family Relations, Industrial Relations, Landlord and Tenant, Real Estate Transactions, Workers Compensation, Trade Practices, Office Management, Accounting and Professional Responsibility. Compared with the often desultory and limited training reported to have been experienced by many articled clerks, especially by women, the change could only be viewed as a vast improvement.⁸

The College of Law commenced training in 1974 and in that year 11 females and 64 males were enrolled, women accounting for 14 per cent of the intake. By 1979 these figures had increased to 131 females and 334 males; a percentage increase of 29 per cent in female attendance and a 17 per cent increase continued each year to 1983. Eligibility for training required a degree in law or other acceptable

6. Robyn M. Duncan, 'Institutionalised Practical Legal Training' Law Society Journal, August 1977, p. 205.

7. Ibid.

8. Duncan, op. cit., pp. 205-208.

qualification.⁹

A survey conducted by the College in 1983 produced significant and interesting results. A questionnaire sent to a random sample of 100 College of Law women graduates who had completed their practical training between 1979 and 1983 brought 61 responses. Predictably as the students were mainly young, the average age of the respondents was 28 years. Thirty eight per cent were married, 54.7 per cent single and 7.1 per cent divorced. Only 13.6 per cent had children but five of the respondents stated they were expecting their first child. Forty one per cent anticipated the need for future child care facilities if they were to remain active in the profession.¹⁰

Respondents' indication of the kind of legal work they were doing showed a marked change from the areas in which women had in past years been located. Thirty three point three per cent nominated Litigation as their field of specialty, Conveyancing and Commercial followed with 23.3 per cent each, then Family Law 16.6 per cent, Workers Compensation 6.6 per cent, Probate 5 per cent and Insurance and Patents 3.3 per cent each.¹¹ The fact that 54.5 per cent stated their choice of specialty was the result of a conscious choice on their part demonstrates the change in attitude of the profession to women lawyers in allowing them to make that choice. It also demonstrates that women themselves were acquiring the confidence necessary to move away, from the traditional areas into those more challenging. Comment was made however, in assessing the result of the survey, that although a large number specified litigation as their chosen field of practice, replies from the Respondents did show that only two were appearing in the Supreme Court, the others were engaged in litigation in the lower courts. Apparent advances sometimes need closer scrutiny. No information was available to determine in what area of commercial law the respondents were involved. Further comment was added that the 'representation of women in the most prestigious specialities was very poor'.¹²

9. Conchy Trelles Bretos, 'Woman Lawyers: Implications for Legal Educationalists and Employers' Law Society Journal, August, 1984, p. 424.

10. Ibid.

11. Ibid, p. 425.

12. Conchy Trelles Bretos, op. cit. p. 426.

Three quarters of the respondents to the College of Law survey were located in the city. Only 9 per cent were employed in suburban practices and 6.8 per cent in country firms. Fewer were going into government departments - only 4.5 per cent.¹³ A marked fall from the proportion in the forties, although women in the Public Service in the '70s were less disadvantaged than in the 1940s. Job opportunities were being created by the establishment of new offices by the government requiring legal staff, but many of those appointed were being recruited from experienced practitioners of more mature years.¹⁴

Despite the higher proportion of women among the new entrants to the legal profession the statistical analysis is such that equal representation in the higher levels of the profession is not attainable in the foreseeable future. Nonetheless women have secured representation at most levels except the New South Wales Supreme Court, the Appeal Court and the High Court.

In 1970 Margaret Sleeman was appointed a Stipendiary Magistrate and later was the first woman to sit on the Bench in the Coroner's Court. Barbara Holborow in 1972 and Helen Larcombe in 1975 also became Stipendiary Magistrates. Larcombe going to the Yasmar Children's Court as special magistrate in 1978.¹⁵ Rosemary Smith in 1974 became Court Prosecutor at the Yasmar Children's Court, presenting all cases on behalf of the Department of Youth and Community Services and Police matters under the Child Welfare Act on pleas of 'guilty'.¹⁶

Ann Plotke was the first woman elected to the Council of the Law Society of New South Wales in 1972, and she served on several of the Society's Committees as did Daphne Kok who in 1970 was Assistant Editor of the Law Society's Journal. Practising solicitors on a voluntary basis assisted the Society by serving on one or more of the numerous Committees detailed to cover all aspects of the Society's responsibilities. In

13. Ibid.

14. Roman Tomasic (Ed.) Understanding Lawyers, op. cit. p. 376.

15. From O'Brien survey and Newsletters of Women Lawyers' Association of New South Wales.

16. From O'Brien Survey.

1979 there were twenty four such Committees including, Complaints, Ethics, Family Law, Fidelity Fund Management, Insurance, Legal Aid, Legal Education, Membership and Public Relations.¹⁷ Several women lawyers have served at various times on these committees.

The Council of the Law Society elected its second woman to the Council in 1976 when Mahla Pearlman became a member. During her term of office she held many positions on the various committees and acted as the Society's representative on the Solicitors' Admission Board. In 1981 she became the first woman President of the Law Society of New South Wales. There were 20 members of Council.

In 1972 Mary Gaudron was the first woman elected to the New South Wales Bar Association.¹⁸ Elizabeth Evatt admitted to the New South Wales Bar in 1955 but long resident in London, returned in 1973 to an appointment as Deputy President of the Commonwealth Conciliation and Arbitration Commission. In 1975 she was appointed Chief Justice of the newly created Family Law Court. Mary Gaudron followed her on the Conciliation and Arbitration Commission and became the first Chairman of the Legal Services Commission. Gaudron was appointed New South Wales Solicitor-General in 1981 and in that year Catherine Lyons became Public Defender. Pauline Barnes was also appointed to the Conciliation and Arbitration Commission in 1978.¹⁹

In 1977 Jane Mathews was appointed Crown Prosecutor and was sworn in as a Judge of the District Court in 1980.²⁰ Also in 1980 Leone Glynn went to the New South Wales Industrial Commission with the status of a Supreme Court Judge.²¹

One woman only at the Bar has taken silk, Priscilla Fleming, in 1985. At least three others are thought to have applied, but as the decision is made by the President of the Bar Council, and no reasons are ever stated, the situation is one where

17. From Annual Report of the Council of the Law Society of New South Wales 1979, Law Society Journal, October 1979.
18. Minutes of Committee Meeting Women Lawyers' Association, 8 December 1971.
19. Particulars from Newsletters of Women Lawyers' Association and from New South Wales Law Almanacs 1972-1978.
20. Annual Report of Women Lawyers' Association published in Law Society Journal, October 1980, p. 548.38.
21. *Ibid.*

discrimination can operate without there being any way of discovering if it is. There are no statistics for male applicants who have been unsuccessful. Mary Gaudron in her position as New South Wales Solicitor General is a Queen's Counsel.

