

Invisible Barriers:
Gendered Problems in Canadian Law Faculties,
1961-1994

Taylor D. Starr

A dissertation submitted to the Faculty
of Graduate Studies in partial fulfilment of
the requirements for the degree of
Doctor of Philosophy

Graduate Programme in History
York University
Toronto, Ontario

November 2024

© Taylor D. Starr, 2024

Abstract

This dissertation examines the history of the entry of women into the Canadian legal academy, focusing on the period from 1961 to 1994. The 1960s marked the gradual appearance of women in law faculty positions, with the study concluding in 1994, the year following the publication of The Canadian Bar Association's *Touchstones for Change Report*. Despite highlighting successes, this report only briefly delved into the experiences of women law professors and the discrimination against them that persisted beyond 1993.

Despite an increase in female law students from the mid-1970s, women remained significantly underrepresented as faculty members, facing invisible barriers that hindered their progress. Titled "Invisible Barriers," the study explores various facets of women's experiences in the academy, including women's educational backgrounds, course assignments, administrative practices, and their contributions to legal literature, particularly feminist legal theory.

Examining all twenty-one Canadian law faculties in this time frame, the research unveils unique patterns within civil and common law institutions, with Québec law faculties leading the way in incorporating women into the long inscribed androcentric sphere of law faculties. The study delves into the numerical growth of women faculty, revealing intriguing statistics and experiences that challenge conventional expectations. It also investigates the political, cultural, and socio-economic conditions that influenced women's experiences in the legal academy.

The dissertation contextualizes the struggles of women in the legal academy within the broader history of Canadian legal education. It examines how women's access to higher education has evolved, tracing the shift from segregated conditions in the nineteenth century to coeducation. The study highlights key figures who challenged societal norms, including the first women to earn degrees in law and their subsequent achievements. It provides a new way in

which to interpret women's participation in male-dominated spheres, emphasizing the importance of understanding the experiences of those who were marginalized and often overlooked. The dissertation offers a different perspective by examining the legal academy's role instead of focusing solely on practicing lawyers or women in the judiciary. It provides a thorough analysis of the systemic barriers women encountered and of the gradual changes within the Canadian legal academy.

Dedication

To the memory of my grandmothers, Fay Starr and Frances Fera, whose lives as women in twentieth-century Canada were marked by resilience and strength in the face of immense challenges.

Acknowledgements

Writing a doctoral dissertation is a profoundly isolating experience, and I began it during the height of a global pandemic. Accessing reading materials was a significant hurdle, and the closure of libraries and archives compounded the difficulty, but I persisted. The limited social interactions within our departments vanished, but we adapted by forming an online community. From my bedroom, I further secluded myself with noise-proof headphones, grew my hair long, read many books, and worked on my first major publication. Amid the overwhelming noise of contemporary events, I turned to history to understand my place as an aspiring woman in the legal profession. The technological advancements driven by the pandemic enabled me to conduct numerous online interviews and access digitized archival sources, presenting opportunities that might not have been possible otherwise. This dissertation is intrinsically tied to the positive developments arising from the global pandemic, and for that, I am grateful.

My fascination with law began during my undergraduate studies in interdisciplinary law and society. The overrepresentation of male law faculty in institutional portraits and the dominance of male voices in legal scholarship sparked my interest in the history of legal professionalism. The formal and informal barriers that historically limited women's access to the legal profession intellectually challenged me. I owe immense gratitude to women law professors who broke proverbial glass ceilings and shared their experiences with me. I am especially thankful to Constance Backhouse and Mary Jane Mossman for their invaluable direction and research materials, for providing helpful feedback, for connecting me with various women in the legal academy early on, and for including me in discussions among a network of scholars interested in the history of early women in the Canadian legal academy.

My sincere thanks go to my supervisor, Dr. Marlene Shore, for her encouragement and

dedication to this project. My ideas would not be what they are without her guidance. As the last graduate student she took on before her decision to retire, this dissertation is a symbol of Professor Shore's remarkable sculpting of my historical consciousness from a fourth-year undergraduate student to a real historian. I would also like to extend my appreciation to my committee members Dr. Philip Girard and Dr. Marcel Martel, for their consistent enthusiasm on my work, providing constructive feedback and support, and even delivering books to me downtown Toronto. They are both exceptional mentors, and I am fortunate to have learned from them throughout my time in this program. A profound thank you to my external examiners: Dr. Jacqueline Krikorian, whose thoughtful comments and support helped shape my ideas with clarity and purpose, and Dr. Lori Chambers, whose insightful feedback made my research on family law reform tangible and whose guidance and encouragement enriched my academic career significantly. Additional thanks to Dr. Jennifer Stephen and Dr. Jennifer Bonnell for lessons in undergraduate teaching and oral history methods.

Various institutions have provided assistance that made this possible. I am grateful for the financial support of the Social Sciences and Humanities Research Council of Canada [SSHRC] Doctoral Fellowship, the R. Roy McMurtry Fellowship in Canadian Legal History in 2021 and 2024, an Ontario Graduate Scholarship, the Feminist Historical Research Scholarship, and the Avie Bennett Historica Canada Scholarship in Canadian History. I am also grateful to the Standing Strong Task Force at Toronto Metropolitan University, The Canadian Museum of History, Ontario Heritage Trust, The Canadian Forces College, The BBC, The History Group Inc. and various individual scholars who gave me opportunities to learn within meaningful research positions that shaped me professionally and personally I pursued this degree.

Earlier versions of my work and ideas were presented at various conferences. In

particular I would like to thank the audience at the Coverture Conference at the University of Florida Levin School of Law, the Association for Canadian Studies Summit, the Osgoode Society for Canadian Legal History Workshops, the Canadian Historical Association Annual Meeting, the Early Women in the Canadian Legal Academy Workshop at Osgoode Hall Law School, the Atlantic Canadian Studies Conference at the University of Maine, the Canadian Association of Law Teacher's annual meeting at The University of New Brunswick Faculty of Law, and the American Society for Legal History annual meeting in San Francisco, which included a presentation to the Osgoode Society's Pre-Conference Symposium.

Historians thrive on the support of archives and the dedication of archivists who safeguard the stories of the past. I would like to extend my heartfelt thanks to the archivists and staff at Archives de l'Université Laval, Archives and Special Collections at the University of Ottawa Library, York University's Clara Thomas Archives and Special Collections, Osgoode Hall Law School Archives, Bibliothèque et Archives nationales du Québec, Dalhousie University Archives, Law Society of Ontario Archives, Library and Archives Canada, McGill Archival Collections, Mount Allison University Archives, Queen's University Archives, University of Alberta Libraries, University of British Columbia Archives, University of Calgary Archives, University of Manitoba Archives and Special Collections, University of New Brunswick Archives, University of Saskatchewan Archives and Special Collections, University of Toronto Archives, University of Victoria Archives and Special Collections, University of Western Ontario Archives and Research Collections, and Université du Québec à Montréal. Your expertise, dedication, and willingness to assist with my countless requests, whether in person or remotely, made this project possible.

To my friends on the inside of academia and the legal profession for always providing

meaningful advice: Zackary Goldford, Iyassu Demissie, Victoria Muccilli, Daniel Murchison, Anna Jarvis, Libby Bowyer, Megan Kirby, Rebecca Lazarenko, Ludia Bae, and Esther Van't Veen. To Karen Dancy and the history department staff for being constantly available and ensuring I had all the right requisites to complete this program.

I want to express my gratitude to my friends outside of academe that kept me grounded, asked me questions, danced with me, kept me afloat mentally, for travelling with me and letting me visit all the history museums and monuments: Valerie Petruccelli, Alessandra Masucci, Claudia Iaboni, Vanessa Stancati, Vanessa Paterino, Amanda Ermellini, Allison Sherkin, Sabrina Wachtel, Caitlyn Mariani, and Mariam Rojas.

I am deeply grateful to Jason Zoltak for his steadfast love and support. Our early morning walks, and lattes at Ace Hotel Toronto were vital to finalizing this undertaking. Side by side on our laptops, I immersed myself in the past, writing the history of women's access to equal opportunities in employment, while he coded the future, building Tofu—an AI-driven HR company ensuring no candidate is left behind. Jason's intuitive ability to provide reassurance, a listening ear, or a moment of quiet reflection reminded me daily of the importance of empathy and balance, allowing me to remain focused and reinvigorated in completing the project I had set before me. His compassionate approach to his own work inspired me to delve deeper into the stories I was uncovering, always attuned to the human experiences at their core. I thank Sidney Zoltak for documenting his survival of the Holocaust and instilling an interest in history for his grandchildren.

I extend my gratitude to the Zoltak family for their tenderness and encouragement, and most of all, Janet and Larry for letting me write at the kitchen table in Montréal and Miami. I thank my Fera and Starr families, who have supported my every move,

but especially my Bubbie and Zadie, Nonno and Grams, who provided a sense of safety during my solo research trips across the country. I want to thank my older sister, Fayth Starr, for moving mountains and holding her unwavering confidence in me near and dear to her heart; my Dad, who patiently listened to my rants about law and social change; and my Mama for her love, support, and motivation in every possible way. She put the world in the palm of my hand when it was not always easy to do so.

TABLE OF CONTENTS

<u>Abstract</u>	ii
<u>Dedication</u>	iv
<u>Acknowledgements</u>	v
<u>Table of Contents</u>	x
<u>Introduction</u>	The Desire to Hire: Women in the Canadian Legal Academy.....1
<u>Chapter I</u>	La condition des femmes professeures de droit au Québec.....44
<u>Chapter II</u>	“It’s in the Walls”: Systemic Sex Discrimination in Ontario Law Faculties.....98
<u>Chapter III</u>	<i>Trailer Blazers: Space for Women and Feminist Legal Studies in British Columbia</i>147
<u>Chapter IV</u>	Tilling New Frontiers: Legacies of Homesteading on the Cultivation of Women Leaders in Prairie Law Faculties.....199
<u>Chapter V</u>	The Woman Tradition: The Paradox within University Legal Education in New Brunswick and Nova Scotia.....256
<u>Conclusion</u>	Navigating Historical Undercurrents302
<u>Bibliography</u>	313
<u>Appendices</u>	340

Introduction

The Desire to Hire: Women in the Canadian Legal Academy

Women were scarce in the Canadian legal academy until the late twentieth century. In 1961, Alice Desjardins was hired to teach law at the Université de Montréal Faculté de Droit but she was an anomaly. Although there was an increase in the number of female students in Canadian law schools beginning in the mid-1970s, women remained vastly underrepresented as members of law faculties into the 1980s.¹ Men still occupied ninety percent of full-time faculty positions. This dissertation examines the entry of women into Canadian law faculties as professors and their success (or lack thereof) in attaining decanal positions in the period between 1961 to 1994. To understand these developments, this study is entitled “Invisible Barriers” because law faculties and universities often expounded equality in their assessments of women for positions within the faculty. Yet, women were affected by differential treatment, making the barriers to these positions imperceptible.

The study explores invisible barriers by analyzing several components of the Canadian legal academy: the degrees women attained and how their education might have accorded with the standards involved in faculty appointments and at what rank; the courses women were assigned to teach; administrative practices, hiring policies, retention, and wrongful dismissals. It also examines women’s involvement in the writing of legal literature as a way to determine their concern with and contributions to feminist legal theory, and to what extent this affected their work and advancement within academe. It traces experiences of women employed contractually, part-time, and full-time to determine if there was a correlation between a woman’s employment

¹ Mary Jane Mossman, “Portia’s Progress: Women as Lawyers - Reflections on Past and Future,” *Windsor Yearbook of Access to Justice*, Vol 88, (1988): 257.

status and differential treatment. Indeed, women were hired in law faculties in the late twentieth century but their full and comprehensive acceptance was inconsistent across all law faculties in Canada. Thus, it is argued that systemic discriminatory patterns unique to each law faculty persisted in the interactions, communication, and relationships between individuals within the faculty, even after women's integration and institutional commitments to equality in employment in late twentieth-century Canada.

The study begins in 1961 to emphasize the significance of the gradual presence of women in law faculty positions throughout the 1960s. It ends in 1994, a year following the publication of The Canadian Bar Association's *Touchstones for Change Report*, which revealed successes of women in law faculties but failed to highlight the systemic problems that had affected women in the law faculty up to 1993. The Task Force began its investigation of all components of the legal profession in August 1991. The year 1994 is also significant because it preceded the publication of *Breaking Anonymity*, a text that formally broke the silences on gender disparities by charting the systemic discrimination which existed across all university departments throughout the 1980s.²

The institutions under evaluation are all 21 institutions that existed in Canada in the period between 1961 to 1994.³ Canada had 6 civil law faculties and 15 common law faculties in this period. It is important to examine each institution's historical beginnings because their social, cultural, and political foundations help to elucidate how women were received upon entering the law faculty. This study also charts the differences between civil and common law

² The Chilly Collective, *Breaking Anonymity: The Chilly Climate for Women Faculty*, (Waterloo, ON: Wilfrid Laurier University Press, 1995).

³ This number considers the University of Ottawa's two sections in Civil and Common law are as separate entities.

faculties and examines each institution's history and its relationship to changes in legal education to determine the ways in which older patriarchal trends might have persisted in the latter half of the twentieth century. For example, receptiveness to the feminist movement in Québec allowed its law faculties to begin appointing women at a quicker pace than in the rest of the country. Common law institutions were not equally amenable to the pressures coming from the feminist movement. Québec law faculties led the way in incorporating feminist views, appointing female professors and deans, with law faculties in the rest of Canada following shortly thereafter.

According to the Canadian Association of Law Teachers Directories, which logged appointments of women to tenure-track positions (excluding practitioner adjuncts) in the 1960s, 17 women were hired as professors in Canadian law faculties. In the 1970s, 94 women were hired, and 42 per cent of them were hired in Québec law faculties. In the 1980s, 70 women were hired, and 31 were hired in civil law faculties, which equates to 44 percent of total women hired across Canada. These numbers are perplexing because civil law faculties only made up for 28 per cent of total law schools in Canada.⁴ The *Touchstones for Change Report* asserted that by 1993 women law professors made up twenty-eight per cent of the members of law faculties in Canada. The proportion of women in the faculties ranged from a high of fifty per cent at the University of Ottawa (Common Law) to a low of nineteen per cent at the University of British Columbia.⁵ The report's findings shed light on the varying degrees of women's representation across Canadian law faculties, ranging from significant presence to marked underrepresentation. These statistics provide context for the subsequent analysis of women's integration into Québec's law faculties,

⁴ Association of Canadian Law Teachers. *Directory of Law Teachers/Annuaire des Professeurs de Droit*. Canadian Association of Law Teachers, 1961-1994.

⁵ Bertha Wilson et. al., *Touchstones for Change Report: Equality, Diversity, and Accountability*, (Ottawa: The Canadian Bar Association, August 1993) 49.

as detailed in Chapter 1. However, across the entire time period of this dissertation, the numerical growth of women faculty was inconsistent with the increasing number of female law students at this time.

The *Globe and Mail* reported in 1986 that women students had outnumbered men in the first-year classes at university law schools of Québec beginning in 1979.⁶ Although women began to enter law schools in large numbers in the rest of Canada in the late 1960s and early 1970s, it was only in the decade between 1978 and 1988 that the number of women called to the Ontario bar in any one year was over one-third of the class.⁷ However, because universities in Canada were dealing with hiring freezes in the mid-1970s to late 1980s, more students did not translate into appointments, which further limited job prospects for women to attain representation in law faculties. In addition, the government of Québec prioritized higher education but the same cannot be stated about other provinces.⁸

External and social conditions of the time period contributed to many hurdles women had to confront to be considered professionals in legal academe. The 23 first women to be hired in Canadian law faculties were assigned to teach courses in both doctrinal law and law in context.⁹ There was a looming expectation for some women that they would need to develop family law programmes and courses in women and the law because they were women.¹⁰ Professors in most disciplines and departments are expected to design and teach courses outside their specialization.

⁶ *The Globe and Mail*, 29 January 1986.

⁷ Mary Jane Mossman, "Portia's Progress: Women as Lawyers—Reflections on Past and Future," *Windsor Yearbook of Access to Justice* 8 (1988): 257.

⁸ Bruce Curtis, *Ruling by Schooling Québec: Conquest to Liberal Governmentality a Historical Sociology*, (Toronto: University of Toronto Press, 2012).

⁹ Beverley Baines, "Feminism and Early Women Law Professors in Canada," *Early Women in the Canadian Legal Academy*, eds. Anna Lund, Virginia Torrie, forthcoming, p. 17.

¹⁰ Mary Eberts Oral History Interview with the Osgoode Society, 6 August 2008, 77.

However, women were expected to be experts of a field in which they were not. Impediments to women teaching feminist courses or teaching law from a feminist perspective in their courses occurred and heightened in the 1980s. In fact, challenges to feminism were characterized as “the gender wars” after the publication of Sheila McIntyre’s *Memo* of 1985 at Queen’s University Faculty of Law.¹¹

Women faced resistance in law faculties and in other university departments in the 1980s, and this was linked to public demonstrations supporting women’s cause and advocating for change.¹² After 1985, there were a few noteworthy events that attracted the gaze of the public. The consciousness of individual women and supporters had noticeably shifted. Women across faculties and disciplines broke their silences, fashioned new alliances, and pursued innovative strategies to translate their activism into permanent gains toward achieving substantive equality.¹³ Mary Jane Mossman was passed over for the decanal position at Osgoode Hall Law School in 1987. There was an Ontario Human Rights Complaint because of the incident which gained support from over one hundred women; Mossman herself did not pursue the complaint.¹⁴ Constance Backhouse published “The Chilly Climate Report” in 1989 and that same year the École Polytechnique Massacre — where 14 female engineering students were murdered — reminded women of the intensity of resistance to their presence in male-dominated spheres. Throughout the 1990s university administrations across Canada started to recognize the urgency for education on systemic discrimination. Women’s caucuses and collective groups called for

¹¹Bruce Feldthusen, “The Gender Wars: Where the Boys Are,” in *Breaking Anonymity*, 280.

¹² Ibid.

¹³Sheila McIntyre, “Gender Bias Within the Law School: ‘The Memo’ and its Impact,” *Canadian Journal of Women and the Law* 2, no.2 (1987): 363.

¹⁴ Mossman, “Herculean Obstacles and Intrepid Complainants,” in *Gender and Careers in the Legal Academy* eds., Ulrike Schultz et al., (Oxford, London, New York, New Delhi, Sydney: Hart Publishers, 2021) 426.

action in the development of centres of feminist legal studies, which had not been considered desirable moves without the growing external acceptance that women were being denied fairness and equal opportunities.¹⁵

There is a substantial body of Canadian historical scholarship that explores women's arrival into male-dominated spheres but there has not yet been an historical study that specifically deals with the first few women in the Canadian legal academy and their experiences with gender disparities.¹⁶ In Canadian legal history, the topic takes the form of judicial biography in Constance Backhouse's *Two Firsts* (2019), *Claire L'Heureux Dubé: A Life* (2017), and Ellen Anderson's *Judging Bertha Wilson* (2001). The biographies document the systemic discrimination that both Bertha Wilson and Claire L'Heureux Dubé endured on their way to positions at the Supreme Court of Canada, while simultaneously highlighting their achievements based on merit. Backhouse has also published work about early women lawyers, feminism, and women's relationship to patriarchal legal structures and legislation, which is useful for considering how women throughout the nineteenth century made initial strides into the profession.¹⁷ In her memoir, *Fairly Equal: Lawyering the Feminist Revolution* (2017), Linda Silver Dranoff contributed to the discussion by detailing her efforts as a female and feminist

¹⁵ Centres and Institutes in Feminist Legal Studies were initially struck by women in the faculties working on feminist legal theory. At the University of British Columbia, Susan Boyd took initiative and her own funds to create the centre. Harry Arthurs notes that the Institute for Feminist Legal Studies (IFLS) at Osgoode Hall Law School would have been a desirable move on its own without the Ontario human rights complaint in regard to systemic sex discrimination on behalf of Osgoode Hall Law School because of the failed appointment of a qualified woman dean. The IFLS was part of the settlement. Harry Arthurs, *Connecting the Dots: Life of an Academic Lawyer*, (Toronto: University of Toronto Press for the Osgoode Society, 2019) 88.

¹⁶ Along with this study, Virginia Torrie and Anna Lund are working on an edited collection on the early women in the legal academy, forthcoming 2024.

¹⁷ See for example, Constance Backhouse, "'A Revolution in Numbers': Ontario Feminist Lawyers in the Formative Years 1970s to the 1990s" in Constance Backhouse and Wesley Pue, *The Promise and Perils of Law: Lawyers in Canadian History*, (Toronto: Irwin Law, 2009).

lawyer at a time when women's activism, female lawyering, and family law reform had only just begun. Mary Jane Mossman has also recently published a longitudinal collective biography of Ontario's first women lawyers from 1897 to 1957.¹⁸

Historical justifications for keeping women out of the legal academy were attributed to the notion that women were supposedly fragile and emotional, given to hysteria, and unable to think and decide rationally, just as was the case for excluding them from medical schools which delayed the achievement of women's representation in medical organizations. It took 107 years after the establishment of the Canadian Medical Association and the graduation of Dr. Emily Stowe in 1867 for a woman (Dr. Bette Stephenson) to be appointed President in 1974 and 132 years for a woman (Dr. Noni MacDonald) to be appointed the first Dean of Medicine in Canada at Dalhousie Medical School in 1999. Ulrike Schultz has argued that the refusal to allow women to study law was deeply connected to the nature of the law and its social and political function, and that giving women legal knowledge would endow them with authority in a state run by men.¹⁹ In other words, this was part of the broader effort to deny women political power. Thus, law faculties were inventive in gatekeeping, and women's lack of representation in leadership roles within the law faculty epitomizes how they continued to not be considered appropriate figures in the law profession. Contemporary studies in gender, law, history, and political science have mostly focused on the women who attained representation at the highest court or in the top and often tokenistic positions at courts and firms. Yet, the importance of this study is that it sets forth a clear picture of women who were footnoted and sidelined for imperceptible reasons. The

¹⁸ Mary Jane Mossman, *Quiet Rebels: A History of Ontario Women Lawyers*, (Waterloo: Wilfrid Laurier University Press, 2024).

¹⁹ Ulrike Schultz, "Introduction: Gender and Careers in the Legal Academy: Overview and Synthesis," in Schultz et al., *Gender and Careers in the Legal Academy*, (2021) 6.

legal academy took up space in public discourse when there was a contested issue or decanal search — which is also why the focus in this study is here rather than on the Supreme Court of Canada or corporate law firms.

Lawyers undergo professional socialization in law school, a process shared by law professors but influenced by distinct circumstances.²⁰ Aspiring law professors observe and internalize the professionalization strategies employed by their teachers during their student days, shaping their understanding of the role. Professionalization in the legal academy refers to the process by which individuals, particularly aspiring law professors, acquire the knowledge, skills, attitudes, and norms associated with the legal profession and academia. It involves the socialization of individuals into the professional roles and responsibilities expected within the context of legal education and scholarship. This process includes learning not only the substantive content of the law but also the pedagogical and ideological aspects of legal practice and academia. Professionalization in the legal academy encompasses the development of a professional identity, understanding the ethical considerations inherent in legal education, and acquiring the tools necessary for effective teaching, research, and contribution to the legal profession.

This generational influence has been particularly significant in shaping the experiences of women in their roles as educators within Canadian law schools in the late twentieth century. The effect of nineteenth-century traditions, where only men were permitted to assume the position at the front of law classrooms until 1961, continued to cast a long shadow. The historical context surrounding this exclusivity requires exploration to comprehend the enduring implications for

²⁰ Melanie Brunet, “Becoming Lawyers: Gender, Legal Education, and Professional Identity Formation in Canada, 1920-1980,” (Toronto: University of Toronto) PhD Thesis, 2005.

women entering legal academia.

Professionalization is a process where historical codes and practices are influential, as each generation is invariably affected by the earlier ones. Law professors, however, were aware of the importance of considering how senior faculty members might view their professional ethics and codes of conduct. New faculty become professionalized as they encounter a set of expectations regarding the culture, ideals, and values both inside and outside the classroom, with an emphasis on overarching ideas of professionalism. Intellectual limitations on women have been supported by a division of labour in which mental work was seen as the realm of men, and service as the province of women.²¹ A large component of legal professionalization was the ability to reason and think, and in Canada, the very concept of legal professionalism has been inextricably tied historically to masculinity, whiteness, class privilege, and Protestantism.²²

In nineteenth-century Canada, the emergence of legal practitioners displayed a distinctive feature: the initial lawyers, operating in the absence of formal university legal education until the late 1800s, naturally assumed roles within legal academia. This transition among the trailblazing legal minds in Canada symbolizes an enduring strand of legal professionalism woven into the very practices that laid the groundwork for subsequent generations of aspiring lawyers. In Ontario, the selection of influential individuals was explicitly outlined by the Law Society of Upper Canada's stringent criteria for legal education during the nineteenth century. Admission

²¹ Dale Spender, *Women of Ideas and What Men Have Done to Them*, (London: Ark Paperbacks, 1983) 24.

²² Constance Backhouse, "Gender and Race in the Construction of 'Legal Professionalism': Historical Perspectives," *Paper presented at the Colloquium on Ontario's Advisory Committee on Professionalism*, Law Society of Upper Canada, 2003, 4; reprinted in *In Search of the Ethical Lawyer: Stories from the Canadian Legal Profession*, eds. Adam Dodek and Alice Woolley (Vancouver: UBC Press, 2016).

hinged on proficiency and training in classics, a domain predominantly accessible to Anglo-Canadian families who reserved educational opportunities for “promising young boys.” The lawyers who gained membership in the Law Society of Upper Canada in this period were indicative of a homogeneous, privileged demographic with strong connections through firm partnerships, intermarriage, and social ties. This pattern also held true for the inaugural faculty members in Canada—privileged men appointed based on their educational achievements and collegial standing often acquired at law faculties in the United States.

Furthermore, the historical influence of the Langdellian teaching method on common law university legal education has exacerbated a theoretical exclusion of women law teachers beginning in the last three decades of the nineteenth century.²³ As the Langdellian model gained prominence in Canadian law schools throughout the twentieth century, it emphasized a pedagogical approach rooted in adversarial and hierarchical methods, reflecting a masculine and exclusionary ethos. The traditional reliance on the Socratic method, central to Langdell’s teachings, tended to favor assertive and combative styles of discourse, which, over the years, created an academic culture often inhospitable to women. This exclusionary framework not only limited opportunities for female law teachers but also perpetuated gender disparities within legal academia, hindering the diversification and enrichment of perspectives in Canadian legal education.

In Québec, the specific civil law heritage accounts for the existence of two separate legal professions within the province: *avocats* and *notaires*, which serve distinct roles. Historically, within the civil law system, the roles of advocates (barristers and solicitors) and notaries have

²³ See for example Bruce Kimball and Brian Shull, “The Ironical Exclusion of Women from Harvard Law School, 1870-1900,” *Journal of Legal Education*, Vol 58.1, (March 2008): 3-31.

evolved to cater to distinct legal needs. Advocates, over time, have emerged as litigators, representing clients in court and providing legal counsel on a myriad of issues, including contractual matters and disputes. Historically, *avocats* have been known for their contribution to the resolution of legal conflicts and the interpretation and application of laws across various domains. On the other hand, notaries have played a crucial role in authenticating formal documents, such as deeds and wills, with their historical roots deeply embedded in ensuring the legality and validity of such instruments. Women were prohibited from the *notariat* until after 1956, but their inclusion did not remove gender inequality and discrimination. The historical trajectory of *avocats* and notaries reflects the strategic development of their roles within the civil law system.

The historical roots of legal professionalism in the civil law system are evident in the exclusion of women from the Québec legal profession. This is exemplified by Annie Macdonald Langstaff, who became the first woman graduate of McGill Law in 1914 but was denied access to the qualifying exams of the Québec bar. Furthermore, Juliette Gauthier graduated from Université de Montréal's Faculty of Law in 1928.²⁴ Notwithstanding her inability to practice law because of gender restrictions in the Québec Bar and the *Chambre des notaires*, Gauthier worked in a law firm for a year, but not as a lawyer.²⁵ Despite the relatively more welcoming environment for women in the *notariat*, as evidenced by the 38 percent representation of women among notaries in Québec by 1992, the persistence of gender inequality and discrimination unveils the intricate dynamics of a distinct legal professionalism within the civil law tradition.²⁶

²⁴ Julie Paquin, "The Feminisation of Legal Academia in Québec: Achievements and Challenges," in Schultz et al., eds., *Gender and Careers in the Legal Academy*, 80-81.

²⁵ « Les grandes pionnières » Université de Montréal Faculté de Droit, <https://droit.umontreal.ca/faculte/historique-et-mission/les-grandes-pionnieres/#c181163>

²⁶ Federation of Law Societies of Canada (FLSC), Statistical Report, 2015. Conférence des

These statistics underscore the link to a legal professionalism that, at its core, remained exclusionary to women throughout the twentieth century and inside and outside legal academia.²⁷

In the legal profession across Canada, codes of conduct have historically reflected the prevailing ideals of Christian gentlemanliness, persisting even as women entered the profession. The overarching influence of Christian values permeated these codes, shaping expectations and norms within the legal community. This cultural backdrop was evident in various aspects of professional conduct, from courtroom etiquette to the interpersonal relationships among legal practitioners. The enduring presence of Christian ideals in these codes underscored the deeply ingrained influence of religious and moral considerations on the professional ethos of lawyers, providing a lens through which ethical standards were framed and evaluated throughout the decades.

Furthermore, these codes of conduct in the legal profession across Canada echoed Christian principles in various specific ways. For instance, ethical guidelines often emphasized honesty, integrity, and fairness – values deeply rooted in Christian morality. The oath-taking process, a significant ritual in legal practice, frequently invoked religious language and symbolism, reflecting a tradition that historically assumed a Christian worldview. Additionally, the emphasis on charitable and pro bono work as part of a lawyer's professional duty can be seen as influenced by Christian teachings on social responsibility and service to others. The language used in addressing colleagues, clients, and the court also bore traces of Christian civility,

recteurs et des principaux des universités du Québec, *Caractéristiques et rémunération des professeurs de carrière des universités québécoises*, 1999. Cited in Jule Paquin, "The Feminisation of Legal Academia," 82-83.

²⁷ This represented a significant increase in the proportionate representation of women since 1989 when women constituted 29 per cent of all notaries. See Canadian Bar Association, Appendix 3: Summary of Working Groups, *Report of the Canadian Bar Association Task Force on Gender Equality in the Legal Profession*, August 1993, 11.

contributing to a professional atmosphere shaped by the prevailing religious and moral ethos of the time.