While a few women had moved into positions which previously had been male preserves the disability of being a woman had not disappeared entirely. Only two of the women in the O'Brien survey who were admitted after 1970 reported their master solicitor had been unhelpful, but one added 'sometimes' to her reply 'helpful'. Even before the College of Law removed the need to obtain articles there was a sufficient number of firms prepared to accept women as to make this less a problem than previously. Nonetheless the available information on employment partnership and earnings point to continuing difficulties for some at least. The proportion of women coming into the profession with family connections was less than it had been thirty years earlier, though still significant. In the O'Brien survey 10 of the 35 respondents who had been admitted in the 1970s had family connections in the law. In a careers survey compiled by the Career Planning and Placement Committee of the Young Lawyers Section of the Law Society in June 1982 under the heading of 'employment sources' friends or relatives were shown as being the source of 22 per cent of placements in 1979 and this had risen to 26 per cent in 1982.²² This applied to all solicitors under 36 years of age, so in this regard the younger women lawyers were following a general trend, although in larger proportions.

Finding employment appears to have remained more difficult for women than for men even in the eighties. In her 1970 investigation Kok noticed just over half of the women lawyers were self-employed as against about two thirds of male lawyers,²³ but the recently admitted were disproportionately high among the women, possibly accounting for the disparity in the statistics for self-employed. In the Women

22. 'Careers Survey' Law Society Journal, August 1984, p. 448.

23. Daphne Kok, 'Women in the Law', Law Society Journal, June 1970, p. 83.

Lawyers' Association Newsletter published periodically there was mention in several that women were seeking placement in offices for practical experience in combination with the College of Law course. It was also noted that there had been no response to the invitation by practitioners.²⁴

In a survey undertaken in 1980 of the 316 persons who completed the Practical Training Course at the College of Law on the 27th June of that year a higher proportion of the women than of the men were still seeking employment on the 22 July.²⁵ The Director of the College of Law noted the difference was small but also possibly significant. The reason might be that women were less prepared to take positions in the country than men although the evidence on this was unclear. The Director referred to the possible commitment of a spouse to employment or promise of employment in the city but he could also have had in mind the unwillingness of a male spouse to follow a wife to the country.²⁶ The number of single women lawyers has increased from 45% in 1979 to 56% in 1982 at age under 36. The large number of younger women coming into the profession would no doubt account for the seemingly high percentage.²⁷

The surveys reveal women lawyers earn less than men and interviews confirm discrimination continued in relation to salary into the 1970s. One woman who received an offer of appointment to the College of Law declined it. Subsequently a male friend was offered the same position and promised a higher salary than she had been offered; her source of information for this being the man to whom the position was offered.²⁸ The evidence of payment of disparate salaries to women employed as solicitors in legal firms was not easy to establish, as one female solicitor noted 'I was generally aware that men employed in the same firm at the same time and with about the same experience were paid more, but salaries were not discussed openly so this

24. Newsletters Women in Lawyers Association.

25. R.A.F. Stewart, 'Making a Start in the Profession', Law Society Journal, September 1980, p. 493.

26. *Ibid.*

27. 'Careers Survey', *op. cit.* p. 448.

28. From the O'Brien Survey.

was difficult to verify.²⁹

Surveys conducted in New Zealand and in the United States produced informative statistics. In a New Zealand Report of the Working Party on Women in the Legal Profession in New Zealand in a survey of men and women admitted to practice in the mid 1970s, men were shown to earn a higher salary on average than women, about \$1300, and a higher average per year of experience.³⁰

In an October 1985 issue of the American Bar Association Journal the result of a survey showed a gap in the incomes of men and women, women earning considerably less. In the 23-30 age group the difference was \$2,800, the gap widening to \$8,000 in the group 31-35 and in the 36-40 group the difference escalated to \$24,300.³¹

In New South Wales the difference in income between male and female lawyers in 1984 was estimated to be about \$2,000 per year at age 28.³²

In the Commonwealth Public Service women are moving into the higher grades, but are still represented in larger numbers at the bottom rather than at the top of the scale. Enquiry from the Commonwealth Attorney General's Department found no women among the 14 men in the top Senior Executive bracket as at April 1984. In descending order, there were 19 men and 5 women Principal Legal Officers, 19 men and 7 women Senior Legal Officers and in the lowest grade there were 20 men and 14 women. Salaries, male and female, were the same in each grade, the difference lay in the disproportionate number of women in the lower salary range.

More large city legal firms are beginning to admit women into partnership. Sly & Russell one of the five largest, as the result of a merger in 1984, now have six

29. Ibid.

30. 'Preventing discrimination against women in the profession' article appearing in the Law Society Journal, July 1983 p. 276.

31. Karyn Kinsella, 'The Woman Lawyer Within the Firm', Law Society Journal, March 1985, p. 123. Karyn Kinsella, a past president of the Women Lawyers' Association was sponsored by the Law Society of New South Wales to attend a law conference in New York in 1984 on the topic 'The Woman Lawyer Within the Firm'. Her report on the conference appeared in part, in two successive issues of the Law Society Journal in 1985.

32. Conchy Trelles Bretos, *op. cit.* p. 424.

women among their 36 partners.³³ Freehill, Hollingdale and Page have 4 women among their partners. The forty six male partners in Allen, Allen and Hemsley admitted their first woman to partnership in 1985.³⁴ Stephen Jaques Stone admitted their first lady partner in 1984. She joined 63 male partners.³⁵

There is a growing trend in large legal firms towards creating specialist departments within the firm to meet the needs of clients in all situations needing legal service.

In July 1981 the Women Lawyers' Association was reporting the difficulty experienced by women in practices in country towns where social functions arranged for local practitioners were held in clubs which did not admit women.³⁶

One woman who became a partner in a well established city firm tells of the partners insisting that she would not wish to participate in the firm's annual golf day as the Club at which they played did not admit women.

The available information on the type of legal work undertaken by, or allocated to, women in practice is too fragmentary to add substantially to the evidence on discrimination. In both Kok's study in 1975 and the responses to the O'Brien survey reveal woman continued to be engaged disproportionately in conveyancing probate and family law. Notices in the Women Lawyers' Association Newsletter in the mid 1970s calling for locums occasionally pointed to a woman being expected to work in these areas. One such notice in May 1979 stated two other solicitors with the firm did the court appearances.³⁷

Kok quotes Mary Gaudron as stating in 1973 50 per cent of the work of women at the Bar was in family law. In 4½ years Gaudron had the opportunity to address a jury

33. Phillipa Gemmell-Smith, 'How six women won a place on Sly & Russell's letterhead', Good Weekend, The Sydney Morning Herald Magazine, June 1, 1985, p. 28.

34. Information from Judy Mutton admitted to partnership in Allen, Allen & Hemsley 1985.

35. Sydney Morning Herald, 15 May 1984, p.2.

36. 'Research Activities of the Women Lawyers' Association' article contributed by the Association to Law Society Journal July 1981, p. 439.

37. Newsletter, Women Lawyers' Association, No. 1 1979/80 May 1979.

on only three occasions.³⁸ In the O'Brien survey the younger women (a majority of those admitted since 1970 who had gone into private practice) also recorded their work was mainly in these areas of law. It may be significant that it was the younger women who were most strongly represented; those who entered after the age of 30 (approximately half the respondents who were admitted after 1970) revealed a wider distribution of work.