The looming culture of Christianity (infused with both Catholic and Protestant traditions) underlay the ways in which gentlemen would become comfortable with their place in the social ordering of society. The hierarchy of the institutions of the established church and military influenced their thinking on the establishment of the law profession and codes of conduct. The old ideal that lawyers should be gentleman (and not businessmen), ministers, and officers lingered through law professor responsibility and ideas about how to conduct a classroom. Codes of conduct which dictated the culture of Canadian lawyers – embodied the “very essence of professionalism.”²⁸ Insofar as most definitions of professions consist of a set of attributes, the promulgation of ethical standards is typically included in that set. Professionals themselves play the most important part in the definition or redefinition of their public image and codes of conduct were physically written by the Christian gentlemen who became established members of the profession.²⁹

As a result, women were left out of the formulation of legal professionalism in Canada and did not fit within these neat definitions or codes of conduct. In fact, Constance Backhouse has noted that lawyers have resorted to ideas of professionalism to exercise power and exclusion based on gender, race, and religion.³⁰ Barriers were placed before the working class, Black, Jewish, Indigenous, and female individuals who sought admission to the legal profession throughout the twentieth century. Black, Jewish, working-class, Indigenous, and female

²⁸ Jonnette Watson Hamilton, “Metaphors of Lawyers’ Professionalism,” *Alberta Law Review*, Vol XXXIII, 4, (1995): 835.

²⁹ Jonnette Watson Hamilton, “Metaphors of Lawyers’ Professionalism,” 835.

³⁰ Constance Backhouse, “Gender and Race in the Construction of ‘Legal Professionalism’” (2003) 18.

individuals in Canada encountered barriers to entry into the legal profession, with challenges ranging from economic hurdles to unequal opportunities in legal education. Intersectionality, recognizing the interconnected nature of social categories such as race and gender, accentuates the challenges faced by Black women in pursuing legal careers in Canada. While explicit bans on Black women practicing law in Canada did not exist, systemic racism has persistently hindered their opportunities by shaping discriminatory hiring practices, limiting access to educational resources, and perpetuating racial bias in admissions. The absence of explicit barriers does not diminish the cumulative impact of intersecting forms of discrimination on the aspirations and experiences of Black women within the Canadian legal profession. This comprehensive perspective necessitates further research into the intersections of discrimination faced by various marginalized groups within the legal profession, including ethnic and religious minorities, persons with disabilities, and persons who identify as 2SLGBTQI+ (Two-Spirit, Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, + Inclusive of people who identify as part of a sexual and gender diverse community). However, one illustrative example is Violet King Henry, born in Alberta in 1929, who faced significant barriers as a Black woman aspiring to practice law in Canada.³¹

King earned top honours in her law degree at the University of Alberta in 1953, and the record indicates that she encountered resistance to secure a position. However, she found an articling position in Calgary with ease at a time when many students could not find one. She practiced criminal law in Calgary for a short time and then moved to the Citizenship Branch in

³¹ Violet King Henry is Canada's first Black female Lawyer. See "Violet King Henry: The Story Behind Canada's First Black Female Lawyer," *The Legal Archives Society of Alberta*, 2 February 2022; Rachel K. Bailie, "Minority of One: Violet King's Entry to the Legal Profession," *Canadian Journal of Women and the Law*, Vol 24, No 2, (October 2012): 301-327.

Ottawa. King stayed at the Citizenship Branch for about seven years before moving to the United States because of her negative experiences as a Black lawyer in Canada. In the US, she later worked as a senior administrator for the YMCA-YWCA.³² Her ground-breaking career as one of the first Black women lawyers in Canada highlighted the challenges she and others faced because of systemic racism within the legal profession, emphasizing the need for broader inclusivity and the dismantling of discriminatory practices.

Furthermore, according to Jean Mackenzie Leiper, despite the presence of formal codes of conduct, informal norms can evolve over time, resulting in behavioural patterns that are discernible only to members of specific groups. In legal education, the practice of law, and day-to-day courtroom activities, there are numerous norms that can be confusing for newcomers. These cultural contradictions reflect a set of unwritten codes that pose particular challenges for women, such as expectations regarding work hours, access to important files, informal meetings, and unspoken views on pregnancy and childbirth. These norms essentially become codes themselves, protected by established members of the profession and accessible only to persistent outsiders who manage to interpret the signals. Women who either fail to crack these codes or choose to ignore them may remain part of the legal bar but can find themselves distanced from the powerful centers of legal practice. Leiper's study highlights the significant connections between formal codes and those informal norms that sometimes go unnoticed.³³

The general history of Canadian legal education intersects with the history of women's access to higher education in Canada because within the time period under evaluation in this dissertation, many law faculties became amalgamated with universities. Canadian universities

³² Mary Jane Mossman, *Quiet Rebels*, 425.

³³ Jean McKenzie Leiper, *Bar Codes: Women in the Legal Profession*, (Vancouver: UBC Press, 2006).

each have their own set of foundational traditions, but specifically, the traditions that were created in the nineteenth century defined women's acceptance in Canadian higher education. Women were vastly affected by the traditions which served to enforce segregated education. Across Canada, separate colleges functioned to maintain Victorian standards of morality that looked askance at the intermingling of the sexes and preserved the notion of separate spheres. It was also the case that separate women's colleges were an additional expense and required philanthropic endowments for education which were not very common in Canada. When it became questionable to publicly oppose education for women, educators continued to stall in developing women's colleges because of lack of funds. Alternatively, women made their way in to established institutions through subsidies and gifts that were made available to these institutions on condition of the admission of women.³⁴ Economic considerations, in other words, proved more important than egalitarian idealism in encouraging the development of education for women in Canada. The first coeducational colleges in Canada evidently opened their doors to women because their fees generated additional revenues, in addition to the fact that legislatures could not afford to establish separate institutions to accommodate women. Coeducation, as it was implemented by institutions in the late nineteenth and early twentieth centuries in Canada, therefore, signified compliance with first wave feminist pressure to admit women but the institution were not necessarily committed to their education.

Colleges in Canada began to open their doors to women during the 1860s, and some of the most prominent scholars, such as Egerton Ryerson, approved education for women but opposed coeducation. Others such as George Ross believed men and women should be educated

³⁴ Lee Stewart, "The Experiences of Women at the University of British Columbia, 1916-1956," (Vancouver: University of British Columbia, 1986) MA Thesis, 14.

together – and the topic continued to produce lively debates throughout the development of more colleges for women across the country. At Mount Allison, New Brunswick, the female academy opened in 1854 in close proximity to the existing male academy but it was made clear that the female branch was “entirely distinct... and the students of the different branches will not be allowed to associate or even meet, either in public or in private, except in the presence of some officers of the Institution.”³⁵

Certainly, in the nineteenth century, universities across Canada required female students to attend separate classes in their own affiliated college and have separate living quarters in the campus residence. The arrangements were intended to preserve the traditionally male domain and to safeguard female virtue.³⁶ When segregated conditions were insisted upon, women’s participation in universities was often delayed until endowments provided suitable facilities. Despite much resistance to higher education for women, they began to demolish the barriers one by one.

The first Canadian college to grant women degrees was Mount Allison, New Brunswick. Annie Grace Lockhart became the first woman in the British Empire to earn a B.Sc in 1875. In 1882, Mount Allison awarded Harriet Starr Stewart the first B.A. in Canada, and the first M.A. to Starr Stewart in 1883. Also in 1883, Victoria College (Ontario) became the first Canadian institution to award a woman a medical degree to Augusta Stowe. In 1884, Acadia awarded one female B.A. and Queen’s awarded two. Dalhousie gave one in 1885 and Toronto gave five. Trinity (Toronto) granted the first Mus. Bac. in 1886. In 1889, Manitoba and New Brunswick

³⁵ *Mount Allison Academic Gazette* (June 1854), 7. Cited in John Reid, “The Education of Women at Mount Allison, 1854-1914,” *Acadiensis*, (Spring 1983).

³⁶ Lee Stewart, *It’s Up to You: Women at UBC in the Early Years*, (Vancouver: UBC Press for the UBC Academic Women’s Association, 1990) 85.

each bestowed one B.A. McGill graduated its first class of women in 1888. Clara Brett Martin was the first woman in Canada to receive a formal legal education.

According to Constance Backhouse, Martin skipped many lectures at Osgoode Hall because the law instructors emphasized points about sex, which embarrassed her.³⁷ Martin's forced absences from Osgoode Hall lectures may have caused her more concern than she was willing to acknowledge. Taking the initiative, she later pursued further legal education at university. The Law Society had not yet delegated its authority to independent higher education institutions, thus lawyers were not required to take university law courses. Nevertheless, by the late nineteenth century, several universities had introduced law courses and degrees. In 1897, Martin completed her Bachelor of Civil Law degree at Trinity College and subsequently obtained an LL.B. from the University of Toronto in 1899. She faced no difficulties with the Law Society's annual examinations. She joyfully remarked, "Finally, I had the satisfaction of outperforming everyone in the exams."³⁸

McGill was the first university in Québec to accept women in 1884. The senior French-language universities waited until the twentieth century to admit members of *le deuxième sexe*: Laval accepted them in 1910, l'Université de Montréal in 1915.³⁹

Women's admission to higher education across Canada was strongly debated and

³⁷ Constance Backhouse, *Petticoats and Prejudice: Women and Law in Nineteenth Century Canada*, (Toronto: Women's Press for the Osgoode Society for Canadian Legal History, 1991) 313.

³⁸ Backhouse, *Petticoats and Prejudice*, 313; "A Woman at the Bar" *Toronto World*, 4 February 1897; For examples of the letters sent on Clara Brett Martin's behalf, see "Miss Martin's Case" *Toronto Mail*, 10 Oct 1892; "Shall Women Practise Law?" *Toronto Mail*, 12 Sept. 1894. For examples of letters in opposition, see "Female Lawyers" *Toronto Mail*, 13 Sept. 1892; "Women in Politics" *Toronto Globe* 12 April 1895.

³⁹ Margaret Gillet, *We Walked Very Warily: A History of Women at McGill*, (Montréal: Eden's Press, 1981) 11.

formally denied. For example, Principal J. William Dawson and Clark Murray, two important men in the development of McGill University, had opposing views about women and this limited their educational opportunities. Margaret Gillet asserted that Dawson thought of a woman as a “Lady” – wife, mother, and homemaker and believed her education should be largely cultural and given separately from men. Murray defined her as a “Person” – an independent being and potential worker and she should have been considered able to have access to professional education in the company of men.⁴⁰ However, many Victorians believed that scholarship and ladylike behaviour were mutually exclusive, so educational reformers sought to prove them wrong. Of course, those who favoured a modified curriculum for women wanted courses for women which were particularly suited to future occupations as teachers, nurses, and mothers.

The historical roots of women’s participation in higher education at British institutions provide important context for understanding the radical changes in coeducation in English Canada. The admission of women to higher education in England proceeded from the efforts of middle-class reformers but the movement for educational reform was not entirely committed to feminist ideology involving coeducation. The significant alterations in the form and content of women’s education reflected changes in the wider context of society which refashioned ideals of womanhood and reorganized definitions of education for women. The middle class was not comfortable with the implications of higher education for women and continued to resist the conferment of degrees and women’s entry into traditionally male professions.⁴¹ Yet, the issue of women’s education in Canada did not arise in the same contentious and militant context experienced in Great Britain. The cultural, economic, and geographic environments of Canada

⁴⁰ Gillet, *We Walked Very Warily: A History of Women at McGill*, 2.

⁴¹ Stewart, “The Experiences of Women at the University of British Columbia,” 13.

offered less resistance to proponents of equal education for women than the centuries of tradition and custom that defined British institutions and attitudes. However, these ideas trickled into Canadian academe in the formative years in a myriad of ways.

Women benefitted from internal and external pressures to reform Oxford and Cambridge Universities, which were long regarded as fortresses of privilege. These prestigious communities began to be moved by Parliamentary intervention reflecting the utilitarian values of the new middle class. New industrial and commercial interests urged that universities become national institutions in the service of the entire nation, not ones merely geared to aristocrats. According to Stewart, the reformation of these established institutions and the creation of new ones in the nineteenth century minimized religious affiliation as a means of admission; it altered the curriculum to include the new subjects of history, applied sciences, and modern languages; it also questioned traditional teaching methods.⁴² Yet, social attitudes toward women and particular designations of femininity provided subtle barriers which delayed, obstructed, and attempted to define women's educational opportunities. These controversial attitudes toward the admission of women in higher education have been explored with regard to the medical professions and the social sciences.⁴³ The scholarship generally illustrates how many men feared any changes they believed would alter the relationship of the sexes and transform the social order as they knew it. When women began to express their own intellectual ideas more vocally, there was similar resistance. However, the participation of women in both private and public spaces in the

⁴² Stewart, 7.

⁴³ See for example, Joan Burstyn, *Victorian Education and the Ideal of Womanhood*, (London: Croomhelm, 1980); Rosalind Rosenberg, *Beyond Separate Spheres: Intellectual Roots of Modern Feminism*, (New Haven and London: Yale University Press, 1982); Dale Spender, *Women of Ideas and What Men have Done to Them*, (1982); PM Glazer and M Slater, *Unequal Colleagues: The Entrance of Women into the Professions*, (New Brunswick N.J.: Rutgers University Press, 1987).

industrial period (in the home, as well as in factories, and in educational endeavours) fundamentally altered the social order and the way in which women were perceived and depicted.

The path to higher education, and in turn, legal education, in French-speaking Canada was distinctive. French Universities required students to hold a *baccalauréat és arts* run by a *collège Classique* where instruction was provided by as part of the Roman Catholic clergy. French Canada's *collèges classiques*, whose responsibility was to train the French-Canadian elite, including future members of the clergy, were male only institutions. Without any opportunity to follow the *cours classique*, women were prevented from entering universities. In response to some external pressures, the first *collège classique* for women opened its doors in Montréal in 1908 followed by a second in Québec City in 1925.

The history of dealing with the development of law and legal education in Canada is not simple. Philip Girard, Jim Phillips and Blake Brown have characterized it as a search for balance between liberty and order in a context of continuing legal pluralism, which is when two or more legal systems co-exist in the same society. The relationship between common law and civil law has been the focus of Canadian legal scholarship until recently when it shifted to the study of how the long-suppressed law of Indigenous Peoples might be renewed and reconciled with Euro-centric legal orders dominated Canada in the twentieth century.⁴⁴ However, formal legal education was only offered in common law and civil law, and no study has endeavoured to trace and contrast the faculties' connections to the tensions between French and English-speaking populations. Marcel Martel and Martin Paquet have examined the tensions within institutional

⁴⁴ Philip Girard, Jim Phillips, R. Blake Brown, *A History of Law in Canada Vol I*, (Toronto: University of Toronto Press for the Osgoode Society, 2019) 8.

bilingualism which occurred in Canada and Québec throughout the 1960s to the 1980s.⁴⁵

Exploring the similarities and differences between French and English-Speaking law faculties through the incorporation of women is thus a central component of this study. The restructuring of Québec society that occurred in the 1960s allowed for the integration of women into previously male-dominated spaces at a quicker pace than the rest of Canada. In other words, the law faculty is just one site of the drastic change that was interwoven into the fabric of Québec society after the Quiet Revolution.

Building upon Carrie Menkel-Meadow's analysis of American feminist legal academics, this dissertation investigates the tensions between two groups of feminist women within the Canadian law faculty scene. Although Menkel-Meadow explores what she has named "generations of feminists," by identifying the intergenerational way in which the first few decades of American women law professors contested a canon of new understandings of legal concepts in jurisprudence and legal practice, it is important to study the ideological reasoning behind opposition and divergences in legal academia. Most of the women who entered the Canadian legal academy at the centre of this dissertation acquired a legal education in the years between the 1960s to the 1980s and could be considered as part of the same generation with respect to their awareness of the second wave feminist movement. Although there were differences in legal education and feminist goals among the decades, women must have had a consciousness of the immense changes women were calling for at the time.

The first few women appointed to faculty positions in the law schools before 1960 were law librarians and they did not teach. Their appointments came from a custom in many United

⁴⁵ Marcel Martel and Martin Paquet, *Speaking Up: A History of Language and Politics in Canada and Québec*, (Toronto: Between the Lines Press, 2012) 107-211.

States law schools of appointing the law librarian to the full-time staff whether or not the position included teaching duties.⁴⁶ Most of these women had law degrees and PhDs, not degrees in library sciences.⁴⁷ After 1961, the women who came trickling into the Canadian legal academy one by one were *covert* feminists. The second group were women educated during the turbulent years of second-wave feminism and the development of women's studies as an academic field. *Overt* feminists focused on the distinctions between men and women and how those differences were to be brought to law, culture, and other institutional aspects of the organization and social life.⁴⁸ Some overt feminists were inspired by the scholarly works and judicial decisions of covert feminists. These two groups are not mutually exclusive. Although deep challenges to the legal profession came from women of colour, various ethnic, racial, religious, non-white women, and women from the working classes who argued that legal feminism was essentialist, middle class, and white, the challenges to law faculties based on intersectionality began after this project's time frame.

The ideology of *androcentrism* is a useful analytical lens for approaching the historical literature on women's place in the Canadian legal academy. Recent studies on the concept of *androcentrism* define it as the ways in which a societal system is organized around men and is evident in both individual biases and institutional policies.⁴⁹ The word itself came to prominence

⁴⁶ Margaret Banks, *Law at Western 1959-1984*, (London: The University of Western Ontario, 1984) 19.

⁴⁷ For example, Margaret Banks attained a PhD from the University of Toronto in 1953. Diana Priestly attained an LL.B. and LL.M., from the University of British Columbia and Washington 1950-1953.

⁴⁸ Carrie Menkel-Meadow, "Feminist Legal Academics: Changing the Epistemology of American Law through Conflicts, Controversies, and Comparisons," in *Gender and Careers in the Legal Academy*, eds, Schultz et al. (2021), 477.

⁴⁹ April Bailey et al, "Is Man the Measure of All Things? A Social Cognitive Account of Androcentrism," *Personality and Psychology Review*, Vol 23, No. 4, (2019): 308.

when Charlotte Perkins Gilman characterized society as an “androcentric culture,” one in which men manage “all human activities.”⁵⁰ Androcentrism signifies the general tendency to mark women’s gender more than men’s, even including categories and groups in which men and women are equally represented. Women are “sex-specific” compared with men who are regarded as gender neutral.⁵¹ According to Sandra Bem, androcentrism sustains gender inequality by disguising the maleness of male power under the rubric of the “neutral standard.”⁵² Scholars of androcentrism have suggested that androcentrism involves structures of male power, including men’s greater control of outcomes and resources, as well as men’s greater status, affluence, respect, and prestige compared with women.

Through both dominance and prestige, men had greater social power than women, and androcentrism reinforced this disparity by disguising male advantage as a gender-neutral standard, or a standard based upon merit.⁵³ The work of Dale Spender stressed how, for centuries, women of ideas had been cast to the outside of the main social circles and professional structures from which public society is created. According to Spender, women had never controlled the material or social means for the making of a tradition among themselves and were also not treated as equals in the ongoing discourse of intellectuals. Since men had controlled the law faculty scene in Canada until 1961, women had a harder time establishing legitimacy in feminist legal theory or equality discourse during the time period studied in this dissertation. Generations of men who operated as lawyers, judges, policymakers, professors and legal philosophers have been the gatekeepers of the

⁵⁰ Charlotte Perkins Gilman, *The man made world: Or, Our androcentric culture* (New York: Charlotte Company, 1911) 25.

⁵¹ Sandra Bem *The Lenses of Gender: Transforming the Debate on Sexual Inequality* (New Haven: Yale University Press, 1993) 2.

⁵² Sandra Bem, *The Lenses of Gender*, Ibid.

⁵³ Ibid.

history of knowledge flowing from Canadian law faculties.⁵⁴

As part of the analysis of women's experience in Canadian law school faculties, this dissertation investigates how feminists had to contend with androcentrism in the male dominated university arena and analyzes the ways in which a feminist identity may have prohibited women from attaining full-time positions and, subsequently, decanal positions. In some cases, deans hired women to be *the feminist* (of their particular faculty because of external pressures from the feminist movement).⁵⁵ Feminist historiography suggests that in this context, a feminist identity is not just defined by the way in which one identifies oneself in relation to feminist discourse, but in how their work (in publishing scholarly articles, and in social and legal advocacy, was received by their colleagues and might have shaped their public identity. For example, Bertha Wilson, the first woman on the Supreme Court of Canada (1982, was "avowedly *not* a feminist."⁵⁶ Yet, her feminism was perceived by women all over Canada as more significant than she herself regarded it. Covert feminists, the group Justice Wilson can be considered part of, rarely identified with the feminist movement, if at all, because the word was often associated with radicalism. Since its inception, ascribing to feminism had presented a barrier to women, especially in the legal field where work was expected to be impartial – a term which tended to be used to neutralize feminist politics.⁵⁷ Part of the problem with identifying with feminism was that it was, and still is, a term that

⁵⁴Dale Spender, *Women of Ideas and What Men have Done to Them*, (1983) 11; See also Dorothy Smith, "A Peculiar Eclipsing: Women's Exclusion from Man's Culture," *Women's Studies International Quarterly*, 1, (1978): 281-296.

⁵⁵ Constance Backhouse Interview with Taylor Starr, 4 November 2021.

⁵⁶Ellen Anderson, *Judging Bertha Wilson: Law as Large as Life*, Toronto: University of Toronto Press, (2001): 135-136, 197; See also, Backhouse, "Justice Bertha Wilson and the Politics of Feminism," *The Supreme Court Law Review: Osgoode's Annual Constitutional Cases Conference*, Vol 41 (2008): 34-52.

⁵⁷ Bertha Wilson, "Will Women Judges Really Make a Difference?" *Osgoode Hall Law Journal*, 28 no 3., (Fall 1990): 507-522; Janet Hough, "Mistaking Liberalism for Feminism," *Journal of Canadian Studies*, 29 no 4., (Spring 1994): 147-164.

is loaded with historical complexities.

The meaning of feminism before the 1960s was fundamentally different from the feminism that emerged in the period from 1961 to 1994, which was attributable in part to the general context of Cold War Canada. The overarching perception of feminism (and accordingly those who identified as feminists) was that women could not be trusted. Similar suspicions about women and feminism trickled into perceptions of women in the legal profession. Gary Kinsman and Patricia Gentile, in *The Canadian War on Queers*, have shown that the RCMP conducted national security campaigns in the 1950s and 1960s against the left and union movement, and spied on women's groups ranging from the Housewives Consumers' Association to the women's auxiliaries of the Mine Mill union.⁵⁸ By 1967, the RCMP sought methods to conduct surveillance of the Royal Commission on the Status of Women (Bird Commission [1970]), as it was believed that the groups were infiltrated by the Communist Party.

The association of feminism with subversion also underlay the surveillance and subsequent fears of feminist organizations.⁵⁹ In addition, the period of 1960 to 1985 in the Canadian women's movement included advocacy for peace and disarmament, equality in education, birth control, an end to violence against women and general demands for changes in government and legislative reform. The period was significant for its accomplishments in bringing attention to Indigenous and visible minority women and lesbians, groups who also received support from mainstream activists. One historian has asserted that the years beyond the 1960s were "a climax of a period of social movement activism in Canada."⁶⁰ The Quiet

⁵⁸ Gary Kinsman, Patricia Gentile, *The Canadian War on Queers: National Security as Sexual Regulation*, (Vancouver: UBC Press, 2010) 287.

⁵⁹ Kinsman, Gentile, *The Canadian War on Queers*, 287.

⁶⁰ William K. Carroll, "Social Movement and Counterhegemony: Canadian Contexts and Social Theories," *Organizing Dissent: Contemporary Social Movements in Theory and Practice*,

Revolution in Québec also produced a separate movement which informed many debates on federalism and sovereignty. However, with such drastic social transformation blazing into the mainstream, feminist efforts were met with resistance. What is often overlooked is the idea that feminists had opposing views on many matters and that the movement was not ideologically homogenous.

According to Joan Sangster, second-wave Canadian feminism was polyphonic; “it was a chorus of diverse political voices (not necessarily singing in harmony) rather than solos sung by a few women leaders.”⁶¹ Groups of feminists fashioned different dreams of equality and social transformation. Sangster asserts that women pursued separate pathways to equality in parallel movements. Indeed, in the Canadian law faculty setting, generations of feminists had different views about the advancement of women and often opposing views about the development of policy on the state of women within internal affairs. Thus, the law faculty scene constitutes an incomparable avenue to explore the hybrid nature of second-wave Canadian feminism because women in those faculties wrote and often vocalized their opinions on gender diversity and discrimination.

Indeed, women had opposing ideas about career mobility and the different groups of feminists within the second wave were often perplexed – in different ways – about the possibilities of attaining decanal positions. Equality feminism was perceived as liberalism, and in order to critique the reasoning behind why women felt they needed to continue to conceal their true impressions about social transformation beyond the 1980s we must further deconstruct the

(Toronto: Garamond Press, 1997) 4, cited in Dominique Clément, *Canada's Rights Revolution: Social Movements and Social Change, 1937-82*, (Vancouver: University of British Columbia Press, 2008) 3.

⁶¹ Joan Sangster, *Demanding Equality: One Hundred Years of Canadian Feminism*, (Vancouver: UBC Press, 2021) 4.

idea of representation. Thinking about what constitutes a representative position requires drawing on insights from Charles Taylor and Stuart Hall as a way to construct a theoretical approach for critiquing liberalism. Hall and Taylor assert that social institutions are the most important components in the development of individual meaning and identity.⁶² Taylor argues that political theorists – from John Locke, Thomas Hobbes, to Ronald Dworkin – neglected the way in which individuals arise within the context supplied by societies. A representative position in this context is the way in which individuals within late twentieth-century Canada regarded a particular kind of person as ideal for representation as Law Deans while all others were cast to the margins in obscure ways. As Hall asserts, history and culture create meaning, and this dissertation aims to trace how meanings of status and influence, which were defined by their historical relationship with androcentrism within the legal profession, affected women's career mobility in the teaching of law. Moreover, the rhetoric of feminism and its supposed ties to homosexuality suggested to some that women who identified as feminists contributed to what has been historicized as "national insecurity."⁶³

Once women initially broke the barriers of entry into the legal academy, the historical question of *how* women organized and dealt with inherent second-class status upon arriving within professional university institutions has generally been overlooked and understudied in Canada. Ruby Heap has examined women in the Canadian engineering and medical professions.

⁶² See Charles Taylor, "The Politics of Recognition," in Amy Gutman, *Multiculturalism Examining the Politics of Recognition* (Princeton: Princeton University Press, 1994) 25-73; Stuart Hall, "The Work of Representation," *Representation: Cultural Representations and Signifying Practices*, (1997) 13-74.

⁶³ Gary Marcuse and Reginald Whitaker, *Cold War Canada: The Making of a National Insecurity State, 1945-1957*, (Toronto: University of Toronto Press, 1996); Steve Hewitt, *Spying 101: The RCMP's Secret Activities at Canadian Universities, 1917-1997* (Toronto: University of Toronto Press, 2002); Kinsman and Gentile, *The Canadian War on Queers* (Vancouver: UBC Press, 2010).

She asserts that broad interdisciplinary collaborations fostered important strides for women in engineering, medicine, and history. Historical scholarship has been concerned with illuminating the intersections between science and gender, as well as class, race, ethnicity and sexuality, the relationship between scientific knowledge and scientific practice, and the fundamental role played by science in constructing human differences and inequalities between male and female scientists.⁶⁴ Furthermore, she demonstrates how engineering and scientific culture had been constructed to be culturally associated with masculinity. She also argues that exploring the intersections between how masculinity and technology have deployed themselves historically, within various educational and professional settings, is key to understanding the continuing under-representation of women in the profession.⁶⁵

In addition to the issue of representation, this dissertation is also concerned with the question of how and why women in the Canadian legal profession chose to minimize their femininity in order to fit into the environment of law school, more than they did in other cultural settings.⁶⁶ The decision to downplay femininity was often a strategic response to the hyper-masculine culture of law schools and the legal profession, where traits associated with men over time—such as assertiveness, competitiveness, and emotional detachment—were prioritized. Women, in seeking acceptance and advancement, felt the need to suppress outward expressions of femininity, including their appearance, behaviour, and even tone of voice in faculty meetings, in order to be taken seriously by their male peers and professors. This form of self-regulation reinforced the notion that success in law required conformity to masculine norms, marginalizing

⁶⁴Ruby Heap, "Introduction: Women and Gender in Canadian Science, Engineering, and Medicine," *Scientia canadensis*, Vol 29, No. 2, (2006): 6.

⁶⁵ Ibid, 7

⁶⁶Brunet, "Becoming Lawyers," ii.

any expression of gender difference. Ultimately, this dynamic not only perpetuated gender inequities but also constrained the diversity of thought and experience within the legal profession.

Joy Parr's *Gender of Breadwinners* provides ample evidence of women's relationship to wage labour alongside industrialization and demonstrates how women's work became defined in relation to their work in industrial settings, the market, and consumer culture. Joan Sangster's work, particularly *Transforming Labour* and *Demanding Equality*, speaks to many of the issues prevalent in the Canadian women's movement and contextualizes how women's activism coincided with the push into male-dominated spheres. Most of the literature, in other words, treats female voices from the bottom up and utilizes the experiences of women in wage positions to understand women's presence in traditional male-centric historical narratives excluded them. The recent volume, *Gender and Careers in the Legal Academy*, by Ulrike Schultz et al., presents a global perspective on women's entrance to the academy and gender disparities that occurred inside international institutions. Julie Paquin and Mary Jane Mossman have contributed to the literature on the law academy in Québec and Ontario. However, none of these studies included an historical analysis of the ways in which the liberal legal profession in Canada dealt with feminist legal thought or how women were treated when they sought representative positions in law faculties. Instead, the feminism to which legal professionals subscribed is often either erased from the historical narrative or perceived as liberalism – the political and social philosophy that promotes, above all, individual rights, and civil liberties.⁶⁷

Michel Ducharme and Jean-François Constant, in *Liberalism and Hegemony*, assert that

⁶⁷ Hough, "Mistaking Liberalism for Feminism," *Journal of Canadian Studies*, Vol 29, No. 2, (1994): 147.

liberalism's power persisted beyond the nineteenth century and its ongoing impact should not be overlooked by any intellectual or historian.⁶⁸ Beginning in the late 1960s, opinions about the pre-existing patriarchal state, which hid behind the discourse of liberalism, began to be challenged.⁶⁹ Although perhaps representing tokens at first, women in the twentieth century began to occupy positions of power in provincial and federal cabinets and the superior courts. Ian McKay, in his article, "The Liberal Order Framework," asked Canadian historians to interpret the past by examining liberalism as the most influential ideology of the nineteenth and early twentieth centuries. Canadian liberalism's political underpinnings were rooted in the gradual and partial inclusion of women and racialized peoples. As Adele Perry has pointed out, liberal theory was anchored in the privatization of women and the relegation of non-Western peoples to a different space in political life. While women began to occupy leadership roles between 1961 and 1994, liberal political cultures continued to exclude women and racialized individuals in more subtle and complex ways, often through mechanisms that were difficult to detect or challenge.⁷⁰

For the purpose of this study, the Canadian liberal order refers to the ideology of social progressivism and its importance in shaping democratic institutions by providing previously disadvantaged groups with perceived rights and opportunities. Canadian liberalism is predicated on gendered and racialized exclusions which arguably did not disappear by the end of the twentieth century but instead were reinforced subtly by the resistance of institutions to change.⁷¹

⁶⁸ Jean-Francois Constant, Michel Ducharme, "Introduction: A Project of Rule Called Canada," *Liberalism and Hegemony: Debating the Canadian Liberal Revolution*, Jean-Francois Constant, Michel Ducharme eds. (Toronto; Buffalo: University of Toronto Press, 2009) 5.