In 1982 Judge Mathews in her paper 'The Changing Profile of Women in the Legal Profession' pointed to the tendency to stereotype women in particular areas of the law particularly in family law.³⁹ It is especially significant that the Bar experience for women remains narrow. Since permission to take silk is granted only to those of recognised standing at the Bar the elevation of women to the Bench is virtually blocked by their exclusion from the ranks of Queen's Counsel. It is significant that the one woman with the status of a Supreme Court Judge in New South Wales is a member of the Industrial Commission and to that appointment, she came not from the Bar, but with a higher degree from the Columbia University, New York and after 22 years as librarian to the New South Wales Supreme Court. Her appointment is an unlikely precedent for future elevations to the Bench.⁴⁰

When the Women Lawyers' Association was formed one of the objects was 'to work for the reform of the law and the administration of the law particularly as it affects women and children'. In the 1970s the Association was actively seeking the repeal of legislation discriminating against women and the removal of discriminatory practices. The ambit of that concern stretched from the terms of the State's Superannuation Act to the condition of women in prisons. It supported the repeal of

38. Daphne Kok, 'Women Lawyers in Australia' quoted in Disney et al Lawyers op. cit. p. 185.

39. Discussed in The Hon. Mr Justice M.D. Kirby 'The Women are Coming', in Australian Law News June 1982, p. 12.

40. Who's Who of Australian Women in Australia, op. cit. p. 201.

the First Offender's (Women) Act 1919 on the ground that the provision giving women the alleged privilege of a closed court was discriminatory.⁴¹

The work related issues which had been important in the formation of a Women Lawyers' Association remained an important part of the Association's activities, although by the mid 1970s its executive was supporting a widening of its objects.

Four matters which the Women Lawyers' Association took up in the 70s illustrate this extending range of interest and the underlying concern with discrimination: these are child care, family law, the law and trial procedures in rape cases and the conditions for women prisoners.

An earlier interest in child welfare had been directed to ensuring that the needs of children were met, if necessary by assistance to mothers, and through such services as family counselling and by substitute residential care in the case of family breakdown. The campaign for childcare expenses to be made deductible was a departure in principle from that earlier involvement in child welfare in which the well-being of the child (professionally determined) was the paramount interest. Yet the adequacy of available child care was almost inevitably to be an issue if the tax deduction had reality as an issue. Going beyond their own needs as professional women using child care, members of the Association campaigned as individuals for more government support for child care centres. By 1977 the Association was organising Seminars on children's rights and taking an interest in Refuges.⁴²

In 1979, which was the United Nations year of the child, the Women Lawyers' Association arranged a series of visits by its members to refuges and remand homes.⁴³ The joint Seminar with the Medical Women's Society in that year discussed Family Crisis involving children and adolescents.⁴⁴ Kaye Loder chaired the FIDA

41. Annual Report of the Women Lawyers' Association 1975, p. 7.

42. Newsletter Women Lawyers' Association 1 1979/80, p. 4.

43. Ibid, 3, 1979/80, September 1979, p. 2.

44. Ibid.

workshop on child abuse at the International Women's Convention.⁴⁵ The research committee made a submission on the proposed Child Welfare Act⁴⁶ and the Association gave research assistance to one of its members Carol McWaide who was preparing, under the sponsorship of the Women's Advisory Council, a book on children's rights.⁴⁷

A submission on the Environmental Planning and Assessment Act 1979 recommended child care centres be made a requirement in shopping centres in the same way car parks are.⁴⁸ A paper on 'Child Welfare, Child Abuse and Day Care' was prepared for the Law Reform Commission in 1980.⁴⁹ In 1981 advice was given to the Youth Refuges Action Committee on the legal position of house parents at Children's Refuges.⁵⁰ In these a shift of interest can be detected; the relationship of mother to child which had been important earlier was now less apparent (though certainly it never ceased to be regarded as important); in children's rights the point of reference was the child itself. The support for children's refuges was tacit acknowledgment that for some children alternatives to the family best suited their needs.

On all the bills preceding the 1975 Family Law Act the Women Lawyers' Research Committee had made submissions. When the Act was passed the Association could claim its thinking and representation had been embodied in the Act. It specified Section 75 (2) n (with regard to maintenance) as its thinking.⁵¹ The no fault basis for divorce had long commanded support from the Association.

The law on rape, the police handling of complaints, the low conviction rates and the courtroom procedures which had the effect of placing the victim on trial were

45. Annual Report of Women Lawyers' Association 1980.

46. Ibid, p. 15.

47. Ibid. 1979 Report, p. 11.

48. 'A Case for tax deductible child care expenses' Article contributed by Women Lawyers' Association, Law Society Journal, 3 April 1983, p. 153.

49. Annual Report of Women Lawyers' Association, 1981, p. 11.

50. Annual Report of Women Lawyers Association, 1981, p.11.

51. Ibid, 1975 Report, p. 6.

widely criticised by the women's movement in the 1970s. In 1976 the joint seminar with the Medical Women's Society was on rape⁵² and Jane Mathews prepared a report for the Royal Commission on Human Relationships on rape.⁵³ The Women Lawyer's Association was represented in 1977 on the Attorney General's Consultative Committee to review the law and legal procedures in relation to rape⁵⁴ and joined in further discussion in the following year when the Premier's Task Force on the Care of the Victims of Sexual Offences was set up.⁵⁵ It was represented at the Law Foundation Seminar on the operation of the Sexual Referral Units which were opened at hospitals in Sydney, Newcastle and Wollongong as a result of recommendations from the Task Force.⁵⁶ Jane Mathews presented a paper at the seminar which was attended by police, doctors, social workers and lawyers.

At the National Conference on Rape and other Sexual Offences in May 1980, Priscilla Fleming represented the Association.⁵⁷ Its involvement in the campaign to change the law continued. It endorsed recommendations in the Women's Advisory Council Paper 'Reform of New South Wales Rape Legislation 1980' relating to 'immunity for husbands, corroboration, complaint, committal proceedings, open courts and publicity', and further recommended that the word 'rape' be abolished and the definition extended to include all sexual offences. The law in relation to the cross examination of the victim required an Extraordinary General Meeting to determine the Association's view. It was agreed there was need for reform in the law relating to the cross examination of the victim and recommended that there be legislation containing directions to such cross examination. Recommendation was also made that the victim not be open to accusations as to prior sexual activity with no opportunity to refute accusations. Separate representation for the victim in all Court proceedings

52. 'The Medical and Legal Aspects of Rape and the Need for Reform'.

53. Newsletter, Women Lawyers' Association, No. 4 1976/77 p. 1 (no date).

54. Annual Report of Women Lawyers' Association 1977, p. 6.

55. Newsletter, Women Lawyers' Association, No. 3 1979/80, September 1979.

56. Ibid.

57. Annual Report of Women Lawyers' Association, 1980, p. 6.

was proposed.⁵⁸ The Association's submissions were then made to the New South Wales Women's Advisory Council.