⁶⁹ Ian McKay, "The Liberal Order Framework: A Prospectus for a Reconnaissance of Canadian History," *The Canadian Historical Review*, Volume 81, Issue 4, (2000), 620.

⁷⁰ Adele Perry, "Women, Racialized People, and the Making of the Liberal Order in North America," *Liberalism and Hegemony*, Jean-Francois Constant, Michel Ducharme eds. (2009) 291.

⁷¹ *Ibid*, 276.

Although there was a definite gradual deployment of women in the 1960s to the 1990s into spaces in the legal profession which were previously unattainable, institutions resisted this development by reluctantly incorporating women and racialized people's politics into the composition of the institution and preventing women and racialized people from attaining representative positions. Female associations with feminist discourses contributed to the reluctance of institutions to accept women into decanal positions. It is in instances such as these that we can more fully see the remnants of the liberal order in the latter half of the twentieth century.

The methodology of this study involves investigations of positions of women within the faculties of law at the universities of: Laval, Montréal, McGill, Sherbrooke, Queen's, Western, Windsor, Victoria, Dalhousie, York (Osgoode Hall), New Brunswick, Alberta, Saskatchewan, Manitoba, British Columbia, Toronto, Ottawa, Québec à Montréal, Calgary, and Moncton. It adopts a comparative lens to consider how women were treated in civil law faculties in Québec as compared with their treatment at common law faculties in the rest of Canada. Moreover, analyses of the respective law faculties explore the distinctive social hierarchy and structure that existed within the walls of their institutions. The study does this by interpreting interviews with women who were employed in the law faculties along with archival evidence found in the Canadian Association of Law Teachers fonds from Library and Archives Canada, and documents including calendars, yearbooks, reports, Canadian Association of Law Teachers Directories of Law Teachers (1961-1994), correspondence and meeting minutes in the Faculty of Law fonds from each corresponding institution (as listed in more detail in the bibliography). Some institutions, such as the University of Toronto, restricted access to meeting minutes, and they were unavailable for consultation. In addition, documents such as newspaper clippings from law student's newspapers and associations, Ad Hoc committees, women's councils, and individual

women's archival collections are also utilized as part of the effort to determine how the university at large received women and women's issues once the external demand for women's programs overwhelmed the institutions. It also examines legal cases and the development of anti-discrimination laws in each respective province. Numerous newspaper and magazine articles are also utilized.

The ethical guidelines governing the treatment of sources in this dissertation posed challenges in balancing consent and anonymity, particularly when only one feminist scholar was working within a faculty at a given time. Navigating this balance was influenced by the ethical guidelines outlined in the York University Ethics Review, which emphasized the necessity of respecting boundaries and privacy. Anonymizing information presented a unique challenge, as in instances where only one overtly feminist scholar existed within a faculty, obscuring details without potentially revealing their identity became difficult. Given the limited number of potential participants in such academic settings, concerns arose about inadvertently revealing interviewees' identities. The review explicitly directed the inclusion of only information agreed upon by the participants, further emphasizing the importance of respecting privacy. Some participants chose to embrace transparency and waive anonymity, while others, equally integral to the narrative, were woven into the chronicle with due consideration for maintaining their anonymity. The methodology employed in conducting interviews intersected with broader qualitative and quantitative data on gender representation in Canadian law faculties. The Canadian Bar Association's *Touchstones for Change Report* [1993] provided essential context, revealing disparities in female law faculty representation, accentuating the importance of both individual agency and the statistical realities of the time.

The process of selecting interview participants was guided by a thorough examination of

law faculty calendars and teaching directories, along with an assessment of feminist legal scholarship. This approach focused on individuals whose narratives could be enriched by primary source materials and who had a substantial body of personal publications. It is important to note that not every woman faculty member at every law school during the period was interviewed. Instead, specific criteria for inclusion and exclusion were applied. Participants were selected based on their significant contributions to feminist legal scholarship and their availability. While part-time and contract faculty were included if they contributed to furthering the development of feminist legal analysis, the bulk of the analysis rests on the availability of tenured or tenure-track faculty.

The study examined the trajectories of 95 women within Canadian law faculties, utilizing archival evidence and published scholarship to piece together their experiences. Of these 95 women, 18 chose to waive their anonymity, permitting the inclusion of their personal experiences in the project. One of these 18 women did not teach but shared her experiences regarding the absence of female law professors in the 1970s. Only one interview conducted in French waived anonymity. While 2 men waived their anonymity, their perspectives were considered but not included in the scope of this study. This means that approximately 17.1 per cent of the women involved in the study, provided their identities and narratives, offering a valuable, personal perspective to the research. Additionally, while further interviews were conducted, they are not discussed in this study because of confidentiality agreements with the participants.⁷²

In addition to the comprehensive selection criteria previously outlined, a specific effort was made to include women scholars who held groundbreaking positions as “firsts” within the

⁷² The total number of interviews I conducted is 40.

Canadian legal academy. The concentration, however, was on female professors who engaged with feminism in some way. Recognition was given to those who achieved the distinction of being the first women to attain professorial status at law faculties and those who became the inaugural woman deans. The endeavour to secure interviews with these individuals added an extra layer to the selection process. Their unique perspectives and experiences, often marked by challenges and triumphs in breaking gender barriers, were considered integral to the study. Notwithstanding encountering certain logistical challenges in reaching out to these distinguished figures, the research prioritized their inclusion through various means, including persistent communication efforts and alternative research methods. In cases where direct interviews were not feasible, the study relied on archival collections, websites, and secondary sources to illuminate the experiences of these “firsts.”

The interview methodology employed in this study reflects a meticulous and individualized approach tailored to each participant’s unique experiences and contributions to the legal profession. Extensive research into the career trajectories and scholarly outputs of the selected women scholars was conducted prior to each interview, allowing for the formulation of thematic questions designed to explore their professional journeys, perspectives on feminist legal scholarship, and pivotal moments within the law faculties they were affiliated with. While some interviews were conducted with men to corroborate experiences and understand the broader environment of the faculties, the focus remained on capturing the women’s insights.

Interviews were primarily conducted via Zoom, a practice inspired by the technological advancements during the COVID-19 pandemic, which also allowed for the participation of retired scholars living in rural areas of Canada. In total, there were three in-person interviews and 37 conducted via Zoom.

For those preferring face-to-face interactions, in-person meetings were arranged at their homes or faculty offices. One week prior to each interview, participants were provided with the questions, offering time for reflection and preparation, which contributed to more nuanced discussions. The flexible, discussion-based nature of the interviews allowed for the exploration of diverse perspectives in a comfortable and respectful environment. Throughout the process, ethical considerations were paramount, with explicit adherence to participants' consent and careful handling of sensitive information. The consent form, appended to the dissertation, emphasizes the commitment to transparency and ethical integrity [See Appendix B, p.348]. This methodology underscores a dedication to scholarly rigour, ensuring the authenticity and reliability of the research findings.

In instances where direct interviews with certain participants, especially francophone scholars, proved unattainable, a proactive approach was taken to ensure their contributions were still incorporated into the research findings. Recognizing the significance of their perspectives and experiences, even in their absence, additional research methods were employed. Extensive reliance was placed on alternative sources, including archival collections and reputable personal archival websites, to gather information about their careers and contributions to the legal profession. This supplementary research not only compensated for the unavailability of direct interview testimony but also enriched the overall depth and comprehensiveness of the study. By weaving together diverse sources, the research sought to capture the multifaceted nature of women scholars' impact on legal academia, even when direct engagement with them was not feasible. This approach reflects a commitment to acknowledging and valuing the contributions of individuals who, while not directly interviewed, shaped the legal profession through their scholarly endeavours.

Despite the planning and thoughtful selection process, the interview methodology presented some challenges, particularly in the realm of online engagement. Some of the selected women scholars, residing in remote areas, encountered difficulties responding to emails or, in some instances, did not attend scheduled online interviews. The challenges posed by technological barriers and the inherent limitations of virtual communication underscored the complexities of conducting interviews in an online environment. The absence of face-to-face interactions, compounded by sporadic responses, presented a unique set of hurdles, affecting the depth of engagement and rapport-building that could have been fostered through in-person meetings. The challenges of virtual research reveal the complexities of establishing connections and understanding participants' experiences solely through digital means. Acknowledging these challenges adds transparency to the research process, highlighting the impact of the virtual setting on participant engagement dynamics and emphasizing the importance of adaptability in the appearance of unexpected challenges. However, these interviews were useful in the context of the pan-Canadian focus of this dissertation because many of the interviewees began their careers at one institution and ended up on the other side of the country within a decade.

This dissertation is not an institutional hagiography that aims to tell the story of each law faculty. Instead, it contextualizes the ways in which women were buffeted by ideological presuppositions and assumptions about their place in the academy and how this affected their careers in the legal professoriate.

Taken as a whole, the study analyzes the regions in Canada through the years of 1961 to 1994, which featured relatively small numbers of women in teaching positions. The chapters both inform and build upon the idea of *representative positions*, by first demonstrating how the historiography dealing with the law schools in each respective region overlooked systemic

discrimination while providing a picture of the Canadian law faculty scene in chronological order from when the first woman was hired in each law faculty. It does this by investigating the historical, social, cultural, and political constraints that affected the law school, while also paying attention to the legal atmosphere of the time and how it may have shaped rights discourse in each province, and thereby the place of women in professional positions.

More specifically, in order to present a picture of the Canadian law faculty scene in the late twentieth century, the chapters are connected by highlighting similarities in the women's experiences and by examining how the overarching idea of androcentrism may have functioned to keep women out of decanal positions in law faculties. This provincial/regional approach is intellectually justifiable because of the relationship of the law faculty to the University as a whole, which varies depending on time and place. Law faculties tend to reflect cultural and political trends within the population of each specific area because of their general attachment to university institutions after the Second World War. The period from 1890 to 1940 solidified the need for public education, which can be ascribed to the rapid expansion of industrial capitalism, the acceptance of the consumer ethos, and the secular society.⁷³ Across Canada, in the years beyond the war, legal education was reduced to a strain within the university rather than existing as a stand-alone institution, and this adds complexity to women's entry into the academy.

For example, the introduction of higher education to the British North American province of Upper Canada occurred as soon as the colony was born in 1791 because it was central to the making of settler society.⁷⁴ Brian McKillop asserts that "the university is above all

⁷³ Susan Houston and Alison Prentice, *Schooling and Scholars in Nineteenth Century Ontario*, (Toronto: University of Toronto Press, 1988) x.

⁷⁴ Brian McKillop, *Matters of Mind: The University in Ontario 1791-1951*, (Toronto: University of Toronto Press, 1994): xvii.

an institution in which past and future meet in uncertain and uneasy combination.”⁷⁵ Yet, the Law Society of Upper Canada did not establish its law school, Osgoode Hall, until 1889, and it held a monopoly over legal education until 1957: all law students who attended Ontario university law schools had to repeat courses at Osgoode Hall before 1957. However, each province has a fundamentally different history connected to the university as a social and cultural structure, just as the beginnings of legal education in each region are unique. Women were prohibited from becoming lawyers across the country until 1897 and it took 64 years after that for them to be able to teach law.⁷⁶ However, the law school was not unusual in this respect. Women had minimal representation in university faculties in disciplines which dealt with power-related subjects, such as history and political science departments from 1970 to 1994.⁷⁷



Figure 1 - Law Schools in Canada, 1961-1994

⁷⁵Brian McKillop, *Matters of Mind: The University in Ontario 1791-1951*, xvii.

⁷⁶ Statistics Canada, “How Far Have We Come: Representation Among Full-Time University Faculty,” Full-Time University and College Academic Staffing System [FT-UCASS], 11-627-M. Colin Lindsay and Marcia Almey, *A Quarter Century of Change: Young Women in Canada in the 1970s and Today* (Statistics Canada, December 2004), funded by Status of Women Canada’s Policy Research Fund.

⁷⁷ Statistics Canada, FT-UCASS, 1970-1994.

The chapters are broken down according to the geo-political regions in Canada because each law faculty within its respective province had its own unique challenges and issues not necessarily present elsewhere. However, intellectual challenges between groups of feminist women, law faculties' administrative reluctance to fully incorporate women, and the delegation of gendered responsibilities to women faculty members were commonplace across the country. The final chapter treats the linkages and points of divergence between the faculties based on their connections to region and overarching legal spheres of civil and common law traditions.

Chapter 1 examines the social structure and professional culture and significance of Québec in taking the inaugural step toward hiring women in teaching positions in law faculties. Québec law faculties incorporated women as law professors and deans at a faster pace than most common law institutions in the rest of Canada – appointing Alice Desjardins as the first full-time professor at Université de Montréal in 1961, as mentioned. The chapter traces how the civil tradition might have had more of an influence on the incorporation of women than common law institutions. The specific civil law tradition of Québec accounted for two distinct legal professions within the province: *avocats* (equivalent to barristers and solicitors in English Canada and *notaires* (similar to notaries found in other civil law jurisdictions.⁷⁸ The chapter investigates the ways in which women came to attain 62.6 per cent of the notariat by 2015, and highlights the contradiction that by 1997 women still comprised less than a third of Québec law professors.⁷⁹

Chapter 2 builds upon these ideas on a larger scale, as Ontario housed,

⁷⁸ Julie Paquin, "The Feminisation of Legal Academia in Québec: Achievements and Challenges," *Gender and Careers in the Legal Academy*, 80.

⁷⁹ Federation of Law Societies of Canada (FLSC), Statistical Report, 2015. Conférence des recteurs et des principaux des universités du Québec, *Caractéristiques et rémunération des professeurs de carrière des universités québécoises*, 1999. Cited in Jule Paquin, "The Feminisation of Legal Academia," 82-83.

quantitatively, the largest number of law schools across the nation in the time frame of this dissertation, and the largest number of gender-based conflicts specific to the faculties of law. Ontario law faculties were more reluctant than ones in other parts of Canada to incorporate women into teaching positions. Moreover, there is some evidence of covert attempts to eradicate feminism from the walls of the law schools. Although feminism was growing and the number of women attaining a legal education was unprecedented, law faculties were hostile places for women to work, especially if they had openly feminist views. The chapter thus also investigates how the “Chilly Climate” for women faculty deeply affected the way in which women thought about their relationship to their social and professional mobility in the legal professoriate.

Chapter 3, entitled *Trailer Blazers*, comparatively examines and juxtaposes the two law faculties in British Columbia. This is partly because at the University of Victoria, the law faculty opened during the time in which feminist women were demanding absolute equality in 1976. The University of Victoria opened its doors immediately having Diana Priestly on faculty as a law librarian. In contrast, when the University of British Columbia caught wind of the need for the incorporation of feminist legal studies, it delicately placed feminism out of its doors and into a trailer.

Chapter 4 delves into the intriguing dynamics of how the four common law faculties in the Prairies, were deeply tied to the gender norms of historical prairie settlement. The University of Calgary took the lead by appointing Margaret Hughes as the first woman dean nationwide in 1984. This chapter explores the historical legacy of ideas surrounding women and homesteading in the prairie provinces, aiming to decipher the reception and integration of women into higher education and subsequently into leadership roles within the legal profession. By scrutinizing this historical lineage, the chapter unravels the

complexities that shaped the trajectory of women's participation in the legal academy, providing valuable insights into the intricate relationship between the historical legacy of homesteading and the development of higher education, particularly the attainment of leadership roles in professional spheres.

Chapter 5 examines legal education in two of the three Maritime provinces, New Brunswick, and Nova Scotia. Distinctively, Dalhousie Law School is responsible for "The Weldon Tradition" setting the framework for modern legal education after the Second World War, which coincided with fast-paced changes in the university system. In addition, Université de Moncton founded in 1978 became the only law school offering a common law legal education entirely *en français*. This chapter concludes with a comparative analysis of the contradictions between the surge of women in French and English-speaking law faculties, explicitly highlighting how the surrounding social and cultural factors contributed to the earlier integration of women professors in Québec than in the rest of Canada. It further compares the impact of employment equity and affirmative action policies on gender disparities in the university context, drawing on specific examples to illustrate the intersection between gender and race within these academic institutions. Through this comparative examination, the chapter articulates key conclusions about the effectiveness of these policies and the ongoing challenges faced by women law professors in Canada.

Most importantly, this dissertation offers insights that aid in understanding the current place of historically marginalized individuals in university institutions in Canada because there are historical parallels that cannot be disregarded. In 2016, Angelique Eaglewoman left her decanal position at Lakehead University Faculty of Law, and many have attributed it to the continuous hostile environment for racialized women in law faculties. Beyond the 1990s, intersectional feminism made a call for an understanding of the complex way in which disparities are shaped by one's relation to their social and cultural identity. Judith Bennett's work illustrates

that patterns for women in the professions have reflected *continuity* rather than *change* and called for a distinction between changes in experience and transformations in women's status.⁸⁰ Greater awareness of the continuity of such issues and their persistence in academic departments and arenas outside the legal profession is gained by this dissertation's exploration of two groups of second wave feminists and the challenges they met as revealed in archival records and in their own accounts of their firsthand experiences.

⁸⁰ Judith Bennett, *History Matters: Patriarchy and the Challenge of Feminism*, (Philadelphia: University of Pennsylvania Press, 2006) 2-5.

Chapter 1

La condition des femmes professeures de droit au Québec

In 1961, a remarkable moment occurred in Canada's history when Alice Desjardins assumed the coveted position of professor at the University of Montréal Faculty of Law.⁸¹ This event marked the breaking of barriers, as Desjardins became a trailblazer – the first woman in Canada to hold the esteemed role of law professor. Her appointment sent tremors through the scene of male-dominated legal professionalism, challenging longstanding norms. Desjardins' ascent was not merely a personal achievement; it symbolized a transformative era for women in the legal academy. In the years beyond the Second World War, women embarked on a slow and gradual journey towards leadership roles in higher education. However, Desjardins' reflection, as quoted below, seems to overlook the rich history of women's contributions to Québec's educational fabric:

Sans aucun doute, la nature l'avitaille créé, et lui seul, pour cette fin ultime; et c'est ainsi que l'homme s'adonna presque exclusivement aux arts nobles que sont la guerre et la politique, et qu'il confia à la femme, inférieure de par sa constitution physique, le soin de s'occuper d'agriculture et de travaux domestiques; tâche dont elle s'acquitta d'ailleurs avec toute la soumission propre à son sexe. Ainsi vécurent-ils pendant longtemps. Puis un jour, bêtement le progrès supplanta la tradition; la mécanique l'emporta sur la force musculaire et une foule de nouvelles inventions vinrent bouleverser la vie paisible et primitive du genre humain.⁸²

By the late twentieth century, Québec's law faculties took bold strides in embracing women as educators in significant numbers. This progress owed a debt to the earlier recognition

⁸¹ The [1963-1964 University of Montréal Calendar](#) indicates Alice Desjardins as an Assistant Professor in 1963. She did not appear in the University calendar before then. However, the [Faculty of Law Calendar](#) directory places Desjardins as an Assistant Professor in the 1962-1963 academic year. In [1961-1962](#), Professor Yvan Desjardins was listed as *Professeurs à la leçon*. This could contribute to the confusion surrounding Alice Desjardins' appointment year.

Nevertheless, historiography suggests that Desjardins was Canada's first female law professor.
⁸² Alice Desjardins, « Controverse Entres Femmes, » *Le Quartier Latin*, 18 Octobre 1956.

of the legitimacy of women's organizations in Québec. This chapter delves into the social structures and professional cultures in Québec that enabled women to become law professors and deans, outpacing their counterparts in common law institutions across Canada. The narrative of women entering the legal academy began with Alice Desjardins' pioneering appointment in 1961 and continued with Thérèse Rousseau-Houle at Laval University and Hélène Dumont at Montréal, who assumed deanship roles in the 1980s.⁸³ Moreover, the University of Montréal made history again in 1972 when it proudly welcomed Canada's first Black law professor, Juanita Westmoreland-Traoré.

Yet, these victories were somewhat nuanced because of the realities of women's place in Québec's law faculties. Despite their comparatively faster and more comprehensive acceptance into these institutions, women faced differential treatment within their professional realms. This period serves as a compelling chapter in the ongoing saga of women's progress and challenges in the legal arena, a story of pioneers who reshaped the landscape of Canada's legal education system. Echoes of "La condition féminine" reverberated through the pages of student activist newspapers and informational materials, igniting a flame of change within the university scene.⁸⁴ These women, daring to challenge longstanding traditions in Québec's francophone university legal education, reshaped the contours of law teaching with their revolutionary concept of "needs-based" legal instruction rooted in their understanding of the feminine condition. By the

⁸³ Before women were appointed as deans of law in Québec, there was one preceding decanal appointment of a woman dean at the University of Calgary Faculty of Law, Margaret Hughes in 1984, discussed in Chapter 4.

⁸⁴ Francine Roy – Coordonnatrice à la condition féminine, *La Participation des étudiantes à leurs structures*, document préparé pour le Comité l'Université Laval au Féminin, Avril 1983. Fonds de Faculté de droit, Archives de l'Université Laval. U539105, et Fonds Association des étudiants en droit de l'Université Laval P180.

1980s, their audacious ideas would open the once-guarded gates of Québec's law curriculum.

As women steadily carved their path into these revered institutions, some keenly observed the challenges their fellow women faced. In contrast, others remained oblivious to the subtle biases woven into their experiences. For many, the journey into the legal profession seemed far from arduous. Yet, beneath these varied perspectives, a common thread emerged – the pervasive presence of sexism, whether acknowledged or concealed. The experiences of women who entered the hallowed halls of law faculties at Laval, McGill, Montréal, Québec à Montréal, and Sherbrooke unveiled a new lens through which to view the influence of religious women, professional women, and dedicated activists in the history of Québec. These women's experiences form a crucial chapter in the narrative of how law educators contributed to the hybridity of feminism in Québec from 1961 to 1994. Canadian feminism was multifaceted, with various political voices working together rather than singing harmoniously. It is hard to pinpoint a single feminist consciousness or movement; instead, different groups of feminists had multiple visions of equality, freedom, and social change throughout the twentieth century. Feminism represented a blend of politics, where women saw independence, equality, and dignity as interconnected with struggles against other injustices, such as racism, war, colonialism, economic inequality, and homophobia.⁸⁵

This chapter details Québec's law faculties during the late twentieth century and analyzes the appointments of their first law professors and deans. Framing these women's faculty appointments as a product of the societal changes brought by the Quiet Revolution, this chapter examines how women in Québec secured appointments earlier and more comprehensively than their counterparts in the rest of Canada.

⁸⁵ Joan Sangster, *Demanding Equality*, (2021) 8.

While systemic challenges and discriminatory patterns ran rampant, Québec law faculties were nevertheless distinct in this time period.

*

The norms and traditions of higher education in Canada were set by its early universities. The University of King's College, founded in 1789 by Anglican Bishop Charles Inglis, became the first degree-granting institution in Canada with its royal charter in 1802. This was soon followed by McGill University in 1827 and the University of Toronto in 1829. After the Rebellions of 1837-1838, McGill introduced Canada's first law program, influenced by Québec's Civil Law tradition.⁸⁶ Initially focused on Civil Law, the curriculum later incorporated Common Law in the twentieth century.

Following the establishment of the McGill Faculty of Law in 1848, the short-lived law school of Sainte-Marie College was formed in 1851, and the Faculty of Law at Laval University was established in 1852.⁸⁷ The Catholic Church has exerted a significant and influential leadership role throughout Québec's history. It played a central role in establishing New France in the early seventeenth century, and its ideological influence on the professions continued well into the nineteenth and twentieth centuries.⁸⁸ The Church's influence extended beyond religious

⁸⁶ McGill University Faculty of Law opened a civil law program in 1848 and a common law program in 1969. See Stanley Frost, "The Early Days of Law Teaching at McGill" *Dalhousie Law Journal*, Vol 9.1, (1984): 153.

⁸⁷ Sylvio Normand, *Le droit comme discipline universitaire : Une histoire de la faculté de droit de l'Université Laval*, (Québec : Les Presses de l'Université de Laval, 2005) 15.

⁸⁸ Michael Gauvreau, *The Catholic Origins of Québec's Quiet Revolution, 1931-1970*, (Montréal: McGill-Queen's University Press, 2005); Gauvreau, "From Rechristianization to Contestation: Catholic Values and Québec Society, 1931-1970," *Church History*, Vol 69.4, (December 2000): 803-833; Nancy Christie and Michael Gauvreau, *Christian Churches and their Peoples, 1840-1965*, (Toronto: University of Toronto Press, 2010); Bridgette Caulier, "Developing Christians, Catholics, and Citizens: Québec Churches and School Religion from the Turn of the Twentieth Century to 1960," *The Churches and Social Order in Nineteenth and Twentieth Century Canada*, Michael Gauvreau and Oliver Hubert eds. (Montréal: McGill-

matters and permeated various aspects of daily life, giving it considerable economic and social power. Québec's education system developed in a way that reflected its population's linguistic and cultural diversity, with French and English as the primary languages of instruction. Tensions between the Anglophone and Francophone populations intensified with Catholic education's development.⁸⁹

After Confederation in 1867, education was left primarily under provincial jurisdiction.⁹⁰ Québec (then known as the Province of Québec) maintained its distinct educational system, with separate anglophone and francophone institutions. In this context, the Law Faculty at the University of Montréal, initially a branch of Laval, opened in Québec in 1878.⁹¹ Legal education at universities in Canada was in its infancy before Confederation. The two law schools at McGill and Laval had only a small number of graduates by 1867. The Law Society of Upper Canada did not recognize university law degrees from Ontario or elsewhere as meeting its requirements, following the example of English barristers and solicitors opposed to university legal education.

Queen's University Press, 2006): 175-194; Peter Breyer, "The Mission of Québec Ultramontaniam: A Luhmannian Perspective," *Sociological Analysis*, Vol 46.1, (Spring 1986): 38; Charles Lindsay, "The Ultramontane Movement in Canada," *The North American Review*, Vol 125, Nov-Dec 1877; John A. Dickinson and Brian Young, *A Short History of Québec: Fourth Edition*, (Montréal and Kingston: McGill Queen's University Press, 2008) 22.

⁸⁹ In 1663, the French crown took direct control of New France, with education primarily run by religious orders like the Jesuits and Ursulines in French. After the British conquest in 1763, English-speaking Protestants gained political and economic power. The Québec Act of 1774 allowed Catholic French-speaking residents to maintain their institutions. The Constitutional Act of 1791 divided the territory into Upper Canada (English-speaking) and Lower Canada (French-speaking), each with its own government and education system. In the nineteenth century, various French institutions developed alongside the establishment of French universities (such as Université Laval and Collège Sainte-Marie). Some of the notable organizations in nineteenth-century Québec include the Société Saint-Jean-Baptiste, the Institut Canadien de Montréal, and the Société littéraire et Historique de Québec. This division persisted, with English Protestant and French Catholic educational institutions developing separately.

⁹⁰ S. 93 of the *British North America Act* authorized provincial legislatures to make laws related to education.

⁹¹ Normand, 15.

However, it eventually embraced the trend toward university legal education in North America. In 1889, it restructured its educational offerings with the establishment of Osgoode Hall Law School. However, this was a concurrent program in which students attended lectures in the morning and did office work as part of the articling requirement in the afternoons.⁹²

In Québec, the bar initially allowed law faculties to set their curricula and did not object to Laval's creation of a new faculty in Montréal in 1878. However, in 1866, the bar amended its constitution to gain control over the content of university law programs, including the number of hours required for apprenticeship or the possibility of waiving the clerkship for those with law degrees. In 1890, McGill attempted to have a bill introduced in the Québec legislative assembly by Attorney General Thomas Chase Casgrain that would allow university law graduates to practice without further qualifications, but it was unsuccessful. Opinions on this proposal varied, even within the academic community, as many law faculty instructors in Québec were practising lawyers with diverse perspectives. Nonetheless, in the same year, universities did manage to pass a policy that allowed anyone with a bachelor's degree to enter a university program in the liberal professions or commence a legal apprenticeship without the traditional examination administered by the Barreau du Québec or the Chambre des notaires.⁹³

The inception of the Faculty of Law at Université Laval in 1852 played a pivotal role in influencing legal education in Québec. It primarily emphasized the teaching of civil law principles and the preparation of legal professionals following the civil law tradition. Given the influence of the Barreau over legal education, the program provided at Laval was strongly oriented to professional training.

⁹² Jim Phillips, Philip Girard, Blake Brown, *A History of Law in Canada Vol II: Law for the. New Dominion*, (Toronto: University of Toronto Press for the Osgoode Society, 2022) 193.

⁹³ Phillips, Girard, Brown, *A History of Law in Canada Vol II*, 194; See also Normand *Le droit comme discipline universitaire*, 80.

There were no dedicated “legal academics”; the teaching staff primarily consisted of practicing lawyers who engaged in part-time instruction. Notably, even the deans held positions as judges, balancing their judicial roles with part-time decanal responsibilities. The University of Montréal only welcomed its first full-time professor in 1944, while Laval University followed suit with its initial two in 1946. This historical context makes it challenging to characterize a prevailing culture of legal academics within francophone faculties during this era. McGill University stood as an exception, boasting a handful of full-time professors; however, they did not appoint a full-time dean until 1897.⁹⁴

In this context, the Québec legal academy developed around an androcentric professionalism of practicing lawyers, as women in Québec had no political rights. This meant there was an inherent tendency within legal education, scholarship, and even discourse to place male experiences, perspectives, and concerns at the forefront and neglect and exclude those of women. Women were not present during the establishment of the social sciences at francophone universities, just as they were not present during the establishment of the law curriculum. An exception to this absence was Annie MacDonald Langstaff, who, with the support of her employer and the permission of McGill’s Dean Walton, became the first woman to study law in Québec, paving the way for future generations to challenge the male dominance of the legal academy.

⁹⁴ J Sewell, “Essay respecting the early civil and ecclesiastical juridical History of France” (1845), E. Lareau, *Histoire du droit canadien*, 2 vols (Montréal: A. Périard, 1889) cited in David Howes, “The Origin and Demise of Legal Education in Québec,” *University of New Brunswick Law Journal*, Vol 38, (1989): 128; Mélanie Brunet, “Becoming Lawyers” 28.