The conditions for women prisoners in prison and in relation to release also attracted considerable attention during the 1970s. The Women Lawyers' Association made submissions to the Royal Commission into conditions in New South Wales Prisons and was able to report a number of points from its Research Committee appeared in the Report of the Commission.⁵⁹

It took a more particular interest in the gaols by arranging for members to visit Mulawa and the Periodic Detention Centre. The lack at the outset of the decade of any halfway house for women was believed to have adverse affects on the possible early release of women. Through support of the Judge Rainbow Memorial Fund and the fund-raising on its behalf, the Association could report in 1976 that a halfway house for women was being acquired.⁶⁰

After a visit by members of the Association to the Periodic Detention Centre a year after it had opened, and a generally favourable report on its operation in which comment appears on the under-utilization of the Centre, the Association wrote to the Chief Justice, the Chief Judge of the District Court, the Chief Stipendiary Magistrate, the President of the Bar Association and the President of the Law Society commending the Centre and recommending greater utilization of it. A pamphlet containing information regarding the alternate sentencing by period detention provided by the Centre was prepared by the Association and distributed through the Courts.⁶¹ Visits to remand centres for youth was also part of this on-going concern for the rehabilitation of women.

58. Newsletter, Women Lawyers' Association, 6 1980/81, October 1980, p.1.

59. Newsletter, Women Lawyers' Association, No. 2 1978/79, May 1978, p.2.

60. Ibid, No. 6 1976/77 - no date - p. 1.

61. 'Research Activities of the Women Lawyers' Association of New South Wales' an article in Law Society Journal, July 1981 (unsigned) p. 440.

The Association took an interest in other matters. In 1977 it prepared submissions relating to discrimination in superannuation benefits⁶² and in 1979 it expressed concern about the inclusion of dismissed charges in criminal records. After a submission made to the Attorney General for New South Wales and the Privacy Committee the matter was investigated and steps taken to have the practice discontinued.⁶³

At a seminar arranged by the Women Lawyers' Association in 1979 topics included Consumer Protection, Insurance Claims, Local Government Legal Aid, and Legal Education.⁶⁴ In 1980 the theme of the seminar was concerned with the criminal and civil aspects of motor vehicle law.⁶⁵

In 1982 the Association arranged its first federal seminar at which three women judges spoke. Justice Roma Mitchell, (South Australia) Chairman of the Human Rights Commission on the work of the Commission, Justice Elizabeth Evatt on Family Law property settlements, and Judge Jane Mathews on cross-examination.⁶⁶

There is evidence however of more sustained interest in the four matters discussed above - child abuse, the family law act, the law on rape and prisons. Disparate as those matters may appear at first sight, the thread which runs through the Association's involvement was the perception of discriminatory treatment of women. The securing of equal opportunities for women had become a strong motivating force in the Women Lawyers' Association. The extent to which the very vocal women's movement have roused feelings of dissatisfaction and motivated women to take up the moves to change the law and its administration is not a question which

62. Annual Report of Women Lawyers' Association, 1978, submitted at General Meeting 29 March 1978 and reported in Law Society Journal, October, 1978, p. 328.38.

63. Annual Report of Women Lawyers' Association, 1979, p. 12.

64. Law Society Journal, October 1979, p. 346.40.

65. Annual Report of Women Lawyers' Association, March 1980, p. 9.

66. Congratulatory message under the title 'Women Lawyers Association' in Law Society Journal, July 1982, p. 379.

can easily be answered. The high proportion of women in the O'Brien survey who after 1970 had qualified with other work experience may be seen as a pointer to such motivation yet few of those women even hinted that discrimination earlier in employment, or within a domestic situation, was the motivation for qualifying in Law. Yet workplace discrimination was clearly a central concern for the Women Lawyers' Association in the 1970s. Seminars were held on Equal Opportunities and on Anti-Discrimination Laws. The formation of Women Lawyers' Associations in Victoria, Queensland and Tasmania and the Australian Women Lawyers' Forum which had its inaugural meeting in Melbourne in 1982 have been welcomed by the New South Wales Women Lawyers.⁶⁷

Cross membership linked the Association with other women's organisations and those links were especially strong with the politically orientated Women's Electoral Lobby and with the especially created advisory bodies on women's affairs. The Association supplied information for the intervention by WEL in the Equal Pay cases and one of its members was briefed by the government for the important 1973 award case.⁶⁸ In 1978 several members of the New South Wales Association attended a Melbourne seminar on the Victorian Equal Opportunity Act.⁶⁹

An ex-President of the Association, Kaye Loder, was appointed to Chair the Women's Advisory Council early in 1978.⁷⁰ Submissions of the Advisory Council incorporated recommendations from the Women Lawyers' Association who participated in jointly sponsored seminars.

The higher profile adopted in these years by the Association led to talk of amending its objects and to changes in the constitution in 1981 which would allow a

67. Information supplied by Women Lawyers' Association and published in Law Society Journal, October 1983, p. 434.16.
68. Mary Gaudron and Michal Bosworth, 'Equal Pay?' in Judy Mackinolty and Heather Radi (editors) In Pursuit of Justice, p. 166.
69. Information supplied by Women Lawyers' Association and published in Law Society Journal, October, 1978, p. 328.39.
70. Newsletter Women Lawyers' Association, No. 7 1977/1978 March 1978, p. 1.

'more public' role in working for reform in the future.⁷¹

In 1983 the Association made submissions on the Commonwealth Sex Discrimination Bill⁷² and closely monitored its passage through Parliament in 1984.

Links were maintained with other Associations and new ones established. Janette Leggo became the Chairperson of the Legislation Committee of the Australian Federation of Business and Professional Women in 1979. In its 1984 report the Association stated it continued to liaise with the Law Society, the Young Lawyers Section, the Bar Association, Sydney University Law Graduates Association, the Law Council of Australia, the Law Foundation of New South Wales, Law Asia, Prisoner Aid Association, the New South Wales Women's Advisory Council, the National Women's Advisory Council, the Australian and New South Wales Law Reform Commissions, Business and Professional Women, Women and Management, Women's Electoral Lobby, the International Federation of Women Lawyers, the Women Lawyers' Association of Queensland, Victoria and Western Australia, the Australian Women Lawyers' Forum, the Institute of Criminology, the Bureau of Crime and Statistics, the Australian Copyright Council, Constructive Women, the New South Wales Women Accountants group and many others.⁷³

The Association is represented on the Continuing Legal Education Committee of the College of Law, the Chief Justice's Legal Education Consultative Committee and the New South Wales Government's Sexual Assault Committee.⁷⁴

In August 1978 Daphne Kok announced through the Women Lawyers' Association Newsletter that she was opening a file on discrimination which legal women experienced or had experienced.⁷⁵ It is not known what response ensued. What is apparent is that out of the feeling among women in the legal profession that the law was discriminatory a network of contacts within the profession and between the

71. Annual Report of Women Lawyers' Association, 1981, p. 12.

72. Information supplied by Women Lawyers' Association and published in Law Society Journal October 1983, p. 434.16.

73. *Ibid.* October 1984, p. 648.15.

74. *Ibid.*

75. Newsletter, Women Lawyers' Association, No. 4 1978/79 August 1978, p. 3.

women lawyers and other women had been strengthened. The growth in women's employment in legal aid offices and the offices of the Status of Women and on the authorities investigating discrimination is one small aspect of a wider more encompassing movement for equity.

Daphne Kok, as President of the International Federation of Women Lawyers hosted the 22nd Biennial Convention of the Federation in Sydney in August 1984, twenty eight member countries were represented. The theme of the Convention was 'Human Rights as We Approach the Twenty-first Century'. Subjects discussed reflect the wide range of interests common to women lawyers internationally. Areas of particular interest were Bioethics, including artificial insemination, invitro fertilisation, invitro fertislation by donor, genetic engineering and transplant surgery. Professor Margaret Somerville, an Australian lawyer teaching at the McGill University in Canada, a professor of both law and medicine, introduced the subject. Family law, women as victims of sex discrimination, Domestic Violence, and Aboriginal Land Rights, included in the programme, were all subjects in which aspects of human rights arise. The involvement of New South Wales women lawyers in large numbers and at top level contributed significantly to the success of the convention.⁷⁶

76. Daphne Kok, 'International Federation of Women Lawyers: 22nd Biennial Convention' Law Society Journal August 1984, p. 436.

CONCLUSIONS

The legal profession in New South Wales in 1985 remains, as it has throughout the century, dominated by its male members, but it is no longer 'exclusively male'.¹ The Law itself has undergone changes and rapid advances. In science and technology have forced both solicitors and barristers to adapt to the demands of a new, perplexed and enquiring clientele to provide answers to the legal problems which have accompanied the changes.

By the time young adults enter the Law Schools today they have been subjected throughout their formative years to a barrage of media propaganda noting each new scientific discovery or technical advancement. Both in their schooling and environment they are conditioned to accept and to anticipate the modern world's accelerated move into an electronic age. Higher education for women is no longer questioned and sex does not now in principle preclude a woman from pursuing a career of her choice. At the present time, woman undergraduates in Law are approaching parity in numbers with their male counterparts; in their conditioning and in their acknowledged right to pursue a career in Law, if that is their choice, both sexes approach a law course equally prepared.

A number of female barristers, when interviewed, gave as their opinion that it would be unwise for a woman to go to the Bar without first spending some years in practice as a solicitor. This would have the effect of both solicitors and future barristers completing the practical training course through the College of Law enabling young practitioners, both male and female, to enter the profession with the same practical preparation.

Beyond this point equality of opportunity falters. There is evidence women are still to be found in greatest numbers in the more routine and less adventurous areas of

1. For current statistics see Appendix 3.

practice; the advance through the office hierarchy is slow and entry into partnerships even slower, many advancing to the position of Associates but not taken into the firm. Consequently they remain financially disadvantaged. In the Public Service women with much the same experience as male members in the legal departments, find promotion to the higher grades is slow with a disproportionate number of men advancing more quickly. At the Bar there is evidence that there is still prejudice affecting women. Chambers are more difficult for a woman to obtain and solicitors are not as supportive of women as of men.

The growing tendency of large legal firms to combat the rising cost of maintaining separate offices by merger, could be seen as a matter of concern for junior members of the Bar, especially for women. Within the enlarged practices the trend has been to create specialist departments to provide within the firm facilities to meet all the legal requirements of clients. Where in the past busy solicitors have channelled legal problems requiring research to junior members of the Bar, these matters will now be dealt with by the firm's solicitors specialising in all areas of practice. Court appearances, especially in the Family Law Court, will also presumably be handled by members of the firm in that jurisdiction, as will 'mentions' and matters in the lower Courts. Women barristers especially could be disadvantaged by this trend as these have been fields in which they have received work from solicitors. As yet only the larger firms have adopted specialist servicing and there is no evidence that the Bar to date has been adversely affected. If the practice continues as more firms merge, and merger seems a viable option with office management costs escalating, then the briefing of Counsel, at least in the less complex matters, may decline. Whether this may influence more women to choose to practise as a solicitor rather than as a barrister is a future possibility.

There is no doubt women lawyers have had an influence in the legal profession and will continue to do so. Michael Kirby, (now Mr Justice Kirby) commented in 1978 when discussing the practice of law in New South Wales and its future, 'One thing is sure and it is that women are playing an increasing role in the profession ... The

disproportion of women is being corrected at every level. This trend is likely to continue.^{1,2}

The involvement of members of the Women Lawyers' Association both at community and State level has been considerable and has been shown to be productive. The impact made by members of the Association in their dealings with women from other States and overseas, by frequent attendance at Seminars and Conventions, has resulted in members of the Association rising to executive level in an international association and made New South Wales the venue for the Biennial Convention of the International Federation of Women Lawyers in 1984. The interchange of experiences and ideas on a wide front has extended knowledge of, and interest, in the profession.

Whether the influence of female lawyers has in any way changed the Law itself, or the practise of the Law, is more difficult to assess. Until the early seventies women had not moved into positions where it was possible to bring about a change either in the Law or in practice. The number of women both on the Bench and in other lawmaking bodies is still disproportionately low, and there is no evidence they have been instrumental in making any obvious changes in the interpretation of the law.

Women lawyers in New South Wales have in a short period gathered strength, numerically, through individual achievement and through the Women Lawyers' Association, and now seem poised for more concentrated effort to bring about future change. The battle of the Women Lawyers' Association with the Department of Taxation seeking the right of the taxpayer to claim as a deduction for income tax purposes, expenses incurred for child care, is evidence of this.

Although women lawyers have commenced to move into more influential positions at State level, they are still under-represented in the more prestigious positions. There is no women among the 36 Judges of the New South Wales Supreme Court, and only 1 of the 40 District Court Judges is a woman. Only 6, including the

2. Michael Kirby, 'Futurology', Roman Tomasic (Ed.) Understanding Lawyers, Sydney, 1978, p. 8.

Chief Justice, are among the 44 Judges of the Family Law Court, despite the belief, frequently expressed, that this is a jurisdiction particularly suited to women, and it is estimated that about half of female practitioners have practised, or are practising, in this field. This disparity in numbers continues down through the judiciary and statutory and administrative authorities. While it could be said that the comparatively small number of women at the Bar do not present the numbers from which judicial appointments can be made, it could be argued that competent women with considerable experience are not being considered, as is the case in creating silks.

Still at the root of women's prospects in the legal profession is the gender based societal attitude to a woman's role in the community. Writers of Australian History have seen the development of an Australian image in terms of male achievements or exploits. The role assigned to women has been that of the stereotype wife and mother. Although there have been major works on the history of women in Australia published during the last decade which widely challenge that perceived role, the old attitude still persists although it is now changing - men are the providers, women the homemakers.

Male dominance was not confined to the legal profession. Summers quotes Louisa Lawson when considering 'women's total dependence on men in every sphere of life' at the turn of the century. Lawson wrote for the Bulletin in October 1896 when asked to contribute an article as the mother of a poet, that 'Women are what men make them'.³ No longer is it quite so certain that women are what men make them. They can choose their own life pattern and pursue it, but in doing so are faced with choices men are not called upon to make. If a woman is to pursue a career she has been trained for, she must either be prepared to combine the work entailed in following that career with her role of wife and mother - and it is becoming increasingly difficult to do so - or decide to remain single. Some have managed to master both roles but they would be the first to admit it has not been easy.