The accomplishments of women such as Annie MacDonald Langstaff must be noted to recognize the significance of women's unique access to the all-male field of the Québec legal academy in the latter half of the twentieth century. Once women gained law degrees, they faced enormous difficulties when they wanted to practice in Québec.⁹⁵ While Langstaff became the first woman graduate of McGill Law in 1914, she was denied access to the qualifying exams of the Québec bar. Langstaff then filed for a mandamus order in the Superior Court to be allowed to take the Bar examinations. However, she was turned down in both the Superior Court and the Court of Appeal in two judgements rendered in 1915. Only an amendment to the law would allow women to enter the bar. Some Members of the Legislative Assembly supported the cause and took the initiative to submit private bills. From 1916 to 1931, three former students at Laval University (Lucien Cannon, Élisée Thériault and Oscar Drouin) proposed such private bills to the legislative assembly, but these initiatives were unsuccessful.⁹⁶

Strong historical antecedents surrounding women's matriarchal role in Québec, especially within the Catholic tradition, did not wholly determine how women were received in professional spheres in the late twentieth century.⁹⁷ The mobilization of women in the nineteenth century led to the creation of various educational networks, which developed into women's study circles. However, historians have emphasized the crucial role women played in sustaining religious vocations for themselves, a tradition that took root in the mid-nineteenth century.

⁹⁵ Margaret Gillet, *We Walked Very Warily*, " 303.

⁹⁶ Normand, *Le droit comme discipline universitaire*, 124.

⁹⁷ Marta Danylewycz, *Taking the Veil: An Alternative to Marriage, Motherhood, and Spinsterhood in Québec 1840-1920*, (Toronto: Webcom Ltd., 1987) 14.

Even the feminist movement, which aimed primarily to win economic and political rights for lay women, established conditions favourable to forming another women's religious and educational community, the Institut de Notre-Dame-du-Bon-Conseil, in 1923.

Marie J. Gérin-Lajoie, an influential force in the university and legal professions in the early twentieth century, founded the Institut in 1923. Its mission was to educate ordinary women about their social, political, and religious responsibilities, which promoted social feminism in the succeeding decades.⁹⁸ Similarly, the feminist insistence that women be admitted to serve on school boards and have the right to pursue higher education created new opportunities for religious women. These changes led to the acceptance of women in law school as legal education became part of the broader reform of Québec's higher education system. While the Barreau du Québec is often seen as the primary barrier, the real responsibility for the delay in admitting women lies with the legislature. Although the Barreau had narrowly voted in the 1920s not to oppose women's admission, the legislature, fearing the social implications of such reform, hesitated to act. It was believed that a legal amendment was required, not just a change in Barreau policy. Finally, in 1941, one year after women gained enfranchisement in the province, the law was amended, allowing women to enter the legal profession.⁹⁹ Québec was a paradox. While it was the last province in Canada to enable women to be called to the bar, internal faculty politics and external demands for women in power produced the need for an abundance of women in law faculty teaching positions in the late twentieth century.

Significant changes occurred, however, in Québec legal education in the years beyond the

⁹⁸ Danylewycz, *Taking the Veil*, 155; See also Hélène Pelletier-Baillargeon, *Marie Gérin-Lajoie : De mère en fille, la cause des femmes*, (Québec : Boréal Express, 1985) 13.

⁹⁹ Julie Paquin, "The Feminisation of Legal Academia in Québec" 81.

Second World War, fueled by the renewal of conflict between clerico-nationalist and liberal ideologies, which formed the basis of *Révolution tranquille*.¹⁰⁰ Before the 1940s, the Catholic Church in Québec supported the clerico-nationalist ideology, whose principal goal was sacralizing the institutions, customs, and values associated with the new industrialized and urban society. Teaching liberal social sciences went against the traditions of the established francophone universities. It is evident that Canadian universities with an English-speaking medium of instruction, in contrast to their American counterparts, displayed a marked reluctance, persisting well into the 1940s and beyond, in embracing the pedagogy of social sciences and specialization. This reticence stemmed from the enduring influence and prominence of the moral philosophy tradition within their academic milieu.¹⁰¹

From 1938 to 1955, such prominent figures as Georges-Henri Lévesque established the disciplines and methodologies of secular social science at francophone universities. Sylvio Normand notes that these developments were primarily resisted in the francophone law faculties at that time, highlighting the challenges faced in introducing such changes.¹⁰²

Aside from the faculty of law's much slower acceptance of the new social science discipline, Lévesque's contribution to the university system was still essential. Without the social passion that originated in a liberal interpretation of Catholic social doctrine in the formative

¹⁰⁰ Michael Behiels, "Father Georges-Henri Lévesque and the Introduction of Social Sciences at Laval, 1938-55," *Youth, University, and Canadian Society: Essays in the Social History of Higher Education*, Paul Axelrod, John Reid eds. (Montréal and London: McGill Queen's University Press, 1989) 320.

¹⁰¹ Marlene Shore, *The Science of Social Redemption: McGill, The Chicago School, and the Origins of Social Research in Canada*, (Toronto: University of Toronto Press, 1986) 5-10, 23, 34; A.B. McKillop, *A Disciplined Intelligence: Critical Inquiry and Canadian Thought in the Victorian Era*, (Montréal: McGill-Queen's University Press, 2001) 16.

¹⁰² Georges-Henri Lévesque, *Souvenances I; entretiens avec Simon Jutras* (Montréal : Les Éditions La Presse, t.1, 1983).

years of the Quiet Revolution, Lévesque would not have been able to successfully convince the leading ecclesiastics at Laval that the social sciences should have an important role in the modern Catholic University. Social passion within liberal Catholic social doctrine reflected a commitment to build an inclusive community based on equality and human dignity derived from the Catholic faith and broader liberal tradition.¹⁰³ Lévesque's contributions led to the rediscovery and redefinition of Québec's collective image, forming the ideological basis for the Quiet Revolution.¹⁰⁴ This can be considered a significant shift that advanced understandings about women's place in Québec higher education and signified an opening for more opportunities for women. Thus, the complete reorientation of Québec society in the decades leading to and during the 1960s contributed to establishing a fertile ground for women to overcome historical barriers related to their access to the legal academy

Transformations for Women: Québec Legal Education and *Révolution tranquille*

In the late twentieth century, women in Québec law faculties faced certain conditions within their employment that reflected gender disparities and inequalities. These conditions were evident in various aspects of their experiences, including the delay of their representation within faculty positions, career advancement, and institutional support. Despite the increasing number of women students, the hiring and promotion of female professors lagged. In the 1960s and 1970s, there was a notable increase in the total number of law students, coinciding with a significant shift in the gender composition of the student population. Until the mid-1960s, women constituted only a tiny fraction of Québec law graduates. For example, there were thirty-two female graduates at Laval from 1947 to 1965, representing 5.2 percent of graduates.¹⁰⁵

¹⁰³ Marlene Shore, *The Science of Social Redemption*, 270.

¹⁰⁴ Martin Paquet et Stéphane Savard, *Brève histoire de la Révolution tranquille*, Québec : Les Éditions du Boréal, 2021, 15.

¹⁰⁵ Sylvio Normand, « Tradition et modernité à la Faculté de droit de l'Université Laval de 1945

However, this pattern began to change rapidly in subsequent years. At Laval, for instance, women comprised a mere third of the law student population in 1970, and this figure surged to over 60 percent at the beginning of the 2000s. Notably, the newly established law faculties experienced limited representation of women faculty during this period. In the 1960s, only one female hire was recorded: Alice Desjardins was appointed the first full-time female law professor in Canada at the University of Montréal in 1961. It took almost nine more years to see additional appointments of women at Laval University, with Édith Deleury and Nicole L'Heureux joining the full-time faculty in 1969-1970.¹⁰⁶

The importance of the Quiet Revolution on developments for women, specifically in Québec legal education, has been somewhat overlooked in legal historiography. The Quiet Revolution was an exhilarating time in Québec with the social transformations wrought by the growth of the student population, the reform of the secondary school system, the creation of *Collèges d'enseignement général et professionnel* (the CEGEPs), the expansion of the university systems, the renewal of structures of the professional corporations, and the relaxation of their control over university education. JEC Brierley asserted that these were harmonious forces that provided a new optimism to those who had taken up university teaching as a vocation and saw a new role for university studies in law.¹⁰⁷ The topic of legal education became intertwined with the perception that universities were public entities funded by the state, leading to an expectation

à 1965 » 33.1, *Le Cahiers de droit*, (1992) : 141.

¹⁰⁶ Julie Paquin, « La féminisation du corps professoral des facultés de droit au Québec, » *Canadian Journal of Women and the Law/Revue Femmes et Droit*, 346.

¹⁰⁷ JEC Brierley, "Historical Aspects of Law Teaching in Québec," *Legal Education in Canada: Reports and Background Papers of a National Conference on Legal Education*, Roy Matas and Deborah McCawley, eds., (Winnipeg: Federation of Law Societies of Canada/Fédération des professions juristes du Canada, 1985) 151.

that these institutions would prioritize the needs of the local community.¹⁰⁸

Women in Québec have had unique experiences in education, domestic work, employment, religion, law, and the state. These experiences were shaped by ideological, social, and political currents, especially since 1961.¹⁰⁹ The Roman Catholic Church and the evolving National Question, which in the 1940s and 1950s involved defending a bilingual Canada against British Imperialism and in the 1960s focused on Québec's potential independence, significantly influenced social relations. From the 1960s to the 1990s, neo-nationalism in Québec highlighted Québécois identity and aspirations for autonomy for some and the independence of Québec for others, culminating in the 1980 and 1995 referendums.¹¹⁰ This period saw a cultural revival, and the feminist movement challenged traditional roles and advocated for women's rights, shaping Québec's modern identity and its relationship with Canada.

Throughout these decades, the National Question referred to the complex and contentious issue of national identity and the relationship between French and English-speaking populations in Québec and the rest of Canada. The national question in the twentieth century involved debates about language rights, cultural identity, political autonomy, and the potential for Québec's separation from Canada. However, with their persistence, Québec women in the mid-twentieth century shifted the focus off the National Question onto the needs of women.

This

¹⁰⁸ JEC Brierley, "Québec Legal Education Since 1945: Cultural Paradoxes and Traditional Ambiguities," *Dalhousie Law Journal*, Vol 10.1, (1986) 6; Susan Mann, *Dream of Nation: A Social and Intellectual History of Québec*, (Montréal and Kingston: McGill-Queen's University Press, 2002) 317-318.

¹⁰⁹ Denyse Baillargeon, *A Brief History of Women in Québec*, (Waterloo: Wilfrid Laurier University Press, 2013) vii.

¹¹⁰ Kenneth McRoberts, "The Sources of Neo-Nationalism in Québec," *Ethnic and Racial Studies*, Vol 7. No 1., (1984): 56; Gilles Gougeon, translated by Louisa Blair, Robert Chodos, and Jane Ubertino, *A History of Québec Nationalism*, (Toronto: James Lorimer & Company Publishers, 1994) 105.

should not, however, negate the significance of the Quiet Revolution on Québec legal education and women's entrance into it. It could be argued that the progress established by women within the years leading up to the 1960s, coupled with the transformative changes elucidated by the Quiet Revolution, fostered a more inclusive atmosphere for women in the Québec legal academy.

More specifically, winning female suffrage at the provincial level in 1940 can be considered a turning point concerning women's relationship to politics in Québec. For example, the unionization of women workers led by Madeline Parent and Léa Roback during the Second World War strengthened women's activism in Québec. Various protests led by women in the 1940s and 1950s, including violent clashes during textile strikes in Valleyfield, Montreal, Lachute, and Louiseville, and demonstrations in front of the large French-Canadian department store on St. Catherine Street by members of the Catholic Workers Confederation of Canada [CWCC], became emblematic of class relations in Francophone society, transcending the National Question that elites tried to emphasize.¹¹¹ The years following the Second World War were marked by a series of events that paved the way for the resurgence of feminism in the 1960s, highlighting the foundation laid by the Quiet Revolution. Following the Second World War, many married women started to re-enter the workforce. This resurgence of working women spurred social debates concerning the education of girls and young women. During this period of transformation, there were heightened demands for changes in the legal status of married women and increased activism among women in various associations. This culminated in what is often referred to as a feminist revolution, marked by establishing new organizations. Feminist organizations in Québec, exemplified by such groups as the Fédération

¹¹¹ Denyse Baillargeon, *A Brief History of Women in Québec*, 140.

des femmes du Québec (FFQ), experienced significant growth and influence after 1966, actively championing women's rights and contributing to the broader feminist movement in Canada. This movement continued through the decades, with significant events relating to a greater awareness of the feminist cause, including the Daigle-Tremblay case, where the Supreme Court found that a fetus had no legal status in Canada as a person in both common and civil law and the École Polytechnique massacre.¹¹²

The abortion debate was also central to the FFQ's advocacy. In Québec, during the 1960s to 1990s, the debate was characterized by a unique blend of religious, cultural, and political factors. Québec's historical ties to Catholicism and the influence of the Catholic Church played a significant role in shaping attitudes towards abortion. While abortion was officially legalized in Canada in 1969, Québec had distinct dynamics because of the province's "Quiet Revolution" in the 1960s, which led to a decline in the Church's authority and increased secularization. However, even as Quebec became more liberal on social issues, the abortion debate remained contentious in the 1970s, reflecting broader societal shifts around women's rights, healthcare, and the role of government in personal matters. The Morgentaler trial, where Dr. Henry Morgentaler, a Holocaust survivor, openly challenged authority by performing illegal abortions, brought this issue to the forefront.¹¹³ Morgentaler had an antipathetic relationship with Jérôme Choquette, Quebec's justice minister, in the early 1970s. Morgentaler accused Choquette of being "directly responsible for the deaths and mutilations that may result" from his anti-abortion views, while Choquette called Morgentaler an "assassin."¹¹⁴ In 1976, then Quebec justice

¹¹² *Tremblay v Daigle* 2 SCR 530 [1989].

¹¹³ Bernard M. Dickens, "The Morgentaler Case: Criminal Process and Abortion Law," *Osgoode Hall Law Journal* 14, no. 2 (1976): 229–274.

¹¹⁴ Charles Foran, "Screening for Life," *Maisonnette*, 1 September 2003.

minister Marc-André Bédard ordered all charges against Morgentaler dropped and recommended that the federal government amend Article 251 of the Criminal Code because it was unenforceable.¹¹⁵ By 1982, Quebec, the most Catholic province, had seemingly become the most progressive. The feminist movement in Quebec vigorously advocated for abortion rights, contributing to a nuanced and evolving discussion on abortion during this period. The province's distinct cultural identity and evolving political discourse further shaped these debates. The political tensions extended beyond Quebec, involving figures such as former Ontario Attorney General Roy McMurtry and even Prime Minister Pierre Elliott Trudeau, who commented on Morgentaler's legal troubles and their implications for the jury system and political climate. These debates influenced the role of women in legal education, as the push for women's rights, including reproductive rights, highlighted the need for legal reforms and education that addressed gender equality and social justice, particularly in the context of women in the Canadian legal academy and the legislative changes in the late twentieth century.

Despite the abortion debate, women's liberation in Canada unfolded alongside major changes in Québec legal education, driven primarily by the profound societal restructuring in Québec after 1960. Much has been written about the Quiet Revolution of the 1960s and the early 1970s. It saw a significant change in how French-speaking individuals viewed themselves and how the Québec state provided services to advance that population's interests. For example, in 1960, Société Radio-Canada in Québec refused to broadcast an interview with Simone de Beauvoir, the ground-breaking author of *The Second Sex* [1949], because of her "obscene dismissal of marriage" which was regarded as too radical in a province

¹¹⁵ "Quebec Halts Morgentaler Prosecutions," *The Windsor Star*, 10 December 1976.

that had not fully experienced the full implications of the Quiet Revolution.¹¹⁶ By the mid-1960s, however, the French-language version of *Chatelaine* sponsored an entire forum on *The Second Sex*, which generally affected women in their careers and domestic roles.¹¹⁷ The Quiet Revolution saw traditional French Canadians, who viewed themselves as conquered, humiliated, and demoralized, replaced by a new generation of Québécois who saw themselves as accomplished, enterprising, and ambitious.¹¹⁸ An essential instrument in this transformation was the provincial education system.

Fervent protests shaped 1960s Québec as new voices emerged in politics, including activists from socialist pressure groups, feminists, environmentalists, indigenous leaders, students, and members of various political parties. *Révolution tranquille* was marked by clashes of values and the emergence of consensus around new interventions and reforms. Women played an essential part in this transformation, as feminist activists fought for gender equality and advocated for policies addressing women's rights. Their participation enriched the discussion and helped bring together various civil society groups during important legislative changes, such as the passing of Bill 60 *Loi concernant le ministère de l'Éducation* (Act Respecting the Ministry of Education) in 1964.

The legislation was a cornerstone of the Quiet Revolution, marking a significant shift in the governance and administration of education in Québec by transferring control from religious authorities to the provincial government. Premier Daniel Johnson and the recommendations of

¹¹⁶ Joan Sangster, *Demanding Equality*, 224.

¹¹⁷ Sangster, *Demanding Equality*, Ibid.

¹¹⁸ Jocelyn Létourneau, « La production historique courante portant sur le Québec et ses rapports avec la construction des figures identitaires d'une communauté communicationnelle, » *Recherches sociographiques*, Vol 36.1 (1995); Ronald Rudin, "The Quiet Revolution and the Creation of Concordia University, » *Historical Studies in Education/Revue d'histoire de l'éducation*, Vol 35.1 (Spring 2023) : 50.

the Parent Report were consolidated to create the CEGEP system, which dramatically expanded access to post-secondary education. The relevance of CEGEPs to legal education is particularly notable, as students in Québec could now enter law school directly after CEGEP, at around 18 years of age, without prior university education – mirroring British and European traditions. This change, as noted by Brierley, may have contributed to the influx of women into law schools during this period by lowering barriers to entry.¹¹⁹ By 1969, student enrollment in CEGEPs surged from 46,166 in 1966 to 71,858, and continued to rise to 156,658 by 1983.¹²⁰

Simultaneously, social attitudes toward women's place in society were increasingly challenged as out of accord with the entrance of women to traditionally male spheres in education and employment. In 1966, Laura Sabia called upon Prime Minister Lester B. Pearson to set up the Royal Commission on the Status of Women [RCSW] while simultaneously critiquing the absence of women in powerful positions in the legal profession. The Report of the RCSW recommended various reforms within the law, economy, family, education, tax system, childcare, immigration, citizenship, women's prisons, and the role of women in public life. One *Toronto Star* columnist characterized it as a “full-scale call to revolution.”¹²¹ Significant calls to action regarding legal changes concerning women also occurred.

The Married Women's Legal Capacity Act (Bill 16) was a Québec law that amended the Civil Code of Lower Canada so that married women could exercise total legal capacity. The necessary changes allowed married women to acquire civil and financial responsibility to practice a profession without their husband's permission. The bill, led by the first woman MLA

¹¹⁹ JEC Brierley, “Historical Aspects of Law Teaching in Québec,” (1985) 151.

¹²⁰ Paquet et Savard, *Brève histoire de la Révolution tranquille*, (2021) 84.

¹²¹ Anthony Westell, “Report is more explosive than any terrorists' time bomb,” *Toronto Star*, 8 December 1970. Cited in Backhouse, *Claire L'Heureux-Dubé : A Life*, (Vancouver : UBC Press for the Osgoode Society for Canadian Legal History, 2017) 226.

and Minister in Québec History, Marie-Claire Kirkland-Casgrain, was passed by the Québec Legislative Assembly on 14 February 1964.¹²² Feminist writers pushing for this amendment to the Civil Code declared their willingness to modify it to support greater equality between the sexes. However, doctrinal writers focused on studying the existing body of law rather than advocating for legal reforms or policy changes. They used legal techniques and mechanisms to sustain a hierarchical, patriarchal family system with the husband and father at the top.¹²³

With the inauguration of civil marriage in 1968 and divorce courts in 1969, feminists shook off the sacred familial layer of Québec tradition.¹²⁴ Women used the force of the Quiet Revolution to push for change and demand a response to feminist concerns. Monique Bégin was a distinguished Canadian academic, politician, and advocate known for her significant contributions to public health and social policy. Bégin held the Minister of National Health and Welfare position under Prime Minister Pierre Trudeau, where she played a pivotal role in advancing healthcare accessibility and women's rights. She notably introduced the Canada Health Act in 1984, reinforcing universal healthcare principles. Bégin's commitment to social justice and equity continued throughout her career, including her advocacy for affordable housing and reproductive rights. Her legacy remained influential in Canadian policy and public health initiatives, reflecting her enduring dedication to improving the well-being of all citizens.¹²⁵

¹²² "Loi sur la capacité juridique des femmes mariées, S.Q. 1964, c. 66" (Bill 16) Québec, Canada.

¹²³ Marie-Neige, Laperrière, « Qu'est-ce que la doctrine en droit civil? Une déconstruction féministe de discours entourant la capacité juridique des femmes mariées, » *Revue de droit de l'Université de Sherbrooke*, 47 (2017) : 369.

¹²⁴ Susan Mann, *Dream of Nation*, 319. An Act respecting civil marriage, *Statutes of the Province of Québec*, 1968, chapter 82.

¹²⁵ Monique Bégin, *Ladies Upstairs: My Life in Politics and After*, (Montréal and Kingston: McGill Queen's University Press, 2018).

During the 1970s, the inclusion of women in law advanced gradually, progressing at a slower pace compared to other professions.¹²⁶ The momentum for gender equality gained traction with the publication of the RCSW Report and later the Report of the Royal Commission on Employment Equity [Abella Commission, 1984].¹²⁷ These reports, in conjunction with other feminist advocacy, resulted in an amendment to the Canadian Charter of Rights and Freedoms, incorporating section 15., allowed for access to employment programs. In response, the government of Québec established a voluntary financial assistance program to support organizations interested in implementing the *Égalité d'accès* ("PAÉ") programs. Bégin hired consultants to teach women how to lobby for the enactment of the RCSW recommendations. The operation fell on fertile ground in Québec, and the response eventually occurred across Canada. Québec's leadership in breaking barriers for women relied on liberal men acknowledging the concerns of the women closest to them, such as their wives. Many who observed the process from within credited these women with driving much of the changing atmosphere.¹²⁸ By 1987, the University of Montréal, UQAM, and Laval University incorporated these equality programs. Concurrently, there was a parallel development in

¹²⁶ Statistics Canada, "How Far Have We Come: Representation Among Full-Time University Faculty," 11-627-M.

¹²⁷ Canada. "Report of the Royal Commission on Equality in Employment." (Ottawa: Supply and Services Canada, 1984).

¹²⁸ The Fédération des femmes du Québec (FFQ) unveiled a comprehensive forty-six-page guide to the RCSW report, widely disseminated to discussion groups nationwide. Claire Lalonde, an instrumental figure at the FFQ's inception and spouse of Marc Lalonde, characterized Québec feminism as both exhilarating and profound. Notably, several influential FFQ leaders were married to prominent liberal figures. Rita Racette-Cadieux, the FFQ's second president, was wed to Fernand Cadieux, former president of the Jeunesse étudiante catholique and a close associate of both Trudeau and Michael Pitfield (the clerk of the Privy Council). Fernande Juneau, married to Pierre Juneau, a co-founder of the dissident *Cite Libre*, the inaugural president of the Canadian Radio-television Telecommunications Commission, and later the head of the Canadian Broadcasting Corporation, was another prominent figure within the FFQ. Backhouse, *Claire L'Heureux-Dubé*, 228.

collective agreements, incorporating various clauses such as preferential hiring and public recruitment competitions aimed at actively promoting the recruitment of women into the legal profession.

Governments across the country were setting up advisory councils on the status of women, replicating the work of the *Conseil du statut de la femme* in Québec. The Independent status of women's committees fostered the energy of young professional women eager to develop political skills. By 1972, the National Action Committee on the Status of Women surfaced – a nationwide feminist caucus composed of service groups, advocacy organizations, business clubs, arts and cultural groups, labour unions, religious institutions, and ethno-racial groups, whose political orientation scaled from conservative to radical feminist. All of this certainly affected women's participation in the legal academy. Jean Marchand, Albanie Morin, Monique Bégin, and Jeanne Sauvé wrote letters to several Québec MPs advocating for the appointment of Claire L'Heureux-Dubé to the Supreme Court of Canada. L'Heureux-Dubé did not claim involvement in the feminist movement in the same way that Réjane Laberge-Colas, founding president of the FFQ and the first woman appointed to the Superior Court in Montréal, did three years earlier. Her work was not similar to Alice Desjardins, Canada's first female law professor, who had signed the FFQ's inaugural constitution.¹²⁹ Yet, a close examination of the case of Renée Joyal-Poupart, which caused the Canadian Association of University Teachers [CAUT] to threaten the use of censure of the University of Montréal's law faculty, demonstrates how changes within Québec society were not fully integrated into the fabric of legal academe.¹³⁰

¹²⁹ Backhouse, *Claire L'Heureux-Dubé*, 228.

¹³⁰ Karen Al-Aidroos, Hélène Dumont, René Laperrière, Claude Thomasset, Comité inter-universitaire pour la défense des droits des femmes à l'université, *Le cas Renée Joyal Poupart : Un exemple de discrimination sexuelle : analyse présentée par le Comité inter-universitaire pour*

Despite the pressures and small steps forward from the feminist movement, Joyal-Poupart was thought to be a victim of discrimination related to renewing her contract with the faculty.

Over time, the curriculum in civil law faculties had changed to adapt to evolving legal trends and societal needs. Initially, the standard curriculum emphasized core subjects such as obligations and property law and public law subjects such as administrative and constitutional law. By the 1960s, experiential learning components, including moot court competitions, were integrated to better prepare students for legal practice. Examination of Québec law school course calendars reveals that the legal education curriculum has generally stayed consistent since its establishment, with the introduction of new courses in the 1960s reflecting the emergence of new legal fields, including *sociologie du droit*. A pivotal shift occurred after 1974 in common law institutions with the introduction of Women and the Law courses, following the hiring of more women professors. These courses addressed gender equality and legal rights, covering topics such as gender discrimination, reproductive rights, and women's roles in the legal profession. However, while appointing more women to faculty positions, Québec's law faculties adhered to a standard curriculum until 1982, when the first *Les femmes et le droit* course was offered at l'Université Laval. A resistance to feminism was apparent in the late introduction of these courses in Québec law faculties in the mid-1980s. McGill University, demonstrating a commitment to broader academic trends, introduced its national program in 1968 and launched its first feminist legal theory course in 1986 [Appendix A, pg. 343]. Thus, while Québec's universities turned to secular social science beyond the 1950s, legal education remained steeped in tradition and resistant to teaching feminist perspectives on law.

la défense des droits des femmes à l'université à la Commission des droits de la personne, 13 July 1977.

The Department of Legal Sciences at UQAM was formed within the humanities and social sciences matrix in the 1960s. UQAM did not appoint its first female faculty member until 1975, partly attributable to the termination of Renée Joyal-Poupart's employment at the University of Montréal and her re-location necessitated by an incident of alleged sexism. In this context, the historic appointment of Alice Desjardins might be seen as perplexing, as entrenched and unseen obstacles concerning women's roles as law professors persisted, contributing to the unfair treatment of female faculty members in Québec. Mid-twentieth-century social changes in Québec society could explain the unique appointment, symbolizing the breaking of the final barrier for women's representation in the Canadian legal profession. However, apart from these significant changes, which gradually evolved with advancements in women's rights, Desjardins perceived the feminist project as distinct from her accomplishments in law teaching.¹³¹

By 1992, 38 percent of notaries in Québec were women, a significant increase from 29 percent in 1989. However, despite this progress, a 1993 Canadian Bar Association report revealed that women remained concentrated in specific legal fields such as family, health, and intellectual property law. In Québec's law faculties, women held about 28 percent of tenured positions by 1993, with only seven of thirty-five tenured professors at Laval and Sherbrooke, nine of twenty-six at UQAM, four of thirty-three at Montréal, and two of thirteen at McGill being women.¹³² Despite women comprising less than a third of Québec law professors

¹³¹ Annick Provencher, "The Honourable Justice Alice Desjardins: A Discreet Trailblazer," in Anna Lund and Virginia Torrie, eds., *Early Women in the Canadian Legal Academy*, (UBC Press, Forthcoming 2024).

¹³² In this report, permanent professorships refers to tenured members only; Canadian Bar Association. *Summary of Working Group Reports*. Appendix 3 to the Report of the Canadian Bar

in 1997, they made substantial gains in the notariat, representing 62.6 percent of notaries by 2015.¹³³ Additionally, women have constituted the majority of Quebec Bar members since 2011, reaching 51.7 percent in 2015, a stark contrast to the rest of Canada, where women represented only 39.9 percent of lawyers.¹³⁴ These trends call for a deeper analysis of the Québec Bar's ideas of legal professionalism and its involvement in university law programs. Recognizing that each law faculty has a unique narrative regarding women's experiences and challenges in legal academia is essential. The following women's experiences, included within institutional and contextual history, were selected based on their roles as early women in legal academia, their service as deans, the availability of their stories within the archives, and their influence on scholarship dealing with women and the law. These narratives are not intended to be a comprehensive history or hagiography but represent selected accounts of women who pursued careers in Québec law faculties during this period.

Université de Montréal Faculté de Droit

While the Faculty of Law at the University of Montréal was formed in 1878, it was inaugurated as a Branch of Université Laval in Montréal. In 1920, the university was constituted as a corporation under the name of the University of Montréal.¹³⁵ Across the institution, there had never been a woman dean in any department or faculty until 1988.

Maximilien Caron taught law at the University of Montréal Faculty of Law from 1930

Association Task Force on Gender Equality in the Legal Profession. Ottawa: Canadian Bar Association, 1993.

¹³³ Federation of Law Societies of Canada (FLSC), Statistical Report, 2015. Conférence des recteurs et des principaux des universités du Québec, *Caractéristiques et rémunération des professeurs de carrière des universités québécoises*, 1999. Cited in Jule Paquin, "The Feminisation of Legal Academia," (2021), 82-83.

¹³⁴ Barreau de la Province de Québec, Programme du Cours de Droit Universitaire, 1962-1963.

¹³⁵ Louise Thisdale, « Le Centenaire de la Faculté de Droit de l'Université de Montréal, » *Dalhousie Law Journal*, 6.2, (1980-1981): 375.

and became its first full-time professor in 1944. He was appointed dean in 1961 and was the first professor in the faculty's history to hold this position, traditionally delegated to a judge. Caron was part of a group of legal intellectuals who regarded law as a full-fledged university discipline. Alice Desjardins asserted that Caron was a "feminist" in that he encouraged women to pursue careers in the law.¹³⁶ The historic appointment of Alice Desjardins accorded with the work of a new progressive dean. However, as Annick Provencher points out, the appointment was also tied to broader political movements in Québec at the time. Desjardins recalled that members of the board of the Faculty of Law at the University of Montréal believed that women would constitute a significant development for the faculty. "I remember the words of Professor Jean Beetz, later a Justice of the Supreme Court of Canada, who told me when I was hired by the committee that women had supported elementary education for so many years that it was time for them to take their place in university education."¹³⁷ In other words, women had been keeping the primary and secondary schools running in Québec for generations, and it was finally recognized that they needed women in law school. Desjardins noted his enthusiasm as he told her, "We've been looking for a long time to have a woman teaching, and I'm happy it's you."¹³⁸ Desjardins held the title of Assistant Professor from 1961 to 1968 and Associate Professor from 1968 to 1972. She taught constitutional and administrative law and did not recall obstacles in her teaching duties. However, she did remember academia's general conservatism at the time.