3. Ann Summers, Damned Whores and God's Police, The Colonisation of Women in Australia, Victoria 1975, p. 352.

Modern lawyers are under great pressure from a demanding public, and success comes only with efficient service and dedication. A male practitioner with a supportive wife takes no responsibility for the running of the home and the care of the children. A female practitioner has no such support and is required to devote the time and dedication her practice demands with all the duties expected of a wife and mother. Unwilling to subject themselves to these pressures many women lawyers if they are intent on a career choose to remain single. Statistics show the number of women lawyers who are single is increasing. For those who do marry and have children while remaining on a career path, the need for child care facilities during the child's early years is obvious. To succeed in the practise of the law availability to clients is important; a break for an extended period while rearing a child frustrates the continuity of contact and delays the establishment of a successful practice.

While legislation in recent years has been designed to remove discrimination against a woman on the grounds of sex and to provide her with equal opportunities, it could be said that in the legal profession beneath a facade of sex equality there is still evidence of discrimination against women lawyers, and although much has been achieved within the past two decades, women do not at present enjoy professional equality with male colleagues. This could change within the next two decades. A prediction made in 1982 by Justice Kirby that 'Within the lifetime of most lawyers in Australia, women will almost surely, in increasing numbers, reach the top'⁴ has every likelihood of being proved correct.

Women lawyers in New South Wales in the past sixty five years have vindicated the struggle of pioneer Ada Evans to gain the right for women to practise law. Their 'glory' is yet to come.

4. The Hon. Mr Justice M.D. Kirby, 'The Women are Coming', Australian Law News, June 1982, p. 12.

<u>EMPLOYED:</u>	In Private Practice	Otherwise	
<u>TYPE OF PRACTICE:</u>	Conveyancing Criminal	Industrial Matrimonial	Commercial Litigation

TYPE OF WORK RESPONSIBLE FOR IN PRACTICE

.....

DO YOU SPECIALISE? TYPE OF SPECIALITY:

.....

ANY DISCRIMINATION IN PROMOTION OR SALARY

REASONS FOR CEASING TO PRACTISE: DATE.....

REJOINING WORK FORCE: DATE.....

ARTICLES

Difficult to Obtain: Yes No

MASTER SOLICITOR RELATIVE OF FRIEND Yes No

HOW OBTAINED? THROUGH ADVERTISEMENT OR OTHER:

Specify:.....

.....

MASTER SOLICITOR: Helpful Very Helpful Not Helpful

EXPERIENCE OBTAINED: Good Fair Very little

MASTERS HANDLED: Alone Under Supervision Not at all

TYPES OF MATTERS HANDLED:

.....

DUTIES MAINLY OF CLERK WITHOUT RESPONSIBILITY:

Specify:.....

SCHOOLS ATTENDED:

OCCUPATION OF FATHER:

OCCUPATION OF MOTHER: Before Marriage:
After Marriage:
When rejoined work force:

MOTIVATION TO ENTER LEGAL PROFESSION FROM:
Mother Father Relative Other Specify.....

RELATIVE OR CLOSE FRIEND IN PROFESSION

Specify

Encouraged Discouraged By University to enter Faculty

INTERESTS OUTSIDE PROFESSION:

ANY COMMUNITY INVOLVEMENT? Yes No

Specify

ORGANISATIONS:

MEMBER OF COMMITTEE:

YEARS:

POSITIONS HELD:

MEMBER OF:

ANY STATUTORY BODY:

GOVERNMENT DELEGATE:

BOARD:

YEARS:

POSITION:

Local National International

HONORARY:

SALARIED:

MEMBER WOMEN LAWYERS ASSOCIATION OF N.S.W. Yes No

WHEN JOINED:

POSITIONS HELD:

YEARS:

ANY PUBLISHED WORKS? Yes No

CONTRIBUTIONS OF JOURNALS:

NAMES AND ADDRESSED OF CONTEMPORARIES:

ANY FURTHER HELPFUL COMMENTS:

INTERESTS AT UNIVERSITY:

SPORT:

ORGANISATIONS:

SOCIETIES:

MEMORABLE PROFESSORS:

ANECDOTES:

APPENDIX 2

WOMEN LAWYERS' ASSOCIATION OF NEW SOUTH WALES

PRESIDENTS 1952-1986

1952-53	NERIDA GOODMAN
1954-55	JOYCE SHEWCROFT
1956	ALINE FENWICK
1957	JOAN O'HARA
1958-59	HELEN LEVY
1960	VERONICA PIKE
1961-62	LEE HUTLEY
1963-64	MARGARET CRAWLEY
1965-66	CECILY BACKHOUSE
1967-68	ANN PLOTKE
1969-70	DAPHNE KOK
1971-72	KAYE LODER
1973-74	JENNY BLACKMAN
1975	MARGARET BREWSTER
1976-77	JUDY DEAN
1978-79	AUDREY BLUNDEN
1980-81	DIANE McLEAN
1982-83	KARYN KINSELLA
1984-85	HELEN CARNEY
1986-	ANNE RICHES

APPENDIX 3

Statistics supplied by the Law Society

of New South Wales

16 April, 1986

SELECTION CRITERIA: - 1) MALE/FEMALE OR ALL: F FEMALE SOLICITORS
 2) SOLICITOR TYPE OR ALL: ALL SOLICITOR TYPES
 3) LOCATION OR ALL: ALL LOCATION TYPES
 4) POSTCODE OR ALL: ALL POSTCODES
 5) ADMITTED DATE OR ALL: ALL ADMISSION DATES
 6) QUALIFICATION OR ALL: ALL QUALIFICATIONS

		CITY	SUBURBAN(SYDNEY)	RURAL	INTERSTATE	OVERSEAS	UNKNOWN	TOTAL
		=====	=====	=====	=====	=====	=====	=====
1	PARTNER	62	32	28	10			132
2	SOLE PRACTITIONER	19	101	12	3			135
3	EMPLOYEE	511	130	66	11	2		720
6	CONSULTANT	6	7	1				14
7	GOV. LEGAL POSITION	189	29	8	6			232
8	GOV. NON-LEGAL POSN.	3						3
9	CORP. LEGAL POSITION	77	42	3	3			125
10	CORP. NON-LEGAL POSN.	1						1
11	TEACH LEGAL POSITION		3					3
12	TEACH NON-LEGAL POSN							
13	RETIRED WITH PC						5	5
14	LOCUM PRACTICE						5	5
15	UNEMPLOYED						67	67
16	STIP. MAGISTRATE							
17	CHAMBER MAGISTRATE							
18	C. P. S.							
27	MAGISTRATE	2						2
28	CLERK OF LOCAL COURT							
99	OTHER UNKNOWN							
	GRAND TOTAL	870	344	118	33	2	77	1,444

LAWR48

ACTIVE SOLICITOR STATISTICS

DATE: 16/04/85

SELECTION CRITERIA: 1) MALE/FEMALE OR ALL: F FEMALE SOLICITORS
 2) SOLICITOR TYPE OR ALL: ALL SOLICITOR TYPES
 3) LOCATION OR ALL: ALL LOCATION TYPES
 4) POSTCODE OR ALL: ALL POSTCODES
 5) ADMITTED DATE OR ALL: ALL ADMISSION DATES
 6) QUALIFICATION OR ALL: 1 ACADEMIC-1ST LAW *