Desjardins' address to the Women's Law Association of Ontario in October 2009

¹³⁶ Annick Provencher, "The Honourable Justice Alice Desjardins: A Discreet Trailblazer," *Early Women in the Canadian Legal Academy*, Forthcoming, 9.

¹³⁷ Diane Labrèche, « Portrait historique et contemporain de la présence des femmes dans les facultés de droit du Québec et du Canada, » *Femmes et droit 50 ans de vie commune... et tout un avenir, Les journées Maximilien-Caron 1991*, Hélène Dumont, eds. (Montréal : Les Éditions Thémis, 1993) 95.

¹³⁸ Constance Backhouse Interview with Alice Desjardins, Ottawa, 2 July 2009.

revealed that male colleagues were hostile toward women teaching in law schools at the 1961 Canadian Association of Law Teachers Annual Meeting. She noted: “I remember them telling me, ‘Our boys are not ready for this.’ Perhaps what they meant was that they were not ready for this.”¹³⁹ Conceivably, negative attitudes toward women in law teaching could have encouraged Desjardins to take a position with the Québec Human Rights League. Recruited by Pierre Elliot Trudeau, Desjardins worked alongside Thérèse Casgrain.¹⁴⁰ Casgrain led the campaign for women’s suffrage in Québec and was the first woman to be elected to lead a political party in Canada. From 1928 to 1942, she spearheaded the *Ligue des droits de la femme*, which achieved significant social and legal reforms and enfranchisement at the provincial level. Casgrain helped establish opposition to Premier Maurice Duplessis and founded the Québec branch of the Voice of Women to protest nuclear threats.

As one of the founding members of the FFQ with a signature on the inaugural constitution, Desjardins did not identify as a feminist, but her work reveals that she stood in solidarity with equality for women.¹⁴¹ This resistance to feminist identification reflects broader ideological trends that were more implied than openly expressed within law faculties across Canada. It suggests Desjardins might have avoided formalized feminism to forestall further hostility and subjugation from professional members. Black women members of the faculty shared similar yet different experiences.

Juanita Westmoreland-Traoré was appointed to the faculty in 1972. A woman of multiple

¹³⁹ Speech delivered to the Women’s Law Association of Ontario (Ottawa, 6 October 2009) cited in Annick Provencher, “The Honourable Justice Alice Desjardins: A Discreet Trailblazer,” *Early Women in the Canadian Legal Academy*, Anna Lund, Virginia Torrie, eds. Forthcoming, 11.

¹⁴⁰ Marie-Laurence B. Beaumier, « Les voix des femmes à la Ligue des droits de l’homme du Québec : Ouvertures, tensions, débats, 1963-1980 » *Recherches féministes*, Vol 30.2 (2017) 240.

¹⁴¹ Provencher, “The Honourable Justice Alice Desjardins: A Discreet Trailblazer,” (Forthcoming, 2024) 14.

firsts, as Canada's first Black law professor, she was appointed by Dean Pierre Carignan on his journey to Paris, where Westmoreland-Traoré completed her doctorate.¹⁴² Carignan was a specialist in constitutional law who graduated from law in 1945 to become one of the first full-time career law professors at the University of Montréal. According to Constance Backhouse, Westmoreland-Traoré lectured in municipal and administrative law while continuing to practice part-time. Westmoreland-Traoré was an academic pioneer. Aside from her course on environmental law, Backhouse asserts that she established one of the first seminars on women and the law taught in French-speaking Québec law schools. Montréal course calendars, however, indicate that *Les femmes et le droit* was taught for the first time in the 1983-1984 academic year by Hélène Dumont, Daniel Turp, and Andrea Ouellette.¹⁴³ Dumont, however, did not teach this subject, but she published substantively on it.¹⁴⁴ Even though the student population was one-third female by 1970, the early female law professors were confronted with a dominant male professoriate and masculinist culture.¹⁴⁵ In an interview with Backhouse, Westmoreland-Traoré had few observations about sexist treatment directed at her, but she did observe the differential treatment of others. Westmoreland-Traoré recalled that Alice Desjardins and the other early women in the faculty were often "disrespected" by being referred to by their first names instead of the formal title of "Professor," which the male faculty members received.¹⁴⁶

¹⁴² Constance Backhouse, "Juanita Westmoreland-Traoré: A Woman of Multiple Firsts," *Early Women in the Canadian Legal Academy*, forthcoming, 15.

¹⁴³ Calendriers de l'Université de Montréal Faculté de Droit, 1982-1983, *Archives de l'Université de Montréal*, See also Canadian Association of Law Teachers Directory, 1983-1984, Teaching Directories, xxxvii.

¹⁴⁴ Hélène Dumont Interview with Taylor Starr, 13 September 2023. See also Dumont, Curriculum Vitae, February 2019.

¹⁴⁵ Julie Paquin, "The Feminisation of Legal Academia in Québec," 83.

¹⁴⁶ Backhouse, "Juanita Westmoreland-Traoré: A Woman of Multiple Firsts," (Forthcoming 2024) 16.

Westmoreland-Traoré thought her gender might have protected her, allowing her to benefit from benevolent discrimination.¹⁴⁷ She was perceived as a racialized loner rather than a woman law professor. She noted that race had a more significant impact on her life than sexism. Racism overshadowed the severity of sexism and undoubtedly altered androcentric law school patterns for racialized women. Emily Carasco's experiences, for example (detailed in Chapter Two), highlight intensified feelings of isolation and qualification expectations. Both women held doctoral degrees, uncommon for hiring qualifications in law faculties at that time. Camille A. Nelson, a Canadian-Jamaican law professor and dean at the law school of the University of Hawaii, asserted that managing race and gender simultaneously requires nuance, balance, mind-reading, and performance art. She emphasized the challenges faced by people of colour and white women and the demands for representation, equality, and truth-telling in the absence of acknowledging racism or sexism.¹⁴⁸ At the time of her employment at the faculty, Westmoreland-Traoré's scholarly publications were limited because she had a full course load, administrative tasks, law consultations, and court appearances and was raising two boys as a primarily single parent. She left the University of Montréal in 1976 for a part-time tenured appointment at the University of Québec at Montréal to combine teaching with progressive legal aid practice. This move was partially motivated by solidarity with Renée Joyal-Poupart, who faced gendered treatment, leading to contract renewal issues and a transfer to UQAM.

Renée Joyal-Poupart was hired as an assistant professor at the University of Montréal

¹⁴⁷ Constance Backhouse Interview with Juanita Westmoreland-Traoré, Montréal, 26 October 2020. Cited in Backhouse, "Juanita Westmoreland-Traoré: A Woman of Multiple Firsts," forthcoming, 17.

¹⁴⁸ Camille A. Nelson, "The Conflicting and Contradictory Dance: The Essential Management of Identity for Women of Colour in the Legal Academy," *Calling for Change: Women, Law, and the Legal Profession*, Elizabeth Sheehy and Sheila McIntyre eds. (Ottawa: University of Ottawa Press, 2009) 124.

Faculty of Law in 1971. She completed her doctorate in law at the University of Paris in 1973 and a post-doctoral research position at Strasbourg in 1975-1976. She published *La responsabilité civile en matière des sports du Québec et en France* in 1975. While she had many admirable achievements, Joyal-Poupart was alleged to have experienced discrimination in her employment. Joyal-Poupart's two pregnancies, followed by her requests for maternity leave, created controversy over her contract renewal. In 1973, when Professor Joyal-Poupart's contract was not renewed, seven female and forty-seven male professors were at the University of Montréal Faculty of Law. Women, therefore, represented only 12.9% of the teaching staff.

The issue was widely publicized. On 22 March 1975, *The Gazette* reported that "law teacher Renée Joyal-Poupart was told her contract would not be renewed" for the 1974 academic year. It also noted that law faculty teachers and students took up Joyal-Poupart's cause and that the Canadian Association of University Teachers' three-member review board judged she should have been rehired for two years. But the University council dismissed her.¹⁴⁹ *The Montreal Star* also reported that the Canadian Association of University Teachers warned of its use of censure for potential faculty members.¹⁵⁰ On behalf of CAUT, Censure would have cautioned professors that "if you go teach (at the censured university), you go at your own risk because your freedom will not be respected."¹⁵¹

An article in *Le Devoir* reported that an investigator from the Commission des droits de la personne found sufficient evidence to suggest that the Université de Montréal may have

¹⁴⁹ Gordon Barthos, "UofM threatened with censure for refusal to rehire professors," *The Gazette*, Montréal, 22 March 1975.

¹⁵⁰ Claude Adams, "Professor's Contract Not Renewed: U of M Faces CAUT Censure," *The Montréal Star*, 22 March 1975.

¹⁵¹ Ibid.

applied disparate standards in evaluating Joyal-Poupart's contract renewal compared to her male colleagues, potentially indicating discrimination. However, the investigator did not have the authority to make a formal finding of discrimination. Their role was limited to determining whether there was enough evidence to refer the case to the Commission for further consideration. Procedurally, if such evidence was found, a mediator would be appointed to facilitate a resolution between the parties. Only if an amicable settlement was not reached through mediation would the Commission itself make a final determination on whether discrimination had occurred.¹⁵²

Le comité inter-universitaire pour la défense des droits des femmes (which included Hélène Dumont, Karen Al-Aidroos, René Laperrière, Claude Thomasset) submitted a formal complaint to the Human Rights Commission on 13 July 1977.¹⁵³ Regarding this issue, Westmoreland-Traoré recalled that "things that are not said formally, are said informally," which speaks to the broader character of sexist discrimination and its inconspicuousness at law faculties across Canada throughout the period.¹⁵⁴ A negotiated settlement is believed to have occurred between U de M and Joyal-Poupart. Legal action for a definitive declaration of discriminatory conduct by U de M would have required the Commission or Joyal-Poupart to take the matter to court. However, such legal proceedings did not occur.¹⁵⁵ At the time of the complaint, according to the 1977-78 directory of the University of Montréal, there were fifty male professors (including one lecturer) and five female professors (including two lecturers) at the Faculty of

¹⁵² « L'Université de Montréal, un milieu trop masculin? » *Le Devoir*, lundi 1^{er} août 1977.

¹⁵³ Comité inter-universitaire pour la défense des droits des femmes à l'Université, « Le cas Renée Joyal-Poupart : Un exemple de discrimination sexuelle, » 13 July 1977.

¹⁵⁴ Interview with Constance Backhouse and Juanita Westmoreland-Traoré, Montréal, 6 October 2020, cited in Backhouse, "Juanita Westmoreland-Traoré: A Woman of Multiple Firsts," forthcoming, 18.

¹⁵⁵ Philip Girard Interview with Investigator Béatrice Vizkelety, 5 October 2023.

Law.

The university administration appointed H       Dumont to the decanal position at the Faculty of Law in 1988. She was the third woman law dean in the country, following shortly after Th       Rousseau-Houle at Laval University in 1985 and Margaret Hughes at Calgary in 1984. Dumont did not recognize any distinct gendered challenges during her time as a professor at the faculty. However, there were components of her experience that could be interpreted differently. She did not find herself in the same position as Joyal-Poupart. She noted that she was vice-dean when she had her first child, and there was no formal maternity leave. Upon returning to work in September, Dumont was congratulated by her colleagues for having a baby “at the right time,” which corresponded with the university calendar.¹⁵⁶

Furthermore, Dumont’s experiences were profoundly shaped by her pioneering role as the first female dean within the Faculty of Law and across the Universit     de Montr      . Her journey within the academic sphere, specifically in criminal law at the faculty, culminated in her historic appointment to the deanship in 1988, marking her as the inaugural woman to occupy this prestigious position since the faculty’s inception in 1878. Nevertheless, as she noted: *Je veux que l’on se rappelle de moi davantage comme juriste          plut     que premi       doyenne*.¹⁵⁷ In some of her scholarship, Dumont addressed feminist issues, among other topics. Beyond her specific focus, Dumont consistently advocated for a restrained application of criminal law in addressing crime-related matters. She firmly believed that an excessively severe criminal sanction seldom served as an effective solution to criminal problems. Instead, she emphasized the importance of tolerance and moderation guiding our perspectives on criminal

¹⁵⁶ H       Dumont Interview with Taylor Starr, 13 September 2023, 1:33.23.

¹⁵⁷ I want to be remembered more as a distinguished jurist than as the first woman dean. H       Dumont, Interview with Taylor Starr, 13 September 2023.

repression. Dumont dedicated considerable attention to studying the social repercussions of stringent sentences and actively supported the movement toward decriminalizing various behaviours. She contended that criminal law was often an inadequately employed tool for enforcing morality, emphasizing the principle of less is more.¹⁵⁸

As the dean during the Polytechnique tragedy in 1989, Dumont reflected on her writings and actions at the time. Having known the mother of a student tragically killed by Marc Lépine and with the sister of another victim being a law student, Dumont actively participated in all university ceremonies related to the heartbreaking event. Dumont produced scholarship on this matter, particularly the article titled *Désarmons les Canadiens et armons-nous de tolérance* (1997), where she addressed the violence directed against women that hindered their participation at universities.¹⁵⁹ As a feminist dean, she made conscious choices that persisted throughout her tenure. One of these choices included inaugurating a scholarship for a student demonstrating perseverance in studies despite adversity. Nadine Haviernick, a law student and the sister of a Polytechnique victim, became the faculty's first recipient of this scholarship.¹⁶⁰

Furthermore, Dumont made a distinctive decision by admitting the sister of a Polytechnique victim, deviating from the Faculty of Law's admission rules. This action, a one-time occurrence during her deanship, was based on the belief that the University, owing a moral debt to the victim's family, needed to acknowledge the tragic circumstances. Dumont admitted

¹⁵⁸ Hélène Dumont, « L'abolition du crime d'avortement dans la perspective de la réforme du droit criminel », *Revue juridique Thémis*, (1980-81) 149-193, « Un examen féministe du droit criminel, » *Revue juridique La femme et le droit /Canadian Journal of Women and the Law*, (1986) 199-214.

¹⁵⁹ Dumont, « Désarmons les Canadiens et armons-nous de tolérance » *Revue canadienne de droit pénal/ Canadian Criminal Law Review* (1997) 2, 43-71.

¹⁶⁰ Hélène Dumont Interview with Taylor Starr.

the sister not solely on academic merit but as an expression of the university's honour-bound obligation following the loss of her sibling on the University of Montréal's campus.

Dumont's momentous achievement as the first dean warrants special attention, particularly when juxtaposed with the institution's lengthy tradition of predominantly male leadership. Hélène Dumont perceived herself as a living embodiment of the first woman to break through the proverbial glass ceiling in an academic setting, a trailblazer at a time when no other faculty within the university had yet chosen a woman to ascend to such heights.¹⁶¹

L'Université Laval Faculté de Droit

Laval University traces its roots to 1663 when Monsignor de Laval founded *Séminaire de Québec* to train the colony's priests. After New France was conquered by the British in 1759, the Séminaire de Québec began providing courses in the liberal professions. In the mid-nineteenth century, there was a growing desire for university education. The English-speaking population had already established five higher education institutions, but none were for the French. To address this problem, in 1852, Queen Victoria signed a Royal Charter giving Séminaire de Québec the right to confer degrees and attain status as a university. In 1878, Université Laval opened a second campus in Montréal. That campus would become independent in 1920 and take the name of Université de Montréal.

When founded, the university decided to model its structure based on British universities. It initially intended to establish four faculties: theology, law, medicine, and the arts. Priority was given to setting up the law school, which was justified by the absence of any organized law teaching in Québec City and the "defective way" in which it was offered elsewhere.¹⁶² This

¹⁶¹ Hélène Dumont Interview with Taylor Starr, 13 September 2023.

¹⁶² Lettre de Louis-Jacques Casault à Mgr Charles-François Baillargeon, 3 juin 1859, dans : *Mémoire sur l'Université Laval avec pièces justificatives*, 47 in Normand, *Le droit comme*

critical reference was directed at the François-Maximilien Bibaud Law School of the Collège Sainte-Marie de Montréal, with which the new faculty competed. However, the law school's priority was downgraded by the closure of the city's medical school, which forced the university to modify its plans and give preference to the medical school's establishment. The university law faculty opened officially in the fall of 1854.¹⁶³

In 1969, two women were appointed to the Faculty of Law at Laval University.¹⁶⁴ It took one hundred and fifteen years for the faculty to appoint women to teaching positions. Édith Deleury and Nicole L'Heureux broke new ground by teaching courses ranging from business law to family and children.¹⁶⁵ In 1970, Gisèle Côté -Harper was hired as an assistant professor, becoming a full professor in 1982. According to Sylvio Normand, from 1945 to 1965, the Laval University Faculty of Law underwent profound changes. However, this change did not come quickly. The school had been shrouded in a veil of tradition, and any hint of change was fiercely contested. Normand notes that the law faculty became a site where traditions were questioned. The student body benefitted from widespread popular support, and faculty authorities were compelled to acquiesce to demands for substantial changes – appointing women to teaching positions.¹⁶⁶

From 1947 to 1965, women represented only 5.2% of the institution's graduates. The numbers were zero to two female graduates per year, except in 1957 and 1965 when there were six and seven, respectively. Normand attributes this to the late opening of the Québec legal

discipline universitaire, 15.

¹⁶³ Normand, *Le droit comme discipline universitaire*, 15.

¹⁶⁴ Normand, 250.

¹⁶⁵ *Calendriers de l'Université Laval Faculté de Droit*, 1969.

¹⁶⁶ Sylvio Normand, « Tradition et modernité à la Faculté de droit de l'Université Laval de 1945 à 1965, » *Les cahiers de droit*, Vol 33.2, (1992) : 141.

profession to women. As has been noted, even with a university degree, they could not join the ranks of the Bar until 1941 and the Chamber of Notaries until 1956.¹⁶⁷

Ann Robinson was hired at the Faculty of Law of Université Laval in 1970. Throughout her career, she was committed to the feminist perspective and critical legal approaches, unique in Québec. Robinson organized the inaugural *Les femmes et le droit* course in the 1982-1983 academic year at Laval, the province's first course in this discipline [See Appendix A, p. 341-43].¹⁶⁸ The course description read as follows:

*Dans le cadre d'une problématique générale sur la condition féminine et le droit du point de vue historique et sociologique, le cours aborde divers aspects de la condition juridique des femmes. notamment en matière de santé, famille, travail, criminalité, fiscalité, commerce. Une attention particulière est accordée aux aspects discriminatoires de la législation et du processus d'application des lois dans une perspective critique.*¹⁶⁹

In addition to this academic pioneering at the institution, and in the province of Québec, Robinson led *the Groupe de recherches en études sur le mouvement féministe de l'Université Laval* (GREMF) for several years, in addition to leading, in the late 1990s, the *Institut d'études sur les femmes* project. Robinson was also a trade unionist and the first woman president of the *Syndicat des professeurs et professeures de l'Université Laval* from 1982 to 1984.¹⁷⁰

Robinson recalled the fractured nature of the faculty of law in the 1970s before she became a professor, partially because of the growing tensions outside the university and the student movements that profoundly affected the faculty of law.¹⁷¹ In an interview with the

¹⁶⁷ Ibid.

¹⁶⁸ Calendriers faculté de droit Université Laval, 1982-1983, 99. *Archives de l'Université Laval*.

¹⁶⁹ Ibid.

¹⁷⁰ Syndicat des professeurs et professeures de l'Université Laval, Ann Robinson, quatrième présidente du SPUL – 1982 à 1984, <https://vimeo.com/378519216>, 13 May 2022.

¹⁷¹ Ibid.

SPUL, Robinson recalled her path toward a career in teaching law. She recalled that the students became more hostile towards the institution in the 1970s, so the Faculty of Law sought to hire someone to allay the tensions and act as a liaison with activist students during strikes. Robinson recalled that one strike lasted several weeks at the faculty, but to end it, they offered her a new position which involved managing student files. It is in this context that Robinson received employment as a law professor:

L'avocat de l'époque m'a donc proposé un poste de professeur, ce que j'ai accepté. Il faut penser qu'au début des années 70, il y avait très peu de professeurs de droit qui avaient leur doctorat, qui commençaient à enseigner avec un doctorat. Ils obtiennent parfois une maîtrise de doctorat au cours de leurs premières années de travail. J'ai donc accepté ce poste. J'ai accepté le poste d'enseignant. Et pour compléter, évidemment je ne pouvais pas rester avec une licence en droit et un barreau. J'ai fait ma maîtrise parce que j'avais un grand intérêt pour l'enseignement du droit, un grand intérêt pour l'enseignement et l'évaluation des étudiants.¹⁷²

The fractured nature of the faculty began to change in 1983 when the university made a commitment to evaluate the feminine condition through a committee (*le Comité l'Université Laval au féminin*). The April 1983 Report entitled “La Participation des étudiantes à leurs structures” by Francine Roy detailed necessary calls to action to see women further represented in the institution. The Status of Women Committee at Université Laval received an analysis of the presence of women within the university’s official structures. The analysis was based on the information in the appointment book. It showed that the presence of women at the university in

¹⁷² So, the lawyer at that time offered me a position as a professor, which I accepted. You have to think that in the early 70s, there were very few law professors who had their doctorate and who would start teaching with a doctorate. They sometimes obtain a doctorate or master’s degree during their first years of work. So, I accepted that position. I accepted the position of teacher. And to complete, obviously I couldn’t stay with a degree in law and a bar. I did my master’s because I had a great interest in teaching law, a great interest in teaching and evaluating students. Syndicat des professeurs et professeures de l’Université Laval, Ann Robinson, quatrième présidente du SPUL – 1982 à 1984, <https://vimeo.com/378519216>, 13 May 2022.

1983 was less than 15%. A consultation of the appointment book updated on 14 December 1982 revealed that the situation had not changed since the initial filing of the report “L’Université Laval au Féminin” that year. The committee examined the problem at the faculty council level and concluded that the proportion of women was a little more than 12% of all professors. Without a deliberate policy for appointing women, their presence on the faculty would only become significant once their numbers reached a relatively higher proportion. It also emphasized that students wanted involvement in official university governance. Furthermore, the committee noted their presence in some Faculty Councils and reflected that leadership was a function that could be learned. The report also examined the extent to which students took advantage of these opportunities and analyzed the composition of the executives of student associations, offices in connection with Student Life, cultural animation projects and authorized groups.¹⁷³

The university’s dedication to understanding gender disparities led to recognizing the importance of appointing women to leadership positions. On 9 April 1985, the appointment of Thérèse Rousseau-Houle to the decanal position at the Faculty of Law of Université Laval was significant. She became the first Québécoise to hold this position. Rousseau-Houle began teaching at the faculty of law in 1972. Author of many texts and books, she was appointed a judge at the Superior Court of Québec in 1988, and in 1991, Rousseau-Houle was among Canada’s first all-female panel at the Québec Court of Appeal.¹⁷⁴

¹⁷³ Francine Roy, Coordonnatrice à la condition féminine « La participation des étudiants à leurs structures, » Document préparé pour le Comité l’Université Laval au féminin, (avril 1983) Fonds de Faculté de droit, Archives de l’Université Laval. U539105, et Fonds Association des étudiants en droit de l’Université Laval P180.

¹⁷⁴ This was publicized across the country. For example, “Québec Court of Appeal Names First All-Women Panel of Judges,” *The Whitehorse Star*, 18 September 1991; “Panel of Judges is all Female,” *The Leader-Post: Saskatchewan*, 4 October 1991.

L'Université de Sherbrooke Faculté de Droit

The Faculty of Law of the University of Sherbrooke opened its doors in 1954, the year the university was founded. Eighteen students were enrolled, and Bâtonnier Albert Leblanc, C.R., became the first dean. Until 1961, the faculty was located within the Palais de Justice of the City of Sherbrooke. In the fall of the same year, the faculty moved into a neighbouring building that better met its requirements as it grew. At that time, the faculty recruited its first career professors. During the summer of 1965, the faculty occupied a wing of the building of the Faculty of Arts, in the *Cité universitaire*, which already hosted nearly two hundred students. The faculty then intensified their recruitment of career professors. During the 1971-72 academic year, the faculty moved into a new building designed to meet its needs. Nicole Sénécal was hired in the 1971-1972 academic year.¹⁷⁵ Sénécal taught International Organization and published a substantive review of international legal structures the year preceding her employment.¹⁷⁶ Sherbrooke was receptive to allowing its first female faculty member to teach a course related to her design and research interests. This was significant because Sherbrooke was also the only faculty to ignore the wave of courses on women and the law offered at the other francophone universities in the 1980s.

Jean-Marie Lavoie has recognized that the student population of the faculty grew with the increasingly significant feminization of the legal profession in the late twentieth century. In 1969, female students represented 7.8% of undergraduate graduates; in 1975, they reached 15.9%, and another female professor, Louise Thisdale, was hired. In 1977, one more woman was hired, Danielle Codère. Codère became a member of the *Chambre des notaires* in 1975 and a

¹⁷⁵ Calendrier de l'Université de Sherbrooke Faculté de Droit, 1971-1972, 9. Archives l'Université de Sherbrooke.

¹⁷⁶ Ibid, 21; Nicole Senécal, "Les accords conclus par les organisations internationales," *Revue de droit de l'Université de Sherbrooke* 2 (1971): 207-257.

professor at the Faculty of Law of the Université de Sherbrooke in 1977. She directed the graduate program in notarial law from 1980 to 1982 and was Secretary of the Faculty of Law from 1982 to 1986, and Secretary General of the Université de Sherbrooke from 1989 to 1993. Throughout this time, by 1983, women students reached 43% representation. This was a radical thrust forward, and in September 1984, women represented 58% of the students enrolled in the first year.¹⁷⁷ However, the growing number of students and women taking up historically male positions did not translate into recognizing the need to study the feminine condition. It did not mean that the law faculty would hire women specifically to teach courses on women and the law.

Students began to take notice of the lack of women professors and attention paid to the feminine condition in 1984. This could be because of the steps other Québec law faculties were taking to offer students the option of learning about the complex ways women interacted with the law. A document dated 31 January 1984 written by two students and addressed to Dean Lavoie, entitled “Les Femmes et la formation juridique à l’Université de Sherbrooke,” explained the elements of sexism existing at Sherbrooke and other Québec law faculties.¹⁷⁸ The student report sought to answer how the principle of equality between men and women was reflected through the legal training at the institutions. They asked questions related to the “sexist elements” within the faculties. These elements referred to the characteristics and qualities attributed explicitly to women, such as their physical and mental states. They concluded that within the faculty, these were used as a basis of discrimination against the female sex by denying them equal

¹⁷⁷ Jean-Marie Lavoie, ‘La faculté de droit de l’Université de Sherbrooke,’ *Dalhousie Law Journal*, 9.3, (1984) : 768.

¹⁷⁸ M. John Morello et Mme Sylvie Rosenthal, Rapport adressé à Monsieur Le Doyen concernant les femmes et la formation juridique à l’Université de Sherbrooke, *Université de Sherbrooke Faculté de Droit*, 31 janvier 1984, 2. Archives de l’Université Laval U539/10/5 – Fonds Faculté de droit / Evaluation des cours.

opportunities to take practical courses related to women and the law. The report stirred debate among students and faculty, leading to calls for curricular reform. Some professors defended the existing curriculum, while others acknowledged the need for greater inclusion of gender issues in legal education.

McGill University Faculty of Law

The early history of McGill University, known as McGill College until 1885, was closely connected with the development of Montréal as the commercial capital of Canada. McGill only began to establish itself in the 1850s when the anglophone merchant class assumed its domination over the economic life of Québec. It deteriorated under the weight of problems rooted in more significant social conflicts that affected the province during the early nineteenth century. Because of tensions between the anglophone and francophone populations, the college did not open its doors until thirty years after a provision was made for its construction. Even then, rivalries between different anglophone groups caused problems in the college's administration. The arrival of John William Dawson caused some changes within the college. Dawson, a native of Pictou County, Nova Scotia, was selected as principal by the new members of the Royal Institution for the Advancement of Learning – McGill's governing body.¹⁷⁹ Early nineteenth-century educational influences reached Lower Canada mainly from the east – from Nova Scotia and across the Atlantic – and the founders of McGill were not interested in higher education for women.¹⁸⁰ Dawson fit the mould, as merchants and professionals, members of the Royal Institution for the Advancement of Learning believed that the college should not offer a classical curriculum but rather courses in political economy, agricultural chemistry, and law –

¹⁷⁹ Marlene Shore, *The Science of Social Redemption*, 4.

¹⁸⁰ Margaret Gillet, *We Walked Very Warily: A History of Women at McGill*, 21.

subjects more suited to the needs of a young, developing, colony.¹⁸¹ The faculty of law opened in 1848, and it took one hundred and twenty-three years to appoint a female professor – Jane Glenn – to a tenure-track position in 1971.¹⁸² Glenn’s husband, Patrick Glenn, was also a professor on the faculty. It was not until 1974 that Ethel Groffier Atala became the first woman to teach a full course load.¹⁸³ While McGill was the first law faculty in Québec to enroll a woman student – Annie MacDonald Langstaff – it was the last to provide equal opportunity to women in teaching positions. However, the first woman on the faculty describes her time there with no negative recollections regarding her treatment among male faculty members.

The Faculty of Law at McGill is Canada’s oldest law faculty and the only English-speaking institution providing courses in the civil law system. Until 1968, the faculty’s undergraduate program consisted of a three-year program of studies leading up to the Bachelor of Civil Law degree. This degree, while providing a liberal education in legal principles and theory, prepared candidates for admission only to the Québec legal professions as advocates or notaries. While both civil and common law systems are part of Canada’s legal framework, they have distinct legal traditions and principles. Someone with a Bachelor of Civil Law from Québec in the 1960s would have faced challenges if they wanted to practice law in common law provinces, as their legal education would have primarily focused on the civil law system, which differed significantly from the common law system. To practice in common law systems, individuals with civil law backgrounds pursued additional legal education or training to become familiar with the common law system and meet the specific requirements set by the Law Societies. This might include taking extra courses or examinations to bridge the gap between the

¹⁸¹ Marlene Shore, *The Science of Social Redemption*, 4.

¹⁸² McGill Faculty of Law Calendars, 1971.

¹⁸³ [McGill Faculty of Law Calendars](#), 1973-1974, 4.

two legal traditions. In 1968, the faculty inaugurated the National Program, intended to link Québec and the rest of Canada. They claimed to “train truly ‘national’ lawyers, which is a need in this country. “Our double-degree graduates are experiencing the value of their dual training and the greater role they feel enabled to play as Québécois and Canadians.”¹⁸⁴ The National Program was officially established at the Faculty under the leadership of Dean Maxwell Cohen, who aimed to create a bilingual and bijuridical (dual legal system) curriculum. The Faculty offered this program since 1968 and discontinued it in 1999, in order to create a trans-systemic program in which students would study civil law and common law together rather than separately. Initially, the program allowed students to complete their education in three years, earning a civil law degree. They also had the option to stay an additional year to complete a common law degree. However, in 1985, the program underwent significant reforms. It was transformed to integrate Canada’s European legal traditions, offering common law and civil law courses comparatively and sequentially. Students would start by studying core subjects such as Contracts, Civil Liability/Torts, and Property in one legal tradition and then delve into the same subjects in another.

Under the National Program, students could choose between obtaining civil law degrees, common law degrees, or both, depending on their academic and career goals. The shift to the national program may explain the decision to hire part-time female faculty members in 1973-1974 to teach courses in common law. The faculty appointed Pierrette Sinclair and Ethel Groffier Atala, who taught Québec law courses.¹⁸⁵ However, according to Roderick A. Macdonald, the curriculum was introduced in 1968, its subsequent model was implemented in the early 1970s, and even the third-generation model from the 1980s was not a comprehensive bilingual and

¹⁸⁴ Ibid, 6.

¹⁸⁵ Ibid.

intellectually integrated programs. These models did not represent a polyjural four-year education grounded in a universalist approach to legal education.¹⁸⁶

Jane Glenn recalled being treated well by the faculty at McGill in her early years as a Part-Time Assistant Professor.¹⁸⁷ She noted, “After a certain point, they [the men] didn’t even notice that I was a woman or if they noticed they didn’t particularly care.”¹⁸⁸ During her time on the faculty, Glenn balanced her motherly duties with her teaching responsibilities. When maternity leave was not an option, Glenn could not find reliable daycare, so she brought her children to work. She recalled, “When my daughter was a jolly jumper age, I hooked her up outside the student affairs office, and when I went to teach, I found that they had hung Shannon up in her jolly jumper, all standing around having their morning coffee entertained.”¹⁸⁹ She recalled that her children were five and three years old when she was Associate Dean. She had no choice but to bring them to the office and recalled that “the Dean was very accepting of them crawling around up and down the floor.”¹⁹⁰ Glenn’s secretary subsequently took over the babysitting job when she undertook teaching duties.

In 1973-1974, five women were in teaching positions at McGill.¹⁹¹ The course calendars at McGill and all other law faculties in Canada revealed a gendered procedure. Men’s first names are designated only by initials and first names, while the writing typically indicates women’s names in full. Mrs. is inserted before the names of married women, but the word Miss is omitted

¹⁸⁶ Roderick A. MacDonald, “The National Law Programme at McGill: Origins, Establishment, Prospects,” *Dalhousie Law Journal*, Vol 13.1, (1990): 211.

¹⁸⁷ McGill Faculty of Law Course Calendars, 1973-1974.

¹⁸⁸ “Mothers-in-Law: Intergenerational Dialogues on Women and Human Rights,” Annie MacDonald Langstaff Series with Jane Glenn, McGill Centre for Human Rights and Legal Pluralism, YouTube, 2021, 15:32, <https://www.youtube.com/watch?v=CC4k2w4DLAI>.

¹⁸⁹ *Ibid*, 24:22.

¹⁹⁰ *Ibid*.

¹⁹¹ McGill Faculty of Law Calendars, 1973-1974, 4.

except where the woman's name was likely to be unfamiliar in either English or French.

Although there were no evident instances of sexism within McGill's archival documents, and oral testimonies did not specifically highlight any direct encounters with sexism, the institution's decision to establish the Annie MacDonald Langstaff Workshop Series indicated a rising interest in feminist viewpoints within English-speaking law faculties. The workshop held in 1989 featured prominent scholars in the field of women and the law, including Mary Jane Mossman and Jennifer Nedelsky.

The establishment of the Annie MacDonald Langstaff Workshop Series, along with the participation of leading feminist thinkers, suggests a growing interest in feminist perspectives on law within the institution in the 1980s. This indicates a gradual recognition of the importance of women's perspectives and the advancement of gender equality within legal education. McGill University's early history, particularly within the Faculty of Law, reflects the complexities and challenges faced by women seeking equal opportunities in higher education. While progress was made over time, it was a gradual process shaped by societal shifts and the determination of individuals to push for change. The Annie MacDonald Langstaff Workshop Series is a testament to the evolving perspectives and commitment to exploring feminist perspectives within the legal field at McGill.

Université du Québec à Montréal Faculté de science politique et de droit

The University of Québec at Montréal (Université du Québec à Montréal or UQAM) has a rich history intertwined with student protests, social movements, and political scrutiny. As previously mentioned, UQAM was established in 1969 following the consolidation of the *École des beaux-arts de Montréal* and *Collège Sainte-Marie*. UQAM's educational curriculum incorporated social justice activism, reflecting the societal changes of the time, especially

following the Quiet Revolution. This dedication to activism was integrated into its educational philosophy, and UQAM quickly became a symbol of the evolving values of this era. One notable development was the introduction of a course on the status of women, first offered at UQAM in 1972 and 1973, marking the university's early engagement with feminist education.



Figure 1.1 - Premier cours universitaire sur le féminisme et les femmes, Étudiants et membres du personnel lors des inscriptions au cours sur la condition féminine offert à l'UQAM à partir de 1972, 1973. Fonds d'archives du Service des communications, 45U-714 :F3 :01/3. *Archives UQAM*.

However, the university's politically charged climate did not go unnoticed by authorities. After the 1970 October crisis, which saw the invocation of the War Measures Act in response to the *Front de libération du Québec* [FLQ] actions, university campuses, including UQAM, came under close surveillance by the Royal Canadian Mounted Police [RCMP]. The RCMP's intelligence service was particularly vigilant in monitoring the *Syndicat des professeurs de l'Université du Québec* [SPUQ], the first such union in Canada, because of its outspoken political convictions. The RCMP harboured concerns about the political activities and affiliations of SPUQ members. A poster of Paul Rose, an FLQ member convicted of the murder of Minister Pierre Laporte, was reportedly displayed on the union's premises, further intensifying the scrutiny. A secret document dated 11 March 1971 specifically accused two SPUQ executive

members, Mario Dumais and Michel van Schendel, of being supporters of the Quebec terrorist movement.¹⁹²

Mario Dumais, a professor of economic history, was known for his involvement in separatist demonstrations. He emphasized the importance of solidarity and organization among workers and teachers, noting that they had faced employers together and then needed to learn to respect political power collectively. Dumais expressed a shared sense of struggle, acknowledging that when union leaders are targeted, so was the broader movement. In his view, the unity between workers and educators was crucial for confronting political challenges. In a 1971 article in *Le Devoir*, Dumais highlighted the need for workers to organize and the sense of solidarity among them.¹⁹³ Michel van Schendel, a professor of literary studies, was known for his ties to the Communist Party of Canada and for founding groups like the Independence and Socialism Committee, considered terrorists by the RCMP. The union's involvement in broader political and social movements was further underscored by figures at the university, such as Nicole Therrien of the *Front de libération des femmes du Québec* [FFQ], who condemned male-dominated civilization and called on women to transform their oppression into resistance. Her rallying cry and involvement with several widely publicized political scenes is a testament to the activism that grew at UQAM during the 1970s. Furthermore, these examples illustrate the intersection of labour, political, and feminist struggles within UQAM during this period.¹⁹⁴

Despite the intense surveillance and suspicion from authorities, Dumais and van Schendel continued their academic careers. These incidents serve as a poignant reminder of the

¹⁹² Michel Arseneault, « Après octobre 1970: des profs sous surveillance, » *Le Devoir*, 12 Octobre 2021.

¹⁹³ Gerald LeBlanc, « Le regroupement des commissions scolaires se prépare sans bruit » *Le Devoir*, 13 Octobre 1971.

¹⁹⁴ Ibid.

era's political tensions and the pervasive nature of state surveillance during the Cold War. The RCMP's focus on UQAM faculty was part of a broader concern about communist sympathies and potential subversive activities, leading to a climate of suspicion and repression on university campuses.

Amidst the political tensions occurring at the time, the law department was growing. After 1969, it quickly grew in faculty and student numbers, initially consisting solely of male professors from institutions that merged to form UQAM, including *Collège Sainte-Marie*. The department expanded rapidly, reaching 18 faculty members by the 1981 academic year, making it comparable to older departments nationwide. Over time, the department diversified, with women beginning to join the faculty in the mid-1970s. Renée Joyal-Poupard was hired in 1975, Maryse Grandbois and Juanita Westmoreland-Traoré in 1976, Francine Gauthier-Montplaisir, Carol Jobin in 1977 and Louise Doyon in 1980, followed by others who contributed to the department's increasing focus on feminist research from the 1980s onwards.¹⁹⁵ This evolution was part of a broader shift towards greater gender diversity and incorporating feminist perspectives within the department's research and teaching. In addition, since most of the members of *Le comité inter-universitaire pour la défense des droits des femmes* were faculty members at UQAM, it suggests a broader institutional commitment to ensuring incidents with sexism would not be repeated.¹⁹⁶

René Laperrière and Claude Thomasset, both esteemed professors in the Département de

¹⁹⁵ CALT, Teaching Directories, 1975-1981.

¹⁹⁶ Karen Al-Aidroos, Hélène Dumont, René Laperrière, Claude Thomasset, Comité inter-universitaire pour la défense des droits des femmes à l'université, Le cas Renée Joyal Poupard : Un exemple de discrimination sexuelle : analyse présentée par le Comité inter-universitaire pour la défense des droits des femmes à l'université à la Commission des droits de la personne, 13 July 1977.

sciences juridiques, played a crucial role on the inter-universitaire committee investigating the case of Renée Joyal-Poupart. Laperrière's involvement as a male academic in addressing issues of gender discrimination is particularly significant. The committee, informed by their insights, concluded that the Faculty of Law at the University of Montreal had failed to accommodate and respect the realities of working with women who did not conceal their family responsibilities. Joyal-Poupart, who requested maternity leave after giving birth on a date considered "less than ideal" by the faculty, faced substantial difficulties as a result.¹⁹⁷ The committee's report strongly asserted that women should be granted the same rights as men in the workplace, including the right to express their ideas and receive recognition for their work. They emphasized that women should not have to conform to male standards to be valued. The committee ultimately called on the Human Rights Commission to condemn the sexual discrimination Joyal-Poupart suffered, advocating for her full reinstatement at UdeM, along with fair compensation for the material and moral harm she endured since November 1973.

Westmoreland-Traoré, who provided important testimony about Joyal-Poupart during the review process and contributed meaningfully to UQAM's embrace of feminism, also made an important statement during her testimony on 17 October 1973. She affirmed Renée Joyal-Poupart's educational capabilities, emphasizing her dedication to teaching responsibilities and her collaborative spirit in joint academic efforts. Westmoreland-Traoré recounted a conversation with Dean Jacques Bellemare in April, where he expressed interest in introducing new seminars, including one on Women and the Law. She suggested that she could co-teach the seminar with

¹⁹⁷ Karen Al-Aidroos, Hélène Dumont, René Laperrière, Claude Thomasset, Comité inter-universitaire pour la défense des droits des femmes à l'université, *Le cas Renée Joyal Poupart : Un exemple de discrimination sexuelle*, 13 July 1977, 86.

Joyal-Poupart, who was receptive to the idea when informed. Westmoreland-Traoré emphasized that the administration had not initially considered Joyal-Poupart for this role; it was her initiative to propose Joyal-Poupart's involvement, a suggestion that Joyal-Poupart appreciated and accepted without hesitation.¹⁹⁸

Juanita Westmoreland-Traoré's time at UQAM's Faculté de science politique et de droit from 1976 to 1991 was a significant period in the institution's history. It also represents a crucial moment in the convergence of legal education, feminism, and rights discourse in Québec. As a professor, Westmoreland-Traoré was instrumental in integrating feminist perspectives into the curriculum and advancing a legal practice that was deeply committed to social justice. Her work at UQAM, specifically in developing the UQAM Legal Clinic, aimed to address systemic inequalities. This approach was both innovative and transformative in the context of Quebec's legal education.

Westmoreland-Traoré's scholarly achievements were matched by her practical contributions. She became a leading figure in promoting a socially engaged legal education at UQAM. Her efforts were particularly significant in advancing feminist legal thought within the faculty, influencing a generation of students and faculty members to consider the implications of law on gender and other intersecting identities.

Beyond her academic contributions, Westmoreland-Traoré's influence extended into the broader feminist and rights discourse in Québec. As the first president of the *Conseil des communautés culturelles et de l'immigration du Québec* from 1985 to 1990, she was at the forefront of efforts to combat discrimination based on sex, race, and ethnic origin.¹⁹⁹ Her

¹⁹⁸ Ibid, 41; Témoignage du professeur Westmoreland-Traoré devant le Comité ad hoc, le 17 octobre 1973.

¹⁹⁹ For example: "No View Given on Review Plan" *The Gazette*, 8 November 1989.

leadership in this role and her service on various commissions and boards, including the Canadian Human Rights Commission and the United Nations Justice and Truth Commission for Haiti, demonstrated her commitment to embedding feminist principles in public policy and legal practice.

Westmoreland-Traoré's influence on legal thought and feminist rights discourse continued beyond UQAM, as she later became the first Black dean of a law school in Canada at the University of Windsor, Ontario, and the first racialized Quebec lawyer appointed to the judiciary. Her appointment as a judge at the Court of Quebec in 1999 allowed her to further influence feminist legal practice, mainly through her pioneering work on racial profiling. Her judgments often reflected a deep sensitivity to equality and discrimination issues, significantly contributing to the evolution of feminist legal theory in Quebec and beyond.

Her legacy at UQAM and in the broader legal community is also reflected in the numerous awards and honours she received, including honorary doctorates from the University of Ottawa and UQAM, the Alan-Rose Prize for Human Rights, and the Rights and Freedoms Award from the *Commission des droits de la personne et des droits de la jeunesse du Québec*. Westmoreland-Traoré's contributions to feminism and rights discourse were further recognized by her inclusion in significant legal and feminist organizations, where her work has continued to inspire efforts to integrate feminist principles into legal practice and education.

Westmoreland-Traoré's contributions to UQAM's Faculty were instrumental in advancing the mission of integrating legal education with social responsibility and played a critical role in shaping feminist legal thought and rights discourse in Québec. Her work exemplifies the transformative potential of legal scholarship and practice when aligned with feminist principles, making her an essential figure in the history of UQAM's legal academic

community and a lasting influence on the broader feminist movement.

UQAM was established to provide accessible higher education to a diverse student population, emphasizing social engagement and critical thinking. From its inception, UQAM became a hub of student activism, particularly during the late 1960s and the 1970s, marked by significant social and political movements across Québec. UQAM students played a central role in these movements, organizing protests addressing tuition fees, government policies, social inequalities, and cultural identity.

These student protests were not isolated incidents but part of the broader social and cultural transformation sparked by the Quiet Revolution, a period of intense change in Québec that extended into the 1980s. The activism at UQAM reflected the widespread desire for democratization, social justice, and the recognition of diverse perspectives within the educational system.

An example of this activism occurred in January 1983, when UQAM's politics students participated in a walkout, joining a broader wave of strikes and protests that affected various sectors across Québec. According to a survey conducted by the Federation of Quebec School Boards, approximately 32,000 teachers, 750 non-teaching professionals, and 1,400 support staff were on strike that day. Despite holding a general assembly on the Thursday evening before, UQAM's politics students were unable to reach a consensus. They decided to reconvene the following Monday at the Pavillon Judith-Jasmin theatre studio for further deliberation. This event, reported by *Le Devoir* journalist Jean-Pierre Proulx, emphasizes the intensity of student

activism that permeated UQAM during this era, reflecting the university's deep connection to the social and political currents of the time.²⁰⁰

Conclusion

Between 1961 and 1994, Québec's law faculties experienced significant and transformative changes by pioneering the appointment of female faculty members, thereby setting unique precedents in Canada. While they were almost a decade slower than common law faculties in establishing courses about women and the law, their inaugural step toward breaking the last physical barrier for women in the academy cannot be understated. In addition, the Quiet Revolution caused immense changes in Québec society, which could be considered a factor underlying the numerical surge of women in Québec law faculties beyond 1974.

The case of Renée Joyal Poupart sheds light on the persistent challenges faced by women in professional settings. The report, presented to the university administration on 13 July 1977, highlights a specific instance of discrimination experienced by Joyal-Poupart, bringing attention to broader issues of gender inequality and bias. It is a stark reminder of the barriers and biases women encountered in their careers during this time. Joyal-Poupart's experience exemplifies the systemic challenges faced by women in male-dominated fields, such as law. The report aimed to raise awareness about gender discrimination and foster dialogue on the need for change within the University of Montréal and beyond. This case also underscores the importance of addressing gender inequality in the workplace and the legal profession. Thus, the report played an important role in sparking discussions and actions aimed at promoting gender equity and creating a more inclusive and equal professional environment. Joyal-Poupart's case is not isolated but indicates a

²⁰⁰ Jean-Pierre Proulx, « Les débrayages ont épargné une douzaine de commissions scolaires » *Le Devoir*, 29 January 1983.

broader issue affecting countless women in various industries and professions. *Le cas Renée Joyal Poupart: Un exemple de discrimination sexuelle* functions as a crucial document raising awareness of gender discrimination, drawing attention to historical parallels, which, in turn, prompted further advocacy, legal reforms, and efforts to promote equality and fairness in the workplace. It stands as a testament to the courage and determination of individuals like Joyal-Poupart, who experienced discrimination based on gender in this period and Westmoreland-Traoré who openly supported her.

The entrance of women into law faculties in Québec provides a unique lens through which to understand the intersections between the public and private spheres. The distinctions between religious women, professional women, and activists within the history of Québec highlighted the hybridity of feminist consciousness during this period. The context of Québec law faculties, influenced by social forces, inevitably shaped how women identified themselves within a conservative profession. The gradual appointments of women in Québec law faculties represented a diverse group of women who experienced various challenges and perceptions of equal opportunities. Although some women may not have perceived their entrance into the profession as particularly difficult, they shared similar experiences of sexism in their careers.

The conditions faced by women in their employment within Québec law faculties during the period treated here reveal significant gender disparities and inequalities. The underrepresentation of women in faculty positions, limited career advancement opportunities, inadequate institutional support, and the absence of courses addressing gender-related legal issues all accentuated the need for changes to promote gender equality in legal education. The historical lack of representation of women in faculty positions hindered the diversity of perspectives and expertise within law faculties. Despite the increasing number of female students and the faster progress of Québec law faculties than common law faculties, the slow hiring and

promotion of female professors created a gender imbalance. It limited the contributions of women to legal education. Inadequate institutional support further exacerbated the gender disparities. The absence of policies, mentorship programs, and professional development opportunities for women faculty members relegated their concerns to specific spaces. It hindered their ability to navigate the academic landscape and realize their full potential.

The evolution of legal education in Québec, influenced by the professional ideology steeped in Catholicism and the emergence of social sciences, shaped the understanding of women's place within higher education. The renewal of conflict between clerico-nationalist and liberal ideologies, particularly leading up to the Quiet Revolution, contributed to a redefinition of Québec's collective image and created opportunities for women. The history of women in Québec law faculties reflects both the progress made by women in the legal profession and the ongoing challenges they faced. It demonstrates the importance of examining the social and cultural context in understanding women's experiences in law faculties and their implicit contributions to the feminist movement by taking up spaces where women had never been before. Chapter two more closely analyzes the systemic challenges feminist women faced when they resisted the patriarchal and androcentric atmosphere within the walls of their employment in Ontario.

Chapter 2

“It’s in the Walls”²⁰¹ Systemic Sex Discrimination in Ontario Law Faculties

Through the years 1961 to 1994, Ontario’s law faculties grew to six in number. When Québec law faculties initially began to appoint women to teaching and administrative positions after the Quiet Revolution, Ontario law faculties resisted appointing women in the same way. This resistance meant that women would have a much harder time in the Ontario law school social structure, as Ontario law faculties actively worked to both neutralize and eradicate feminist politics through the years of 1961 to 1994. Women in Québec were not exempt from discriminatory treatment, as was exemplified in the case of Renée Joyal-Poupart at Université de Montréal in 1977. However, discrimination against women law professors in Ontario was distinctive because it was a product of the amalgamation of professional and academic culture which characterized legal education through the twentieth century in the province.²⁰² The history of legal education in Ontario is unique compared to the rest of Canada. In the mid-twentieth century, the amalgamation of universities and law faculties created a mixture of university and legal professional culture, whose traditions had been established in the nineteenth century.

This chapter will identify the ways in which Osgoode Hall Law School (relocated to York University in 1965, with its new building completed in 1969), University of Ottawa Faculty of Law (Common Law Section), Queen’s University Faculty of Law, University of Toronto Faculty of Law, Western University Faculty of Law, and University of Windsor Faculty of Law, eventually took steps to include women in faculty and decanal positions, but also how women who identified with the feminist movement – whether in writing or in their day-to-day activities – may have been subtly

²⁰¹ Constance Backhouse Interview with Taylor Starr, 4 November 2021.

²⁰² See C. Ian Kyer and Jerome E. Bickenbach, *The Fiercest Debate: Cecil A. Wright, the Benchers, and Legal Education in Ontario 1923-1957*, (Toronto: The Osgoode Society, 1987).

prohibited from advancing to higher paid or representative positions within the faculty. The atmosphere of law faculties across Ontario at this time was described by an interviewee as one in which sexism was built structurally “in the walls.”²⁰³ Some women attested to their experiences with sexism in formal academic scholarship and in oral interviews. All interviewees believed that sexism was omnipresent in the Ontario law faculty, to the extent that a woman dean was not appointed in Ontario until the 1990s. In this regard, it should also be noted that decanal searches and appointments were (and still are) conducted, overseen, and approved at the highest administrative level of the university.

From 1961 to 1994, women in Ontario law faculties experienced two shifts on the path to equality. The first shift involved demands related to the increase in women’s presence in the law faculty. From 1961 to 1980, women in legal academia asked questions concerning how the law had a direct impact on women’s lives. They did not address questions concerning their place in the professoriate at a time when sexism was explicit. The second shift, particularly in the period from 1980 to 1994, was the general realization that issues affecting women within Ontario law faculties were getting worse. Following the proposed solutions to explicit issues, sexist attitudes toward women became implicit beyond the 1990s. There were ideological differences among the women experiencing these shifts, as those hired in the mid-1970s and early 1980s generated the energy to pursue permanent change through the demands of the second-wave feminist movement in Ontario. *Overt* feminists took risks because many of them were educated during the years of second-wave feminism which were filled with upheaval and the concretization of women’s studies as an academic field. *Overt* feminists focused on the distinctions between men and women and how they were to be brought to law, culture, and other institutional problems that had an express effect on the organization

²⁰³ Backhouse Interview.

of social life.²⁰⁴

A brief historical overview of the Ontario university coalescence with the law schools is required to provide context for understanding the ways in which law schools in post-war Ontario remained committed to the idea of producing the next generation of professional *men* in common law institutions. Even though the hiring of women advanced throughout the decades beginning in Ontario in 1963, the insidiousness of sexism persisted with the law faculties' amalgamation with the university institution.

The Law Society of Upper Canada used its monopoly over legal education to discourage the creation of university-based law faculties to ensure that all aspiring lawyers attended its own Osgoode Hall Law School, founded in 1889. It would not alter this position until 1957. Only the University of Toronto managed to keep a law program going, mainly by locating it in the Faculty of Arts. It would not become a separate faculty with its own dean until 1944.²⁰⁵ A legal education before then was solely to be attained at Osgoode Hall.

Osgoode Hall Law School saw few innovations under its long-serving second principal, Norman Hoyles (1894-1923). Hoyles had visited Harvard, Columbia, and Yale but was unimpressed by Christopher Columbus Langdell's case method and academic approach to law.²⁰⁶ When Dean Falconbridge was assigned to the position, the curriculum expanded to include the case methods and more full-time teachers were appointed. Legal education at Osgoode Hall in the late

²⁰⁴ Menkel-Meadow, "Feminist Legal Academics: Changing the Epistemology of American Law through Conflicts, Controversies, and Comparisons," *Gender and Careers in the Legal Academy*, (2021) 477.

²⁰⁵ Brian Bucknall, Thomas C.H. Baldwin, J. David Lakin, "Pendants, Practitioners and Prophets: Education at Osgoode Hall to 1957," *Osgoode Hall Law Journal*, Vol 6.2, (December 1968): 115.

²⁰⁶ Graham Parker, "Legal Education in Ontario," *Journal of Legal Education*, Vol 27, (1976): 576.

nineteenth and early twentieth century perpetuated the idea that law school's purpose was to train students in practical lawyering without analysis, diagnosis, or synthesis. Universities could not go too far astray from the Osgoode mould if they wanted to convince the Law Society of their legitimacy to offer degree programs transferable for call to the bar.

The Legal Education Committee of the Law Society, responsible for setting policies and overseeing legal education, largely disregarded calls for reform in university legal education. In 1923 and again in 1934, progressive elements had pleaded for a full-time law school. It took the extraordinary disruptions in 1949 surrounding the resignation of Dean Cecil Wright and two colleagues, John Willis and Bora Laskin, from Osgoode Hall Law School and their relocation to the University of Toronto, to bring the issue to the forefront.²⁰⁷ Finally, in 1952 the Law Society was persuaded to upgrade admission standards so that a law school applicant was required to be a university graduate or have completed two years of university work.²⁰⁸ Yet, the monopoly persisted, and the Law Society strengthened its authority – law students graduating from the University of Toronto still had to repeat the third year by enrolling at Osgoode Hall. In 1957, the Law Society recognized any Canadian LL.B. as a full qualification for admission to articles. Through the work of James Alexander Corry at Queen's, and Cecil Wright at Toronto the modern law school as an elite component of the University system in Ontario began to take shape, though Wright would build on what W.P.M. Kennedy had begun at the

²⁰⁷ Wright and three of his colleagues resigned and moved to the Faculty of Law at the University of Toronto. Wright, "Should the Profession Control Legal Education?" *Journal of Legal Education*, 1, (1950); Kyer, *The Fiercest Debate*, 264; See also Parker, "Legal Education in Ontario," (1976): 577-578; Mark D. Walters, "'Let Right Be Done': A History of the Faculty of Law at Queen's University," *Queen's Law Journal*, (2007): 5-10; Philip Girard, *Bora Laskin: Bringing Law to Life*, (Toronto: University of Toronto Press for the Osgoode Society for Canadian Legal History, 2005) 127-194; Martin Friedland, *Searching for W.P.M. Kennedy: The Biography of an Enigma*, (Toronto: University of Toronto Press, 2020).

²⁰⁸ Kyer and Bickenbach, *The Fiercest Debate*, 264.

University of Toronto.²⁰⁹

After 1957, the new law schools began to offer courses beyond the standard training offered at Osgoode Hall. At Queen's, the courses started to reflect what the lawyer needed to learn by focusing less on procedural skills and more on systematic reading, analysis, and reflection.²¹⁰ J.A. Corry argued that the role of the freshly minted lawyer was to function in society and to reflect "on the nature of society itself."²¹¹ The time for a vocational legal education had ended, and quoting Justice Oliver Wendell Holmes,²¹² J.A. Corry asserted "Queen's needed to teach law in a grand manner," because lawyers were essential to the construction of the modern state.²¹³ The development of the modern state in Canada depended on a community of intellectuals, or so-called mandarins, – men – who would not only observe and assess the changing nature of the state but act as fundamental protagonists of, and participants in, that change.²¹⁴ Underlying these activities were a series of changes within the intellectual community. By the end of the nineteenth century, the religious values that had shaped society and the church-based universities that promoted Canadian intellectual values began to be challenged by the rise of scientific thought and specific doctrines such as Darwinism. At the turn of the century, these challenges, combined with emerging social conditions, led to demands for new roles for the intellectual and religious communities. The trend of the age moved toward a new coalition of activist intellectuals who sought

²⁰⁹ Philip Girard, *Bora Laskin: Bringing Law to Life*, 151-153.

²¹⁰ Mark D. Walters, "Let Right Be Done" *Queen's Law Journal*, (2007): 9.

²¹¹ J.A. Corry, "The Queen's University Faculty of Law," (1957-1958) cited in Walters.

²¹² Oliver Wendell Holmes Jr. was an American Jurist who was instrumental in the development of sociological jurisprudence as a school of thought. He was associate Justice of the US Supreme Court from 1902 to 1932. See EA Purcell, *The Crisis of Democratic Theory: Scientific Naturalism and the Problem of Value*, (Kentucky: University of Kentucky Press, 1973).

²¹³ Walters, "Let Right Be Done" (2007): 10.

²¹⁴ Doug Owram, *The Government Generation: Canadian Intellectuals and the State 1900-1945* (Toronto: University of Toronto Press, 1986) x.

both to assess the needs of modern society and to advocate for solutions. The lawyer with a university degree was the new central proponent of the modern state, it was believed, because *his* occupation and commitment to justice would be able to bridge these values to reflect these changes.²¹⁵

After the Second World War, university enrolments in Ontario experienced significant growth because of several factors, including the influx of veterans and the baby boom. From 1944 to 1951, 53,000 veterans entered universities across Canada as part of a veterans' rehabilitation program. By the early 1950s, the university student population in Canada had doubled compared to 1940, and by 1963, it had doubled again. To accommodate this surge, Ontario shifted from expanding existing institutions to granting new university charters. Carleton University (1957), York University (1959), the University of Waterloo (1959), and Trent University (1963) were established. As a result, full-time undergraduate enrolments tripled, and part-time undergraduate and full-time graduate enrolments increased nearly sixfold. This period also saw the recruitment of 23,261 additional full-time university teachers to support the expanded system, marking a dramatic transformation in Ontario's higher education.²¹⁶

From the mid-1950s to the early 1970s, there were significant changes in demographic patterns resulting from the baby boom, as well as a noteworthy shift to higher age participation in education. Many sought higher education because of Cold War fears, scientific developments, and a North American economy strengthened rather than destroyed by military conflict.²¹⁷ As well, the gender norms of the post-war period and images of idealistic family life promoted in popular culture aimed to serve the emotional needs of a generation that had been raised in periods of insecurity and wanted

²¹⁵ Mélanie Brunet, "Becoming Lawyers," ii.

²¹⁶ R.S. Harris, *A History of Higher Education in Canada 1663-1960*, (Toronto: University of Toronto Press, 1976) Chapter 26.