	CITY	SUBURBAN(SYDNEY)	RURAL	INTERSTATE	OVERSEAS	UNKNOWN	TOTAL
1 PARTNER	51	26	16	9			102
2 SOLE PRACTITIONER	16	75	6	1		1	99
3 EMPLOYEE	461	117	55	11	2		646
6 CONSULTANT	5	5	1				11
7 GOV. LEGAL POSITION	164	23	7	5			199
8 GOV. NON-LEGAL POSN.	3						3
9 CORP. LEGAL POSITION	72	38	2	3			115
10 CORP. NON-LEGAL POSN.	1						1
11 TEACH LEGAL POSITION		3					3
12 TEACH NON-LEGAL POSN							
13 RETIRED WITH PC						3	3
14 LOCUM PRACTICE						2	2
15 UNEMPLOYED						59	59
16 STIP. MAGISTRATE							
17 CHAMBER MAGISTRATE							
18 C. P. S.							
27 MAGISTRATE	1						1
28 CLERK OF LOCAL COURT							
99 OTHER							
UNKNOWN							
GRAND TOTAL	774	287	67	29	2	17	1,246

* This qualification includes all law degrees, whether straight, LL.B or Arts/Law, Com/Law etc. SAB qualifications are listed differently so a comparison of these figures and the total from the previous page appears to indicate 200 of those currently practising completed the SAB course.

LAWR48

ACTIVE SOLICITOR STATISTICS

DATE: 01/04/86

SELECTION CRITERIA: 1) MALE/FEMALE OR ALL: ALL SOLICITORS
2) SOLICITOR TYPE OR ALL: ALL SOLICITOR TYPES
3) LOCATION OR ALL: ALL LOCATION TYPES
4) POSTCODE OR ALL: ALL POSTCODES
5) ADMITTED DATE OR ALL: ALL ADMISSION DATES
6) QUALIFICATION OR ALL: ALL QUALIFICATIONS

	CITY	SUBURBAN (SYDNEY)	RURAL	INTERSTATE	OVERSEAS	UNKNOWN	TOTAL
1- PARTNER	1,281	620	825	323	12		3,069
2- SOLE PRACTITIONER	324	805	286	45			1,460
3- EMPLOYEE	1,492	443	336	67	13		2,351
4- CONSULTANT	105	41	61	5	3		215
7- GOV. LEGAL POSITION	608	135	45	17	1		806
8- GOV. NON-LEGAL POSN.	15	2		4			21
9- CORP. LEGAL POSITION	314	165	22	15	1		517
10- CORP. NON-LEGAL POSN.	15	6	1				22
11- TEACH. LEGAL POSITION	3	18					21
12- TEACH. NON-LEGAL POSN.							
13- RETIRED WITH PC						62	62
14- LOCUM PRACTICE						19	19
15- UNEMPLOYED						209	209
16- STIP. MAGISTRATE							
17- CHAMBER MAGISTRATE	4	5	4				13
18- C. P. S.							
27- MAGISTRATE	29	2	7				38
28- CLERK OF LOCAL COURT	9	2	2				13
99- OTHER							
UNKNOWN							
GRAND TOTAL	4,199	2,252	1,589	476	30	290	8,836

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1. Archives Office of New South Wales

Attorney General and Justice - Special Bundle of Papers re Shoplifting - 1939, 3/3165

(Includes transcripts of depositions to the Attorneys General and Minister of Justice (1904-1918) requesting as one of the reforms that women be admitted to the legal profession. Also correspondence with Women's Progressive Association and Ada Evans.) I am indebted to Judith Allen for bringing these papers to my attention.

Colonial Secretary

Index to Colonial Secretary's correspondence -

1901 - 5/2597	1903 - 5/2603
1902 - 5/2600	1904 - 5/2606

Supreme Court

Barristers' Admission Board - Minutes of Meetings 1899-1908, 4/8350.

Barristers' Admission Board, Letters sent 1899-1902, 2/8340.

Term Books - Causes and Matters in Banco, 1902-1905, 4/7974-78.

Supreme Court Judges' Notebooks including Sir Frederick Darley, Volume 25 and 26, 2/2744.

Supreme Court (Prothonotary's) Letter Book, December 1898 to February 1904, 3/4714.

2. Supreme Court

Letter from Secretary of Barristers and Solicitors Admission Boards dated 19 March 1985 enclosing copies of documents on the file of Ada Emily Evans relating to her admission as a barrister. Included notes of her application to be registered as a student at law, 15/3/1919, the Board's approval, 7/5/19, application for admission to the Bar 9 May 1921, admitted and sworn in 12 May 1921. Informed no other papers relating to Ada Evans held in Supreme Court Records.

3. University of Sydney Archives

Senate Minutes of University of Sydney dated 6 April, 1881.

University of Sydney Calendars.

University of Sydney cuttings (Newspapers) in particular The Evening News, 12 May 1921, p. 440.

4. Women Lawyers' Association of New South Wales

Minutes of Executive Committee Meetings, 24 March 1952 to 29 January 1957 and 12 May 1971 to 8 March 1973.

Annual Reports of the Association

Newsletters of the Association.

5. Bar Association of New South Wales

Bound book of newspaper clippings relating to Sibyl Morrison, 1924-1926, uncatalogued, in Bar Association Library.

6. Personal Papers

Marie Beuzeville Byers, papers and newspapers and journal clippings associated with her overseas travels, mountain climbing, bushwalking, her interest in conservation and her own writings including her unpublished autobiography, ML MSS 3833.

Ada Emily Evans, mainly correspondence, including letters to and from Attorneys General, a letter from Sir Henry Parkes dated May 28, 1895 and from Rose Scott dated June 13, 1921 and my own correspondence with Ila Kyngdon 1977-1985. In possession of Ila Kyngdon.

Rose Scott, papers dealing mainly with women suffrage, her association with Annie Golding, and the reforms she supported to benefit women and children, ML MSS 38/37.

7. O'Brien Survey

A questionnaire was mailed to all members of the Women Lawyers' Association of New South Wales, by courtesy of the Association, in 1977. There were 60 responses, from women admitted between 1935 and 1976. See Appendix 1 for the Questionnaire.

8. Interviews

Women Lawyers:

Some were person to person interviews others were by telephone. The date enclosed in brackets is the date of admission.

Backhouse, Cecily (1956) Solicitor, (1964) Bar
Blackman, Jenny (1968) Bar
Bowles (Nield), Lesley (1941) Solicitor, (1954) Bar, Solicitor (1962)
Byles, Marie (1924)
Coombs, Janet (1959) Bar
Craft (Goldsmith), Lilian (1933)
Crawley, Margaret (1950)
Goodmen (Cohen), Nerida (1935) Bar
Green (Weeks), Pamela (1947)
Hill, Jean (1943)
Hutley (Walshe), Lee (1943)
Kok, Daphne (1967)
Mullin (Malor), Jean (1937)
Mutton (Storey), Judy (1958)
Nock (Ford), Hilary (1941)
Pike, Veronica (1940)
Rudlow, Klara (1959) Bar, (1953) Solicitor
Sexton (Kinsella), Marie (1949) Bar
Shorter, Elaine (never admitted) LL.B. 1926
Thomas, Thurles (1933)

Others

Ila Kyngdon, Bowral - re Ada Evans
Concey Humble, Brisbane - re Sibyl Morrison
Betty Thorne, Nowra - re Christian Jollie Smith.

P. Gould, Secretary Barristers and Solicitors Admission Board Supreme Court, Sydney.

Master in Equity, Supreme Court, Sydney, who advised no record of Ada Evans ever having applied to be registered as a Conveyancer. No extant file bearing her name around the time she would have been expected to have made the application.

9. Correspondence

The author wrote to the appropriate authorities in each of the Australian States and in London, requesting information concerning the admission of the first women lawyers admitted to practise. Replies were received, with the information requested from the following -

19 October 1977 from Prothonotary Supreme Court, Melbourne

24 October 1977 from Deputy Registrar, Supreme Court, Hobart

26 October 1977 from Librarian, The Law Society, London to whom my letter had been forwarded

27 October 1977 from Registrar, Supreme Court, Perth

27 October 1977 from Information Officer for Secretary of the Senate of the Inns of Court and Bar, London

1 March 1977 from Secretary of Bar Association of Queensland

10 April 1977 from Deputy Secretary, Queensland Law Society Inc.

No reply was received from the Registrar, Supreme Court of South Australia.

10. Cases

(1569) Duke of Buckingham's Case, Dyer 285 b

(1738) Olive v. Ingram 7 Mod. 263

(1780) Rex v. Benchers of Gray's Inn, 1 Dougl., 354

(1788) Rex v. Stubbs, 2 T.R. 395, 11 E.R. 213

(1868) Chorlton v. Lings, L.R. 4 C.P. 374

(1873) Jex-Blake v. Senatus of Edinburgh University, 11 Macph. 784

(1887) Re Duke of Somerset, (1887) Ch. D. 465

(1901) Hall v. Incorporated Society of Law Agents, 3 F. 1059

(1904) In Re Edith Haynes, W.A.R. Vol. 6 209

(1913) Bebb v. Law Society, 1 Ch. 286

(1917) Rex v. Cyr, 12 Alta. L.R. 320

11. Statutes

New South Wales Act 4 Geo. IV c. xcvi - (Imperial Act 1823 under which Charter of Justice established Supreme Court of New South Wales).

Solicitors Act 1843 (6 & 7 Vict. c. 73) - (Imperial Act regulating practice of solicitors in England).

Barristers' Admission Act, 11 Victoria 57, 1848, (providing for admission of Barristers in New South Wales).

Attorneys Bills and Conveyancing Act, 11 Victoria 33, 1847 (providing for registration of Conveyancers in New South Wales).

Legal Practitioners Act, No. 22, 1898, (consolidating Act regulating admission of barristers, solicitors and conveyancers to practise law in New South Wales, and the conduct of the profession).

Legal Practitioners Amendment Act 1935, (after which no further registration and conveyancers after those in training).

Law-Agents Act of 1873 (36 and 37 Vict. cap. 63) - Scottish Act - (Under interpretation clause 'Law-Agents' analagous to solicitors in New South Wales).

Legal Practitioners Act, 1893 - (Western Australia Act regulating admission of practitioners of Supreme Court of Western Australia).

Woman Franchise Act 1902 - New South Wales.

Women's Legal Status Act, 1918.

12. Newspapers

Sydney Morning Herald, 1901, 1902, 1904, 1918, 1921, 1924-26, 1945, 1949, 1950, 1951, 1978, 1979, 1980, 1981, 1984, 1985.

The Sun, 1924-1926

The Evening News, 1924-1926

Daily Telegraph, 1913, 1924-1926

Daily Guardian, 1924-1926

Sunday News, 15 June 1924

The Advertiser, Adelaide, 2 May 1985

The Times, London, 11 February, 6 March and 13 December 1897, 3 December 1903, 28 September 1918, 11 October, 1 November, and 13 November 1918.

The Age, Melbourne, 16 July, 1957

The Australian Star, 1903.

13. Periodicals

Law Journals

Australian Law Journal 1948-1985

Australian Law News 1978-1985

Commonwealth Law Review - March-April, 1909

Law Society Journal [the Official Journal of the Law Society of New South Wales]

Law Almanacs published annually

Solicitors' Journal [English] Volume 24, 1879 and 20 December 1897, 18 May 1912,
Law Journal 28 September 1962.

The Law Times [English] 1 February 1919

The Law Society Annual Reports [English] 1919, 1920 and 1923

Others

Journal of the Royal Australian Historical Society, Volume 37

Bulletin 24 October 1896

Women's Weekly 24 September 1949

People, 13 November 1957

Woman's Day 20 April 1970

14. Books

Allen, C.K., Law in the Making, 6th Edition, Oxford University, 1958

Barcan, Allan, A History of Australian Education, Oxford University Press,
Melbourne, 1980

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Bennett, J.M. (Ed.), A History of the New South Wales Bar, The Law Book Co.
Ltd., Sydney, 1969

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Sydney, 1977

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- Daniels, Kay et al (Eds.) Women in Australia - An annotated guide to Records, Australian Government Publishing Service, Canberra, 1972
- Dawson, Madge, Graduate and Married, University of Sydney, 1965
- Dawson, Madge and Radi, Heather (Eds.), Against the Odds, Hale & Iremonger Pty. Ltd., Sydney, 1985
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- Disney, Julian et al, Lawyers, The Law Book Co. Ltd., Sydney, 1977
- Encel, S. et al, Women and Society, Cheshire, Melbourne, 1974
- Epps, William, Anderson-Stuart M.D., Physiologist, Teacher, Builder, Organizer, Citizen, Angus & Robertson, Sydney, 1922
- Epstein, L.K. (Ed.), Women in the Professions, D.C. Heath & Co., Lexington, Massachusetts, 1975
- Gardner, W.J., Colonial Cap and Gown, University of Canterbury, Christchurch, 1979
- Gifford, K.H. and Gifford, D.J., How to Understand an Act of Parliament, 5th Edition, The Law Book Co. Ltd., Sydney, 1982
- Greenwood, Gordon, (Ed.), Australia A Social and Political History, Angus & Robertson, Sydney, 1955
- Grimshaw, Patricia and Strahan, Lynne (Eds.), The Half Open Door, Hale & Iremonger Pty. Ltd., Sydney, 1982
- Harrison, Cynthia (Ed.), Women in American History, Santa Barbara, California, 1979
- Holdsworth, W.S., A History of English Law, 3rd Edition, Volume 1, Methuen & Co. Ltd., London
- Hummer, Patricia M., The Decade of Elusive Promise, Professional Women in the United States 1920-1930, UMI Research Press, 1979
- Hutton, Marjorie Neve, This Mad Folly: The history of Australia's pioneer woman doctors, Sydney, 1980
- Kelly, Farley, Degrees of Liberation, A Short History of Women in the University of Melbourne, University of Melbourne, 1985

- Kennedy, Sally, Faith and Feminism, Dove Publications, Melbourne, 1985
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- Kirk, Harry, Portrait of a Profession. A History of the Solicitor's Profession, 1100 to the Present Day, Oyez Publishing, London, 1976
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15. Articles

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