²¹⁷ Doug Owsram, *Born at the Right Time: A History of the Baby Boom Generation*, (Toronto: University of Toronto Press, 1996).

to create a stable world for themselves.²¹⁸ Higher education was regarded as necessary for the children of the middle and working classes to get ahead. The provincial ministry of education in Ontario raised educational requirements for teachers and many individuals went to universities in search of a degree. Universities in Ontario expanded, grew in number, and gained respect. Behind these changes stood government funding that was higher than it had ever been.²¹⁹

The proximity of Ottawa to the province of Québec influenced the beginning of the dual stream law faculty at the University of Ottawa because it was a law school in the capital city. It also supported those seeking political power and served as a place for the new post-war intellectualism to thrive.²²⁰ Although the formal establishment of both law faculties was a post-war occurrence, the law faculty had earlier origins. The college that became the University of Ottawa in 1866 was under educational control by the Catholic church, founded by Mgr. Joseph-Eugene-Bruno Guigues, College St. Joseph (1848) and was initially intended to provide Catholic Ontarians with a classical education in both French and English.²²¹ The initial years of the civil law programme were tumultuous at the University of Ottawa, which caused the faculty to give up law instruction in 1889.²²² The faculty was reinvented in 1953 when the civil program was recognized by the Québec Bar. The common and civil law sections at the University of Ottawa were formally divided in 1957, but they were always separate entities with different administrative and academic units, and they shared physical space.²²³

²¹⁸ Ibid.

²¹⁹ John Saywell, *Someone to Teach Them: York and the Great University Expansion*, (Toronto: University of Toronto Press, 2008).

²²⁰ Doug Owsam, *The Government Generation*, 4.

²²¹ Marcel Martel and Martin Paquet, *Speaking Up*, 41.

²²² Francois Frenette, "Université Ottawa Faculté de Droit," unpublished document, 21 March 1974. Fonds 22, Archives historiques l'université Ottawa.

²²³ Francois Frenette, unpublished history document from 21 March 1974, Fonds 22, Archives historiques l'université Ottawa.

Decanal positions in the Ontario legal academy were always tinged with politics.²²⁴ Until 1962, after the faculty's re-establishment, Gerald Fauteux, Justice of the Supreme Court of Canada, was dean of both sections. Appointing a well-known figure as the first Dean was a way evoke prestige and made the law school marketable. When Dean Fauteux stepped down in 1962, Thomas Feeney became the Dean of Common law. Moreover, Western University Faculty of Law's autonomy from the Law Society began in 1959 when the re-established Faculty of Law opened and the then retired Supreme Court of Canada Justice Ivan Rand assumed new duties as the first Dean.²²⁵

Harry Arthurs, who later served as Dean of Osgoode and President of York University, observed that between 1949 and 1957, Osgoode's academic program and philosophy had become virtually identical to those of other university law schools.²²⁶ By 1965 the barriers to university affiliation had disappeared, and the rationale of independent professional schools diminished. When several positive factors converged, university affiliation became almost inevitable, and the school was moved to York University.²²⁷ York had only recently opened, and it sought out faculty and schools to lend it some prestige. As York grew, it became easier to excel in commerce education when the Seymour Schulich School of Business attained standing. It added lustre to the university

²²⁴ Although decanal positions were part time in the nineteenth century, the first full-time deans in Canadian law faculties were Richard Weldon at Dalhousie followed by William A. Reeve at Osgoode in 1889 and Fredrick Parker Walton at McGill in 1897. See Philip Girard, Jim Phillips, and R. Blake Brown, *A History of Law in Canada: Volume II*, 196.

²²⁵ Margaret Banks, *Law at Western 1959-1984*, 1.

²²⁶ Harry Arthurs, "The Affiliation of Osgoode Hall with York University," *The University of Toronto Law Journal*, 17, (1967): 198.

²²⁷ Arthurs explains that members of the faculty both opposed and favoured affiliation with York University. There were four reasons for opposition: 1. belief that a school run by the profession was best, 2. misgivings over loss of proximity to the courts and profession, and fear of physical isolation on a remote suburban campus 3. conviction that York could never overcome the traditional prominence of the University of Toronto in this community and 4. resentment over direct Law Society-York negotiations. See Arthurs, 198.

which already benefitted from the significant reputation of Osgoode Hall Law School.²²⁸ By 1966, plans for Osgoode's affiliation, the development of a curriculum that linked the law society in new ways, and the establishment of objectives for faculty and students were emerging.²²⁹ H. Allan Leal, Dean of Osgoode at the time, announced that he did not intend to join York upon the law school's attachment to it, and A.W. Mewett took over as acting dean. A search committee chaired by Justice Bora Laskin of the Ontario Court of Appeal, who joined the Board of Governors in 1967, thought of Gerald E. LeDain as a possible choice. Regarding LeDain, who was a professor of law at McGill, Philip Girard has noted that "LeDain's experience in a prominent corporate counsel setting afforded him instant legitimacy with the bar, his teaching and scholarship in public law fields endeared him to the faculty, and his service as counsel to Québec Attorney General Claude Wagner on several constitutional files had given him a high public profile."²³⁰

The context of Osgoode Hall Law School's place in Canadian legal education is unique because of the school's relationships with both the profession and the university. Thus, the law school at Osgoode has an old and admired history but at the same time that was one of the newest university law schools in the 1960s.²³¹ Mary Jane Mossman describes the attachment of Osgoode Hall to York University as being attributable to the influx of new faculty with interests in experimenting with new forms of teaching. The *ad hoc* collaboration with teachers and researchers in other disciplines, and the influence of ideas about education then current in Ontario contributed to the sense that "the school's full potential would never be realized so long as its governing body was not primarily

²²⁸ Michiel Horn, *York University: The Way Must Be Tried*, (Montréal and Kingston: McGill-Queen's University Press, 2009) 92.

²²⁹ Michiel Horn, *York University*, Ibid.

²³⁰ Philip Girard, *Bora Laskin: Bringing Law to Life*, 328.

²³¹ Bucknall, Baldwin, Lakin, "Pendants, Practitioners and Prophets" 115.

involved with educational matters.”²³²

Law school became distinctly academic in the post-war period because of formal university attachments and legal education reformers. Most notably, Dr. Wright began advocating for courses in the upper years that dealt with subjects ranging from philosophy, political science, and jurisprudence to comparative courses on civil and common law, and these courses are reflected in the first calendar at University of Toronto’s new school of law [See Appendix A, p. 345].²³³ Moreover, the benchers of the Law Society could not ignore the enormous legal and administrative changes war had fashioned in Canadian life. From a Wartime Emergency Order lecture series to new recommendations by Dean Falconbridge for courses in administrative law, tax, and labour law, Osgoode Hall saw the beginning of a more modern curriculum. A large influx of new professors at the recently established law faculties also gave rise to a much more varied curriculum. Whether courses in women and the law would find their place in it remained a matter of controversy, however.

One of the most profound challenges to the development of courses in women and the law, and eventually courses related to feminist legal theory in the 1980s, was the debate over how “academic” legal education should be.²³⁴ Further legitimization of these courses came from the Report to the Social Sciences and Humanities Research Council of Canada [SSHRC] by the Consultative Group on Research and Education in Law which was published in 1983.²³⁵ The report dealt with the structuring of legal research and education, which focused on the context rather than specific forms of the content of law. In response to the report, J.W. Mohr’s analysis outlines the long-standing debates in

²³² Mary Jane Mossman, “Educating Men and Women for Service Through Law: Osgoode Hall Law School 1963-1968,” *Dalhousie Law Journal*, Vol 11.9, (1988): 889.

²³³ University of Toronto School of Law Calendar, 1949-1950.

²³⁴ J.W. Mohr, “Law and Learning Revisited: Discourse, Theory and Research,” *Osgoode Hall Law Journal*, Vol 25.4, (Winter 1987): 700.

²³⁵ *Law and Learning*. Report to SSHRC by the consultative Group on Education in Law. (SSHRC, Minister of Supply and Services, Canada, 1983). Chair Harry Arthurs.

legal research which surfaced in the 1980s.²³⁶ Responses to the report varied in political opinion, but conclusions within the report were based on “widespread consensus.”²³⁷ However, the theme of the responses from various members of law faculties across Canada was one which revealed the tension between academic and professional pursuits – as if they were separate entities with mutual exclusivity. The artificial boundary between the two streams of law had been reified in the post war period.

By the end of the twentieth century, the conservatism which came from the Law Society’s resistance to the melding of law school and universities in the post war period until 1957 was resurrected and characterized the Ontario law faculty. Ontario faculties in the years beyond 1960 were hesitant to hire substantial numbers of women with the result that there was a lack of consistency in the numbers of courses dealing with women and the law, and feminist legal theory. Nevertheless, women who were hired were not only expected to develop courses in women and the law, but also to fight to add these courses which were disparaged as special interests. Women were also expected to work on developing policies on equity, in addition to being involved in a full slate of regular committee work. When women were hired explicitly as feminists, they were often isolated and burdened with additional responsibilities, operating under the expectation that they would take on extra work to address gender disparities within law faculties. These choices were not explicitly discriminatory and in fact, they appeared to be inclusive of women.

The law faculty at the University of Windsor was the last to open within the time-span of this study. In September 1968, the law school at Windsor opened its doors, appointing Margaret Hughes to its faculty right from the outset. However, the first woman with a university

²³⁶ J.W. Mohr, “Law and Learning,” 673.

²³⁷ Ibid, 674.

appointment at an Ontario law school was Gabrielle Chaussebourg at the University of Ottawa's Civil Law Section in 1963 – a decade beyond its attachment to the university, but representative of the progress being made in Québec's law schools during the Quiet Revolution (as discussed in Chapter 1.

Women's Studies programs were accepted and became more commonplace in social sciences and humanities departments after the Second World War, yet the connection of the law faculty to the university in Ontario seems to have had little effect on law schools in that regard. They maintained the idea that their courses should refrain from dealing with radical political ideas. By the late 1980s, some students thought about it as a “no frills”²³⁸ legal education.

This idea of no-frills legal education was discussed in an article in *The Globe and Mail* in 1989. Students spoke publicly about their desire to return to a legal education without courses that involved critical thinking and analysis. This seems to have been directly related to the feminist tensions which had arisen across Ontario law faculties in the 1980s. According to these students, law schools should provide an education which offered doctrinal law courses (dealing, for example, with property, torts, contracts, criminal law, and tax etc. without endorsing the opportunity for upper year students to expand their own interests on the law in context, if they wished.

The context of the late twentieth century suggests a general reluctance to fully integrate women into the legal institution in Ontario, even as women were entering law schools in increasing numbers. All of this contributed to some women faculty choosing to remain silent about their political views, particularly if they specialized in doctrinal law courses,

²³⁸ Kirk Makin, “Feminist Content in Courses Stirs Debate at Law Schools,” *The Globe and Mail*, 26 December 1989.

while some women went to battle at faculty meetings and in the halls. The structure and culture of law faculties within universities from 1961 to 1994 reveal how deeply they were rooted in androcentric traditions, reflecting the ways in which men maintained their dominance over women. The law schools were characterized by what can be described as a two-pronged hierarchy shaped by the pre-existing university culture and law faculty professionalism. For centuries, the cherished institutions had placed women in inferior positions. Once those entry barriers were broken, sexism did not disappear. However, in what they described in their experiences and testimonies, it is evident that even feminists were divided on issues affecting law faculties. Feminism was highly contested and there was resistance toward accepting the reality of women's experiences; public forums and media outlets wrote about feminist content and stirred debate; alums wrote to express discontent with what they regarded as the tarnishing of school reputations. Feminism's arrival in Ontario law faculties characterized the silencing of a fraction of women's voices while emboldening others to speak up and provoke change.

Section de droit civil de l'Université d'Ottawa

La section de droit civil de l'Université d'Ottawa est unique en raison de son lien historique avec le Québec. As Chapter 1 has shown, in Québec women were hired more quickly and in greater numbers in law faculties, alongside developments and changes that occurred within Québec society during the Quiet Revolution. Some transformative changes trickled into Ontario through Ottawa. As mentioned, Gabrielle Chaussebourg can claim the title of the first woman law professor in Ontario through her appointment to the civil law section at the University of Ottawa faculty of law in 1963. Ottawa was at the front line of changes concerning women instructors in the Ontario law profession, but this does not mean it was freed from the atmosphere that generally characterized the Ontario law school in the last three decades of the twentieth century. Although Chaussebourg did not leave much of a paper trail during her time teaching, archival documents from the institution seem to demonstrate

similarity with the Common law section concerning women's inclusion and remedies to gender disparities.²³⁹ A comprehensive history of the civil law section does not exist. In turn, there is lack of scholarly attention to women's involvement in the civil law faculty on its own, so it is helpful to incorporate it into the common law section. However, this section stands alone to elucidate the significance of the chronology on appointing the first woman to an Ontario law faculty in the early 1960s.

Western University Faculty of Law

Western was the first common law institution to appoint a woman to the faculty (albeit a part-time one in 1967). At Western, appointments of women faculty members began about the same time as the numbers of women students started to increase. Margaret Banks, having been appointed on the recommendation of Dean Carrothers, was appointed as assistant professor in 1967. Margaret Banks was initially appointed to Western's law library in 1961. The first woman appointed to the full-time teaching faculty was Diana Priestly, a former law librarian who was an Associate Professor of Law at Western from 1970 to 1972. She chose to return to library work and spent the remainder of her career as a Law Librarian and Professor of Law at the University of Victoria.²⁴⁰ Trudy Brown was a sessional lecturer in family law practice during the 1971 and 1972 academic years. Gail Brent and Winifred Holland joined the full-time faculty in 1974. In 1983 to 1984 there were four women on the full-time teaching faculty – Constance Backhouse, Katherine DeJong, Eileen Gileese, and Winifred Holland.²⁴¹

Aside from her appointment to the Western law faculty, Margaret Banks, author of the book on Western's law faculty, was the fourth woman to receive a Ph.D. in History at the University of

²³⁹Des statistiques étudiantes et professorales (1957-1999) Fonds 22 - Section de droit civil de l'Université d'Ottawa, Archives of the University of Ottawa.

²⁴⁰Diana Priestly is a central figure in Chapter 3.

²⁴¹Margaret A. Banks, *Law at Western, 1959-1984*, 19.

Toronto. As Banks was one of the first women to attain representation at the faculty of law, she had a different outlook than Constance Backhouse regarding the state of remedies for unequal opportunities for women in Western's law faculty. In fact, correspondence between the two women from 1988 to 1989 reveals that Banks and Backhouse deliberated on many concerns affecting women's status within the faculty, as will be discussed.

At Western, Constance Backhouse played an integral role in developing the Western Caucus on Women's Issues [WCWI], where she fought to safeguard women's issues on faculty. Before her time on faculty, Backhouse was a central figure in second-wave feminist efforts in Canada. She used her position and knowledge of the law to transform how women thought about their relationship with institutional barriers.

Backhouse's involvement in women's issues coincided with her education at the University of Manitoba. By the time of her graduation in 1972, she had noted that many young people who wanted to see social change thought that reforming the law was the route to transformation. Upon graduation, Backhouse was employed by Ralph Nader, an American political activist and attorney, who at the time was trying to control the rapacity of corporations through regulation and law. She was encouraged by the feminist movement in the United States, through her work in Washington, DC, where she met many lawyers working on social justice projects. Upon venturing to Osgoode Hall Law School, graduating in 1975 with an LLB, Backhouse recalled that Harry Arthurs urged students to take advantage of the recently enriched law curriculum, so she did. Yet, she could not "see" any job she wanted in the legal profession.²⁴²

Backhouse, an overt feminist, was one of the women who paved the way for Canadian women to demand access to equality through the law; she also made contributions so that women after her in

²⁴²Backhouse Interview, 4 November 2021.

the legal academy would be able to reflect upon the systemic challenges that came with teaching.

Aside from structural and systemic challenges, Backhouse was provided with an immense amount of opportunity, where she was able to spark changes from within. Her early career included jobs with the Ontario Labour Relations Board, where she took a year out to work as the executive assistant to the Deputy Minister of Labour in Ontario and then took the bar admissions course in 1978. Backhouse recalled that there was a strong current of feminists involved in studying for the bar that year.

Backhouse reflected that, at the time, she was uncertain about pursuing a legal career, recognizing the challenges women faced in the profession and doubting whether she would fit within existing law firm cultures. Graduate school offered her a way to delay making definitive career decisions. Diana Majury, Marilou McPhedran, Beth Symes, and Beth Atcheson (Backhouse's roommate), agreed that the bar exam might not be the best way forward. They pursued more immediate concerns and tried to set up an abortion clinic in Toronto. Backhouse noted that it was an exhilarating six months – the most thrilling thing she had ever done because of the “fabulously energized, excited, ambitious, and inspirational women.”²⁴³ They met young doctors, talked to the Ministry of Health, and travelled to see abortion clinics in Montréal, including Morgentaler's. The abortion clinics were halted by the Minister of Health when they applied for status as a public hospital, and Backhouse was still uncertain of her career in the law, so she decided to pursue graduate work at Harvard Law School.

At Harvard, there was a small pool of about twenty Canadians, and the Canadian law deans visited the school to recruit new members to their faculties. Negotiations between Backhouse and one law school did not result in a concrete offer. She applied to Osgoode and did not receive an interview. Vice Dean Larry Taman, who interviewed the candidates, wrote to her asking for her help in preparing a list of the most promising colleagues. Backhouse herself, however, was passed over as a candidate for the

²⁴³ Backhouse Interview.

position. Although this was not an uncommon occurrence at the time, Backhouse regarded it as a “slap in the face.”²⁴⁴

When David Johnston, Dean at Western’s law school, interviewed Backhouse at Harvard, Backhouse believed that he was intrigued by her feminist work. He indicated: “there’s quite an interest in feminism back in London, Ontario.” Johnston’s observation came from the internal feminist momentum in the law profession at the time which required that lawyers begin to hold workshops on the necessity of property and family law reforms.²⁴⁵ Backhouse believed that Johnston had an interest in appointing a feminist, and it might have been attributable to the internal energy of women lawyers. These lawyers began to publicize legal information and provide answers to questions concerning women’s property in Ontario.²⁴⁶ At the time, there were problems with Ontario family law, which fuelled part of feminist arguments for more widespread change.

When it was time for her job interview, Backhouse claimed that “seven-eighths of the faculty were dead against me.” She nevertheless got the appointment. Backhouse believes that the Dean overrode faculty opinions. In 1979, Backhouse was the only overt feminist to join the faculty. Backhouse says that she managed to “miraculously survive twenty years” in her position.²⁴⁷

The conviction that Ontario family law was unfair to women fuelled part of feminist arguments for more widespread change. Larger sweeping trends, such as second-wave feminism, might also have prompted the idea that it was necessary to hire women like Backhouse. When she was hired, however, Diana Majury and Cheryl Waldrum were hired at Western under limited term contracts;

²⁴⁴Backhouse Interview, 4 November 2021.

²⁴⁵ Taylor D. Starr, “Internal and External Advocacy for Legal Reform: Genesis of the Ontario Family Law Act, 1986,” in Joan Sangster and Lori Chambers, *Essays in the History of Canadian Law XII: New Perspectives on Gender and the Law*, (Toronto: University of Toronto Press for the Osgoode Society for Canadian Legal History, 2023).

²⁴⁶ Ibid.

²⁴⁷Backhouse Interview.

they were let go when the faculty became embroiled in what Bruce Feldthusen has described as The Gender Wars. According to Claire Young, it was because of their politics.²⁴⁸

As a result of her stance on feminism at the time, Majury believes, she confronted sexism in teaching at a number of Ontario law schools, including Western.²⁴⁹ In the early days of feminism in the law faculty, women were dismissed because it was not taken seriously. Majury asserted that she felt as if the conclusions in her scholarship were less valid because “there were not many openly feminist individuals that were prepared to illuminate their experiences with sexism.”²⁵⁰ However, once more feminist women began to demand change in the mid-1980s, students also took notice and there was more call to action on part of both the university administration and the law faculty alike.

Claire Young arrived at Western in 1984 from her professional career in tax law. She was established in the field of tax law in Alberta and drafted much of Alberta’s tax legislation. Young was distinctive in the Western faculty because she was hired to teach tax law and recalled being “the only woman in her corporate field.”²⁵¹ None of the other women on Western’s faculty were working in “traditionally male areas like corporate law or tax law” and got shifted into the more stereotypical women’s law subjects which were considered softer subjects.²⁵² Indeed, the views on women at Western were polarizing throughout her time there. According to Young, there were two ways in which women experienced sexism – because of their academic work and how it was regarded, in addition to having male colleagues pillory them in their own classrooms, ridicule them in public meetings or laugh at something they proposed.²⁵³ She asserted:

We [women at Western law] all had slightly different politics but one thing we were

²⁴⁸ Claire Young Interview with Taylor Starr, 25 January 2022.

²⁴⁹ Diana Majury Interview with Taylor Starr, 14 February 2022.

²⁵⁰ Diana Majury, 14 February 2022.

²⁵¹ Claire Young Interview with Taylor Starr.

²⁵² Claire Young Interview.

²⁵³ Ibid.

absolutely unified on was that Western was treating women and women students abysmally. And it did. It wasn't just the research. You spoke up in a faculty meeting – and this is just classic – you said something in one minute, in Constance's case maybe two minutes, and then some fellow would put his hand up, take ten minutes to do it and say the exact same thing and it would be his idea. So, all that stuff just drove you nuts.²⁵⁴

Bruce Feldthusen's article, "The Gender Wars: 'Where the Boys Are'", reflects upon the response of male faculty to the inclusion of women and women's concerns within the academy. Feldthusen described how faculties of law had become sites of the particularly loud struggle over the legitimacy of feminist research and feminist politics. His arguments demonstrate the ways in which recruitment, hiring, and promotion of faculty members, teaching methods, and curriculum design reinforced the subordination of women in the law faculty.

Feldthusen asserted that there was nothing unique about what he has considered "the gender wars" within Ontario law schools. In fact, law schools were only one forum in which the battles were waged. What was unique about the law faculty at Western and across Ontario, was that law faculties were "notoriously conservative supplying a notoriously conservative profession at the vanguard of social change."²⁵⁵ There were two components of the war that feminists took advantage of once a larger number of them created an environment that was suitable for speaking out.

The first was that feminists demanded that gender issues be addressed as systemic issues, rather than as isolated individual discriminatory episodes. The second was that the media took notice of what feminists had to say because law schools were not private. The public had legitimate concerns with how lawyers were educated and the right to know that many male law professors were indifferent to the newly forming equality laws.²⁵⁶ Feldthusen identified the catalyst for the conflict as

Sheila McIntyre's 1986 memo,

²⁵⁴ Claire Young Interview.

²⁵⁵ Bruce Feldthusen, "The Gender Wars: Where the Boys Are," *Breaking Anonymity: The Chilly Climate for Women Faculty*, The Chilly Collective eds. (Waterloo: Wilfrid Laurier University Press, 1995) 280.

²⁵⁶ Bruce Feldthusen, "The Gender Wars," 280.

which outlined the sexist and anti-feminist treatment experienced by a junior feminist law professor at Queen's University. However, the memo, to be discussed in more detail ahead, would not have had such an impact if there was not already a growing demand for attention to gender disparities. The *memo* was the tip of the iceberg that clarified and demanded recognition that these issues were real. In fact, in an interview with McIntyre, she admitted that she did not intend for the memo to have an impact on a large audience.²⁵⁷ However, Feldthusen was correct to note that after 1986 matters became *visible* and worse.²⁵⁸ The visibility, however, did not last long.

In 1988, Backhouse released a report that came to be known as “the Backhouse Report” which was equally significant in the attention it drew to issues of gender in the context of both the university and professional programs. In her position on the law faculty at Western, Constance Backhouse utilized a historical approach to bring life to the experiences of women who taught at the University as early as 1915. In the report, she argued that any effective response to gender inequity on campus must address the root problems. Backhouse issued a call to action, emphasizing the need for a thorough review of institutional structures and policies. She argued that women's concerns must be strongly represented at the highest levels of university administration and advocated for the establishment of explicit goals to improve women's representation. Additionally, she called for clear sanctions to be implemented against those who failed to achieve these goals. There had been limited success in previous attempts to improve Western's record on equity. The lesson that Backhouse drew in her report was that more wide-ranging and aggressive strategies would be necessary if progress were to be realized.²⁵⁹ There was a backlash from faculty and students alike to her public statements and report,

²⁵⁷ Sheila McIntyre Interview with Taylor Starr, 1 February 2022.

²⁵⁸ *Ibid.*

²⁵⁹ Editors, “An Historical Perspective: Reflections on the Western Employment Equity Award,” *Breaking Anonymity*, 61-62.

which caused urgency in the breaking of silences and brought more attention to the serious issues within Western, provincially, and nationally. Records in the Women's Caucus of Women's Issues [WCWI] files, demonstrate the institutional barriers overt feminists endured in their attempts to advocate for changes in the institutions.

One of the glaring problems that emerges in the WCWI files is the theoretical differences that existed between covert and overt feminists. In the Backhouse Report, she notes how women had faced discrimination based on wages, the opportunity for representation in senior faculty positions, and resistance to Affirmative Action and Equity Policies through the twentieth century. However, without overt feminists, attention to the issues pertinent within the law faculty and university institution at large would not have been possible.

One important inquiry Backhouse put to Banks involved her curiosity regarding opposition to affirmative action policies, since there was a division among women academics of more senior and junior ranks about the goals that needed to be implemented for permanent change.²⁶⁰ Backhouse shared discontent about the fact that a woman should not have to experience entering the faculty as a "lone wolf" any longer. She asserted:

I would not want lack of university funding to stand in the way of equitable remedies to redress clear and obvious past discrimination. And my suggestion that we send women to departments in twos and threes was made entirely to provide more supportive working conditions for new women entering awkward and sometimes overtly hostile environments. I certainly do not mean to be taken as suggesting that women are not capable of withstanding the pressures unless they are paired with other women. Obviously, many of us have done so and survived, even some triumphing over the past decades. My point is that we should not have to live through such vicious situations in isolation if at all possible.²⁶¹

In response, Banks stated:

²⁶⁰ Letter to Margaret Banks from Constance Backhouse, 11 January 1989, UWO Women's History [law archive] *University of Western Ontario Archives*, AFC198-S12 F1.

²⁶¹ Ibid.

To be honest, I was surprised to find, when I read over my Bishop's article,²⁶² that I still agree with most of what I said there. Maybe that doesn't sound very progressive, but I think you are right in saying that there is a division of view among women academics of more seniority and those of more junior rank today, not about goals, but about the best method of achieving them. Women scholars of my generation tend to be amazed and delighted at the progress that has been made; younger women are more likely to complain that it hasn't been fast enough. I do believe that there are matters about which we can disagree agreeably.²⁶³

The correspondence is indicative of how covert and overt feminists were able to "disagree agreeably" on matters that went outside their beliefs.²⁶⁴ However, some women at Western only realized later that they should have been more openly affiliated with the feminist movement because, after all, the unifying factor was that Western had treated women faculty and students "abysmally."²⁶⁵ These conditions in the law faculty and in the university departments prompted the WCWI to create an informative video on *The Chilly Climate for Women in Colleges and Universities*.²⁶⁶ Although collective action forced Western to make a commitment to remedying accounts with systemic discrimination based on the calls to action from the WCWI, there were no immediate policy changes within the law faculty, and Backhouse ultimately left her position to take up tenure at the University of Ottawa Faculty of Law in 2000. Claire Young went to the University of British Columbia Faculty of Law in 1992.

University of Ottawa Faculty of Law - Common Law Section

The University of Ottawa's proximity to Québec meant that the strength of the feminist movement would be acknowledged there more quickly than at many of the other Ontario schools.

²⁶² Margaret Banks, "A Declaration of the Rights of Women," *The Mitre: Bishops University Magazine*, Vol 55.2 (Québec: University of Bishop's College, 1948) 54-58.

²⁶³ Letter to Constance Backhouse from Margaret Banks, 16 January 1989, *University of Western Ontario Archives*.

²⁶⁴ Ibid.

²⁶⁵ Claire Young Interview with Taylor Starr, 25 January 2022.

²⁶⁶ "The Chilly Climate for Women in Colleges and Universities," By Western's Caucus for Women's Issues (WCWI), 1991, *Western University Archives*.

The civil law section gained the first woman professor, and the common law section appointed an additional female in 1968. When the law school at the University of Ottawa re-opened its doors in 1953, the civil law section was the only program available, and it was located on the fourth floor of the arts building. The common law section began its operations in 1957 and joined the civil law section on the fourth floor, which was overcrowded, with faculty members having to share offices. Additionally, library books had to be shelved in the women's washroom.²⁶⁷ The first woman on faculty at the University of Ottawa common law section was Gladys M. Choquette, hired in 1968 by Dean Feeney from the class of 1966. In the years of Dean Feeney's tenure, the faculty was financially the worst off in the province. To remedy these problems, the university Curriculum Committee proposed a massive reorganization of the faculty, which involved reducing professors' teaching hours. While this was likely intended to modernize the faculty rather than cut salaries, Feeney opposed the changes, believing that reducing teaching hours would make it harder to justify future staffing requests and jeopardize the law school's ability to secure necessary resources as it continued to grow.²⁶⁸

Shirley E. Greenberg was not a law professor but a law student in Ottawa's common law section in the 1970s. Her career as a lawyer and feminist icon are significant because of her individual and collective efforts toward making major strides for women's rights and gender equality in Canada.²⁶⁹ Greenberg's activism is important to help explain how Ottawa might have been more

²⁶⁷ Amanda Turnbull, "Reunion: Common Law History at the University of Ottawa," (Ottawa: University of Ottawa, 2021) 23.

²⁶⁸ Memorandum 1 (Confidential) from the Dean to the staff of professors re: the Report of the Curriculum Committee (6 June 1972), Ottawa, University of Ottawa Archives Fonds 23 NB 2361. Cited in Amanda Turnbull, "Reunion: Common Law History at the University of Ottawa," 23.

²⁶⁹ Greenberg worked on reforming family property laws alongside Linda Silver Dranoff after the decision in *Leatherdale v. Leatherdale* [1982]. See Taylor D. Starr, "Internal and External Advocacy for Legal Reform," *Essays in the History of Canadian Law XII*, 2023.

receptive to women's inclusion in its law faculties. Greenberg's substantial archival collection reveals how she worked to increase women's equality rights in employment, that she was a major player in the development of the National Association of Women and the Law (NAWL) and co-founder of the Women's Legal Education and Action Fund (LEAF) which garnered attention from many women working in the university.²⁷⁰ There is no evidence of whether Greenberg was taught by female law professors during her time in law school, but her activism indicated a certain level of discontent with the way in which the law affected women in the 1970s and early 1980s.

According to Sanda Rodgers, Dean of the common law section at the University of Ottawa Faculty of Law (1994-1999), gender disparities did not develop at Ottawa in the same way as was the case at other common law institutions across Ontario. Rodgers arrived on the law faculty in 1977, and noted that when she started her career, there was one other woman on the faculty, and women in Ottawa were not inclined to stay in teaching.

What I used to say is there was always another woman, but she was always leaving, and somehow there was always one left behind. So, I don't have any sense at least at that point in time that women were particularly interested in teaching. I think that they were often interested in additional judicial appointments... In Ottawa, there was a large cohort of women in the law school that hoped for federal jobs, civil service jobs, as lawyers, and that's the sense for other professional women as well.²⁷¹

Rodgers also noted that when she went to law school in the 1970s, it was a period of transition for women joining consciousness-raising groups and actively participating in pursuing the law for social changes. Property rights, for example, were a large component of consciousness-raising efforts, but none of these concerns appeared in the curriculum, so women had to participate in seminars on women and the law on campus and beyond. Greenberg's experience suggests that women had to be

²⁷⁰ Shirley E. Greenberg fonds, Archives et collections spéciales/Archives and Special Collections University of Ottawa, CA ON0034 10-185.

²⁷¹ Sanda Rodgers, Interview with Taylor Starr, 24 March 2022.

politically engaged in the feminist movement to push for changes in the law.

Furthermore, Rodgers' public feminist identity would have been considered controversial, as she wrote extensively and publicly and from feminist legal perspectives about abortion in 1989. For example, an article in *The Ottawa Citizen* quoted Rodgers on the issue of the abortion law and the Canadian Charter of Rights and Freedoms. "Sanda Rodgers, a University of Ottawa Law Professor, said the law appears to meet 'most of the concerns' expressed by the Supreme Court in 1988."²⁷² Yet, Rodgers' appointment to the decanal position of the common law section in 1994 was celebrated.

Randy Boswell's article in *The Ottawa Citizen* outlines the importance of Rodger's representation at the law faculty. Boswell indicated "in a seminar room at the University of Ottawa Faculty of Law hangs a row of portraits of important men, all former deans of the faculty of law."²⁷³ Thus, the representation of a feminist dean exemplified a new commitment to correcting systemic injustices. Rodgers' recollection was that there was no need for reports on remedying gender discrimination or committees at the University of Ottawa because the issues were not pertinent in the way they were at other institutions. However, the article made clear that the significance of her appointment was meaningful to faculty and students alike. Before her arrival as dean, students would deface the wall of fame and replace images of men with commemorated women of the 1929 Persons Case.²⁷⁴

Since the University of Ottawa sits in the nation's capital, it was more likely for women to find careers in politics upon graduation from law school.²⁷⁵ In addition, efforts to bring feminist

²⁷²Stephen Bindman, "Split Decision on Whether Bill Survives," *The Ottawa Citizen*, 4 November 1989.

²⁷³Randy Boswell, "First Female Dean a Portrait of the Changing Face of Law and Society," *The Ottawa Citizen*, 10 March 1994.

²⁷⁴Randy Boswell, "First Female Dean a Portrait of the Changing Face of Law and Society," 10 March 1994.

²⁷⁵Ibid.

concerns to the law were substantial at the University of Ottawa which had much to do with the consciousness-raising efforts of women outside the law school. This process was characteristic of how women in the law profession sought external pressure to feel a sense of belonging in their new positions as law instructors. In fact, the National Association of Women and the Law has roots in the institution and demonstrated a commitment to remedying gender discrimination. According to Rodgers, Queen's was the best example of paying attention to whether more women should be hired and then failing to carry out those discussions. There is no available record of any such issue occurring at the University of Ottawa in both common and civil law sections. The institution was applauded for its treatment of women, but there was still an overarching disinterest in feminism and feminist legal theory stemming from the profession at large.²⁷⁶

University of Windsor Faculty of Law

The origins of the University of Windsor law school began when Dr. John Francis Leddy announced that Dr. Mark R. MacGuigan, then Professor of Law at Osgoode Hall, would be the first Dean of the new Faculty of Law. He would use the 1967-68 academic year preparing for his position by gathering a teaching faculty, arranging for a law library, and designing a curriculum for senate approval. Margaret E. Hughes was a member of MacGuigan's very first law faculty complement at Windsor. Ruth Deech was hired in 1968 and Professor Christine Davies was hired in 1972. In 1973, the law faculty began to discuss the possibility of holding a conference on Women and the Law, followed by the formation of the Women and the Law Committee in 1973.²⁷⁷

²⁷⁶Sanda Rodgers Interview with Taylor Starr, 24 March 2022.

²⁷⁷ *A History of the University of Windsor Faculty of Law, 1968-2008*, University of Windsor, 2010, 58.

In 1977, members of the Women and the Law Society met with the President of the University and Faculty Council and obtained support for a letter to the Law Society of Upper Canada which demanded that sexist materials be removed from the Bar Admission course. Diana Majury taught Women and the Law as a sessional lecturer from 1981-1983. In 1985, Kathleen Lahey and Emily Carasco founded the *Canadian Journal of Women and the Law* because they realized the importance of a commitment to feminist legal issues at Windsor and beyond. By 1988, the course previously entitled “Women and the Law” was changed to “Feminist Legal Theory.”²⁷⁸ Dr. Emily Carasco was a key figure in these transitional shifts in course delivery. She was also one of the first South Asian law professors in Canada.

Majury noted that the issues surrounding Emily Carasco highlighted the deeply ingrained sexism and racism within Ontario law faculties. At the outset of Carasco’s interview, she indicated: “I wanted to say to you right from the outset that for me the issue of gender can never be separated from race, so I’m happy to talk about feminism, but my experience as a feminist, my views of the role of feminism etc., are all interconnected with race.”²⁷⁹ Emily Carasco received her first law degree in Uganda, East Africa, and earned a doctorate in law from Harvard Law School, arriving in Canada in 1979. Carasco started teaching law in 1980 at the University of Windsor where there were three women on faculty, and she had no recollection of ever encountering any other women professors of colour in her initial teaching years. Carasco’s early exposure to and interest in feminism came from the time she spent at Osgoode Hall in 1975 when Judy LaMarsh was a visiting professor, and she recalled that it was the year that “Canadian women were asking why not?” In the years of her

²⁷⁸ University of Windsor, Faculty of Law, “Faculty Council Minutes,” 12 February 1988, Cited in *A History of the University of Windsor Faculty of Law, 1968-2008*, University of Windsor, 2010, 58.

²⁷⁹ Emily Carasco Interview with Taylor Starr, 12 January 2022; Mary Eberts Interview with the Osgoode Society for Canadian Legal History, 6 August 2009, 349-352.

teaching at Windsor, several female law professors from the six Ontario schools gathered informally once a year to discuss the status of women's issues in law faculties across the province.²⁸⁰

Women were generally relegated to teach courses in family law which was still regarded an acceptable place for a woman.²⁸¹ Carasco's entrance into family law was accidental, as she was hired to teach international law. By coincidence, in the year that she was hired, the individual who was supposed to teach family law went on sabbatical and no one else could be found to teach it. It allowed Carasco to explore issues relating to women, children, race, and culture. According to Carasco, in the 1970s, female law students were conscious of the idea that women would be relegated to the spheres of law that were designed for them. They tried specifically to avoid the "female areas" of the law but Carasco was always interested in international law. Carasco's intersectional approach to law informed her thinking on the structures that pushed Indigenous children into foster care.

As the only racialized woman on the faculty at the time, Carasco was aware that her identity might be considered problematic to law students. Christine Boyle has asserted that "Students possess a great deal of power to generate fear because a teacher's self-image depends at least to some extent on her students' respect. Student resistance to teaching as if women mattered may be part of a larger resistance to overt teaching of values. Some students may perceive the law as consisting of rules uninfluenced by values... They may fear 'indoctrination.'"²⁸² According to Carasco, when she began teaching in the first year, the Dean advised her not to take student hostility into consideration or "to

²⁸⁰ Mentioned in interviews with Backhouse, Majury, Carasco, Young, Rodgers, McIntyre, Boyd, Boyle, Lahey, Maloney.

²⁸¹ Teaching directories from 1981-1994 indicate large numbers of women teaching in the field of family law. The numbers are perplexing because of the small fraction of women full-time faculty members at the time. Directory of Law Teachers/Annuaire des professeurs de droit, Canadian Association of Law Teachers, 1981-1994.

²⁸² Christine Boyle, "Teaching Law as If Women Really Mattered, or, What About the Washrooms," *Canadian Journal of Women and the Law* 2, no 1, (1986): 111.

heart.” The students had to “get used to a different image of who a law professor is.”²⁸³ On the other hand, Carasco recalled that the students did not really make it difficult for her in terms of prejudice or animosity. However, she characterized reactions from faculty differently: Carasco learned very early that she was not an “easy fit” and fitting into a “certain culture” was inevitable in the law school social structure, which also meant that she would always be on the edge. This shared experience was what brought women across Ontario together more than twice a year.²⁸⁴

In November 1989, a committee consisting of Windsor Faculty members organized a conference at the University of Windsor to bring attention to issues on sexual harassment. Constance Backhouse’s keynote talk was well attended, and she discussed many of the topics contained within her report. She called for more breaking of silences on gender issues. She asserted: “The admission of women was strife ridden, laborious, and made through great mental anguish.” An article in *The Windsor Star* further noted that: “Backhouse described a case where a law student was harassed by her professor but did not report it. A friend she confided in alerted faculty members, but no action was ever taken in light of the woman’s refusal to speak out.”²⁸⁵

In the years after 1994, Windsor was regarded as being somewhat more progressive than most law schools. In fact, an article in *The Windsor Star* observed that Windsor had an equal access philosophy. Upon her first day in her new appointment, Juanita Westmoreland-Traoré noted that she was attracted to the post because the law school had a commitment to access to justice and inclusive admissions policies. Westmoreland-Traoré wanted to ensure that “the programs here deliver equality.”²⁸⁶

²⁸³ Emily Carasco Interview with Taylor Starr, 12 January 2022.

²⁸⁴ Ibid.

²⁸⁵ Alisa Priddle, “Silent Majority Needed to Speak Up on the Issue,” *The Windsor Star*, 18 November 1989.

²⁸⁶ Juanita Westmoreland-Traoré quoted in Jacqueline Smrke, “Equal Access Philosophy Drew

Although Juanita Westmoreland-Traoré was appointed “the first Black woman dean of law,” at the University of Windsor in 1996, Carasco was overlooked for the decanal position in 2012. Windsor did not have a publicly contentious issue in the years of 1961 to 1994 in the way that the law faculty at Queen’s or Osgoode did. However, racialized women noted feeling isolated in their faculty roles.²⁸⁷

Queen’s University Faculty of Law

Irene Bessette was the first woman to join the faculty at Queen’s in 1968, as law librarian, and from then until the mid-1980s, the only women were Toni Pickard in 1970, Gail Brent in 1971, and Beverly Baines in 1974. When Brent left in 1974, there were just three women on a faculty of over thirty. Twelve new faculty members were hired over the course of the next decade, but none were women. Virginia Bartley replaced Mary Alice Murray as Registrar of the Faculty of Law in 1980 and began teaching family law courses, but in 1983, Pickard and Baines were the only women teaching full-time on a faculty of thirty-five tenured and tenure-track professors.²⁸⁸ Mark D. Walters has noted that in 1979, the Law Faculty Board at Queen’s passed a motion calling upon all “faculties in the province and the Law Society to hold a symposium to examine ‘the significance of the increase in the numbers of women and members of ethnic minorities in the profession within the last decade, and the role of the law faculties and The Society as these changes have taken place . . .’”²⁸⁹

Appointments at Queen’s law following the aforementioned call to action demonstrated a commitment to remedying the systemic challenges pertinent within the faculty, but no such symposium could have prepared

New Dean to Windsor,” *The Windsor Star*, 3 July 1996.

²⁸⁷ Emily Carasco Interview. Constance Backhouse is also working on a chapter about Westmoreland-Traoré which includes a discussion of her decanal hardships.

²⁸⁸ Queen’s faculty of law calendars, 1983-1984, 6.

²⁸⁹ Mark Walters, “Let Right Be Done,” 39. *Queen’s Faculty Board Minutes*, 296th Meeting (11 January 1979) 3-4.

junior women faculty members for the complex challenges they would face in the classroom and in their offices in the 1980s.



Figure 2.2 - Mary Alice Murray and the Queen's University Faculty of Law 1962, *Queen's University Archives*, Faculty of Law fonds 1957-2006.²⁹⁰

In the late 1980s, the unexpected secondment of a senior law professor to a university administrative post prompted the law faculty to make a two-year appointment to deliver courses in torts, arbitration, and collective agreements. The job went to Sheila McIntyre, who graduated from Queen's with an LLB in 1984. She arrived in a faculty that had seen no permanent hiring through the early 1980s, a period when the universities in Ontario were experiencing budgetary cutbacks and few professorial appointments were made across the board. In the years from 1974 to 1981, twelve tenure

²⁹⁰ Mary Alice Murray graduated from Queen's Law in 1960 and soon after joined the faculty as office administrator/director of admissions/administrator of moot courts. She was a member of the school's first graduating class and one of only two women who had been accepted into it. She was called to the Ontario Bar in 1962 and joined the law school the same year. Murray subsequently served four Deans. Courtesy of Queen's University Archives.

posts had been filled, eleven of them by men. Queen's law faculty was largely staffed with "seasoned-but-aging male professors."²⁹¹ McIntyre was joined by one other woman, Sheila Noonan, on a two-year appointment. Baines had initiated a course on women and the law because the language of legal pedagogy automatically assumed the male voice and perspective. As she noted, "He" dominated casebooks and lecture examples.²⁹²

By the mid-1980s issues regarding the strikingly low numbers of women took shape and the need to break silences with respect to women's issues became even more clear. In 1985, McIntyre wrote a memorandum that chronicled and analyzed incidents of sexism and anti-feminism she experienced in her first year of teaching. She had the courage to distribute the memo to the student representatives on the Faculty Board and to all her colleagues. By 1986 many within the academic, legal, and feminist communities had read and reflected upon the memo. It then became a national news story. It reached all teachers and administrators represented by the Canadian Association of University Teachers and generated widespread media attention, public speaking invitations, and hate mail. Within Queen's and at several other academic institutions, anti-sexism initiatives continued to be launched at departmental and administrative levels. After the memo, the consciousness of individual women and supporters had noticeably shifted.²⁹³ During what she called "The Memo Year," McIntyre became a symbol - protected and excluded from certain encounters and events; feared, idolized, and discredited.²⁹⁴

The Association of Women Teaching at Queen's [AWTAQ] took notice of McIntyre's claims

²⁹¹Duncan McDowell, *Queen's University Volume III: Testing Tradition*, (Kingston: McGill-Queen's University Press, 2016) 364.

²⁹²Beverly Baines fonds, 15th Annual Report 1989. *Queen's University Archives*.

²⁹³Sheila McIntyre, "Gender Bias Within the Law School: 'The Memo' and its Impact," *Canadian Journal of Women and the Law* 2 (1987): 363.

²⁹⁴Sheila McIntyre, "Gender Bias Within the Law School," 363.

and asserted the importance of scholarships to right the gender imbalance in Queen's faculty.

Beverley Baines noted that AWTAQ "had a power to give voice beyond its numbers."²⁹⁵ AWTAQ members became catalysts for changes on Queen's campus for women to be brought out of the periphery of academia. They also demanded that centuries of curricula that had been dominated by androcentric perspectives be offset by scholarship centred on female experiences. However, within the law faculty, McIntyre explains that she discovered that male chauvinism went beyond law textbooks. A well-known scholar in the faculty, she notes, conducted his torts class with a "male locker room" atmosphere punctuating his lectures with off-colour comments that were intended to cause discomfort among the handful of female students in the class.²⁹⁶

In an oral interview, McIntyre recalled the hierarchical nature of a career in teaching law and the countless experiences of male colleagues stereotyping and labelling her and other women colleagues behind closed doors. She said: "I think I would have been a great Dean. But nobody would have let me be. I mean, I probably would have been terrible because the opposition would not adjust to what I hoped to do, what they imagine I hope to do."²⁹⁷ Women often carried the burden and accepted sexism and discrimination in the law faculty, because it was engrained in everyday practice. The memo was essentially written to break silences on glaring issues and problems. All those interviewed for this study – who were at different institutions across Canada – recalled the memo, which elucidates its historical significance, and gives force to the argument that sexism was entrenched within the walls of the Ontario law faculty. It was not that the memo caused the breaking of silences, but rather, it represented an understanding that something had to be done about the

²⁹⁵Duncan McDowell, *Queen's University Volume III: Testing Tradition*, 359

²⁹⁶ Beverley Baines fonds, file: torts, 1989-1990. Queen's University Archives, cited in McDowell, *Testing Tradition*, 364.

²⁹⁷Sheila McIntyre Interview with Taylor Starr, 1 February 2022.

glaring issues pertinent to women in Ontario law faculties at large. It was a spark in fuelling the events spanning the next decade.

Her memo described the reaction to McIntyre's use of gender-neutral terminology in her classes. She noted that some of her male students objected, arguing that she was "politicizing the law." As the term unfolded, McIntyre said that her male colleagues shuddered at the critique, contesting her rendition of the events and protested "the essential disunity of anger in our collective lives together."²⁹⁸ Duncan McDowell describes the reach of the memo as a *samizdat*, which it was, and McIntyre continued to write about her experiences on the oppressive silencing of women in the law profession. The events at Queen's prompted calls for action beyond the law faculty. "McIntyre's complaints," Kay Herman (Chair of the AWTAQ) noticed, had unearthed "a common chord in all of us" not because it was controversial but because it was true.²⁹⁹

In response to the memo, by October 1986, Dean Denis Magnusson seemed committed to remedying the law faculty's corroding reputation. He held a three-hour faculty meeting and described it as a "consciousness raising experience" for producing recommendations for improving legal education and the status of women in law. Magnusson's report to Principal David Smith on the faculty meeting outlined that the causes of anti-feminist abuse cited by McIntyre were "symbols of deep-rooted attitudes and that the law faculty shouldn't get side tracked by particular incidents but rather move on to truly effective ways of addressing these problems."³⁰⁰ He made several recommendations to Principal Smith, including: that the faculty sponsor a series of workshops on

²⁹⁸Ron Price to all members of faculty, 5 August 1986, Beverley Baines fonds, Queen's University Archives.

²⁹⁹McDowell, *Queen's University Volume III: Testing Tradition*, 359.

²⁹⁹ Beverley Baines fonds, file: torts, 1989-1990. Queen's *Testing Tradition*, 367.

³⁰⁰Cited in Anne Kershaw, "Queen's Law Faculty Studies Ways to Combat Sexism," *The Whig Standard*, 1 November 1986.

women in Canadian law schools; that they schedule a large forum for students and faculty to discuss the issues outlined in the memo; that professors encourage discussion of gender issues; that the faculty board put forward a series of resolutions to promote further attitude changes; that first year women students have the option to study law from feminist perspectives; that the university's sexual harassment officer be consulted to determine what steps should be taken to ensure that all faculty and students are aware of the policy; that the law faculty redouble its efforts to correct gender imbalance through the Queen's National Scholar Program; that all faculty members familiarize themselves with feminist legal writing.³⁰¹ Yet, these initiatives were flimsy responses to the urgency of the McIntyre memo. The opportunity to implement change came and went when Queen's appointed another male faculty member as dean in 1987.

Issues with feminist women in the faculty were accentuated late in the spring of 1986 when a search committee was struck to find a replacement for Dean Denis Magnusson, who had announced his intention to step down. When the search committee was struck, little emphasis was put on seeking female candidates. Baines advocated for the committee to recognize the importance of equality and recommended her colleague Toni Pickard as a possibility for the position. Correspondence between Ellen Picard and Baines also reveals that Picard was shortlisted but she had taken a position as Justice of the Court of Queen's Bench of Alberta instead.³⁰² Nevertheless, Toni Pickard expressed her dissatisfaction at the gender-based dismissal of the idea of a female dean.³⁰³ Although the events prompted some progress -- with the appointments of three women faculty (McIntyre, Noonan, Kathleen Lahey), and the usage of gender-neutral dialogue in classrooms and in written material -- the

³⁰¹ Kershaw, "Queen's Law Faculty Studies Ways to Combat Sexism," *The Whig Standard*, 1 November 1986

³⁰² Correspondence 5 January 1987, Beverley Baines fonds, *Queen's University Archives*.

³⁰³ Pickard to Search Committee, 20 November 1986, Baines fonds, *Queen's University Archives*.

appointment of a new dean was regarded as a missed opportunity to demonstrate a true commitment to equality. John Whyte assumed the deanship in 1987 and encountered a faculty in extreme disagreement. The faculty had become a microcosm of many unfavourable gendered and professional tensions on the broader Queen's campus. Signs of uneasiness involved in the backlash against the feminist movement came into clear view, and the outside world turned its attention to Queen's for a while. Alumni wrote to express concerns over the school's "tarnished reputation," but the sexism was entrenched in the walls of the faculty.³⁰⁴

University of Toronto Faculty of Law

At the University of Toronto, meanwhile, smaller numbers of women faculty meant less recognition of women's issues within the faculty. Women's studies courses and programs began at The University of Toronto in 1969. Anne Rochon Ford's book, *A Path Not Strewn with Roses: One Hundred Years of Women at the University of Toronto 1884-1984*, hardly scratches the surface regarding the place of women in the law faculty at UofT. Although homage is paid to the immense challenges Clara Brett Martin confronted in opening the door for women to study law in the late nineteenth century, there is no discussion of women in the faculty of law, because they were barely there by 1985. Ford, however, brings attention to the fact that there had been limited progress with respect to women faculty at the university at large, which demonstrates that departments did not think that the professoriate was a place for women, even by 1984.³⁰⁵ Martin Friedland also notes that after the admission of women to the university in 1884, it would be "another three-quarters of a century, before more than a handful of women would become tenured members of the faculty."³⁰⁶

³⁰⁴ McDowell, 367.

³⁰⁵ Anne Rochon Ford, *A Path Not Strewn with Roses: One Hundred Years of Women at the University of Toronto 1884-1984*, (Toronto: University of Toronto Press, 1985) 59; See also, Martin Friedland, *The University of Toronto: A History*, (Toronto: University of Toronto Press, 2002) 95.

³⁰⁶ Friedland, *The University of Toronto*, Ibid. Friedland was also the Dean of the Faculty of Law

Diana M. Priestly was Law Librarian and Assistant Professor from 1964 to 1967 and Hilda McKinlay was the first and only woman to be appointed Assistant Professor and then Associate Professor at the University of Toronto, Faculty of Law from 1969 through to 1973.³⁰⁷ Some of McKinlay's students have expressed how fortunate they were to be admitted to law school when she ended up on the admissions board. Christine Kates, a prominent legal historian who has conducted many of the over seven hundred interviews of Canadian legal actors within the oral history collection of the Osgoode Society for Canadian Legal History, commented: "I think I owe my admission to the Hon. Hilda McKinlay who was a new member of the admissions board in 1968. In Dean Wright's era, it was very difficult for women to be admitted."³⁰⁸ In her interview, McKinlay did not comment on the challenges that she faced as the only woman on faculty because she had internalized some of the gendered and sexist experiences she encountered. Throughout the interview, McKinlay commented that her being a wife and mother shaped perceptions of her as a woman in the law profession.

McKinlay noted that in one of her interviews for an articling position upon finishing law school, a potential firm employer was impressed with her scholarly background and wanted to hire her in 1966 but:

... the fact that I had four kids was a bit of a problem because they hired their junior lawyers, their associates, from their articling group and they didn't think a woman with four children at home would be able to keep up the pace of the work that their juniors did. So, I was very politely turned down... But you know I thought it was amusing, but it didn't bother me all that much. Because I could understand what men would think, I mean their wives are all at home looking after their kids, it wouldn't enter their head that I had four kids when I went to law school.³⁰⁹

(1972-1979).

³⁰⁷ See Chapter 3.

³⁰⁸ Christine Kates, "Trailblazers from the 1970s," *University of Toronto Faculty of Law*, <https://www.law.utoronto.ca/about/brief-history/trailblazers-1970s>.

³⁰⁹ Hilda McKinlay Interview with the Osgoode Society, 22 January 2001, 60.

When McKinlay arrived on faculty at UofT her salary was around \$7500 a year and she was indeed underpaid compared with the men on faculty.³¹⁰ McKinlay did not pursue the bar admission course at that time because she was offered a job in teaching. Although she was interested in teaching tax because “she loved tax”, she was not asked to teach it because there were no openings for a woman to teach tax law even after she had earned an LL.M. from Columbia Law School.³¹¹

Archival documents pertaining to the Faculty of Law at the University of Toronto were available only until 1968. Law calendars and teaching directories, however, reveal that there were miniscule numbers of women in the faculty of law into the 1980s. To arrive at conclusions unique to the law faculty, information was collected on documents from women involved in the Ad Hoc Committee on the Status of Women. Women trickled into the law faculty after McKinlay, and the goals of the Report of the Committee on Full Time Faculty of 1974, which worked to remedy pay equity for women faculty, were not realized within the law faculty.³¹² The first women in the faculty were out of place, not mentored, and underpaid.³¹³

³¹⁰ Ibid. See also, Report of the Committee on Full Time Faculty, 1974, *University of Toronto Archives*, A1977-0051.

³¹¹ Ibid, 70-72.

³¹² Report of the Committee on Full Time Faculty, 1974, *University of Toronto Archives*, A1977-0051.

³¹³ Report of the Committee on Full Time Faculty, 1974.

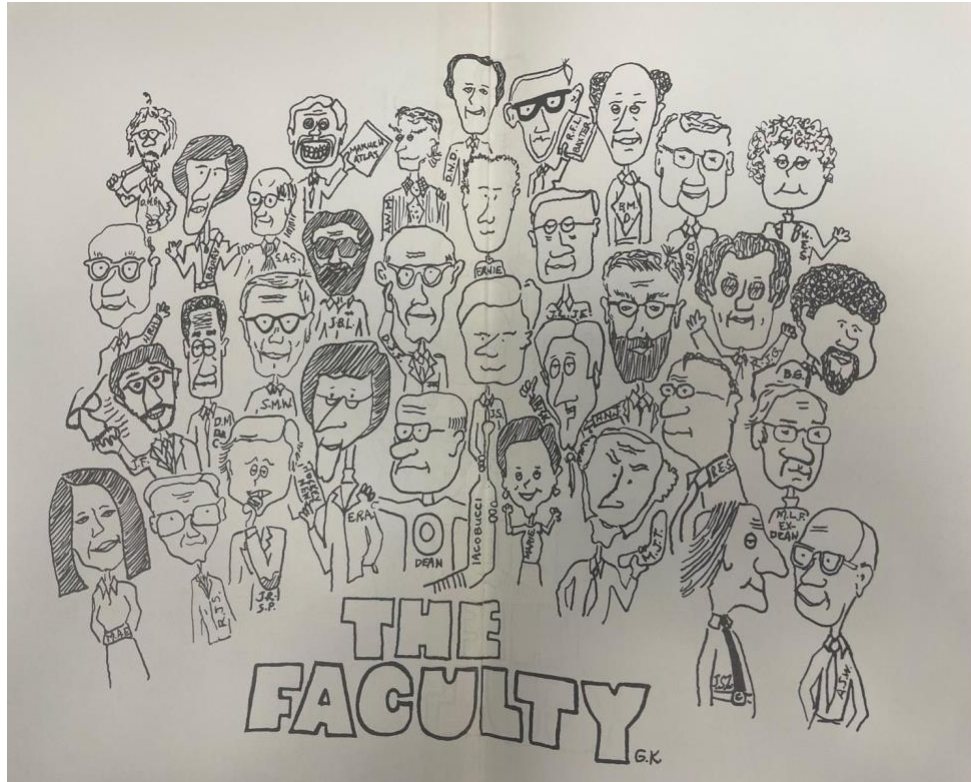


Figure 2.3 - “The Faculty,” *Class Action Yearbook*, 1979-80. Courtesy of University of Toronto Archives.

In 1973, an ad hoc committee of women faculty members was established to investigate the allegations of salary discrimination between male and female members of faculty. The University conducted its own inquiry, and recommendations on salary anomalies relating to women faculty members were thereafter made. In addition, the University created a mechanism for promotions, salary awards, and tenure. This salary plan, called Progress Through the Ranks [“PTR”], was designed, as well, to avoid, if not eliminate, disparities between male and female faculty members in future.³¹⁴

Mary Eberts recalled having no academic mentors upon her arrival on faculty in 1974 which she believed caused her significant problems. Dean Martin Friedland hired Eberts with the expectation that she would develop the Family Law programme. She recalled:

³¹⁴ Ibid.

... the primary reason was that mentoring and other opportunities would have been open to me if I had shown a willingness to become more deeply involved in the family law programme. That I believe is where Dean Friedland thought I belonged, and although I had only the basic course in family law and had done no graduate work in family law, that was where he wanted me to be, and I think if I had shown a willingness in that area, I might have had more Royal Jelly laid on me.³¹⁵

Eberts also developed her criminal law course from a feminist perspective, as she included several cases dealing with prostitution under the Canadian Bill of Rights. She continued to note that “the level of analysis and awareness in those days was very modest because, of course, these issues about the impact of law on women, were not of interest to the men who dominated the academy in those days.”³¹⁶

Eberts recalled taking on jobs within the law faculty beyond her responsibility. Being the only woman on faculty – and not having been mentored herself – she often felt obliged to mentor students through their harsh experiences in law school. Her male colleagues were not approached, she noted, because students would assume that they did not have the same compassion as a woman.³¹⁷ Furthermore, Eberts was not considered a legal scholar by her colleagues. She was considered an advocate because of her work on equal pay and public feminist identity. At one faculty meeting, when members were discussing family law, Eberts explained: “One of my colleagues asked Stephen Waddams for his view on this case and I said to him afterwards... ‘why didn’t you ask me, he is not a family law teacher?’ and he said, ‘oh, well, you are not a scholar, you are an advocate.’”³¹⁸

During Eberts’ tenure until 1980 she did work to protect the law faculty from the affairs between the UofT Law Teachers’ Association and the UofT Faculty Association. At UofT, law teachers were seeking to be on their own and stay out of any bargaining unit because each individual professor had

³¹⁵ Mary Eberts interview with the Osgoode Society, 6 August 2008, 65.

³¹⁶ Mary Eberts Interview, 6 August 2008, Ibid.

³¹⁷ Mary Eberts Interview.

³¹⁸ Ibid.

a contractual relationship with the university which could then lead to tenure. Eberts was involved in advocating for these matters, and she also successfully helped to achieve an 18-week maternity leave for women. However, the agreement was made to remedy a collection of frameworks upon which tenure was decided. The policy upon which tenure and hiring were constructed pulled together many existing academic protocols and a method for salary negotiation by 1977. This was also the year Eberts became Associate Professor, but the appointment did not carry tenure. Eberts did not publish much because she was heavily involved in teaching, mentoring students, and committee work, but it was not regarded as a significant contribution to the academy when Dean Frank Iacobucci advised Eberts that she would probably not get tenure “unless she became much more productive in the ways that they liked.”³¹⁹ Women were still underpaid at the law faculty into 1989.

With the passage of Ontario’s *Pay Equity Act*, 1989, the University and the University Faculty Association [UTFA] established a review procedure for certain female faculty members. The purpose of the 1989 Review was to ensure that women faculty members who achieved the same level of accomplishment as their male counterparts were remunerated at the same rate. Adjustments were made in close to 200 cases, resulting in an average pay increase in excess of \$5,000. Neither the plaintiffs nor those in the proposed class benefited from the review since all had retired by the date it was completed if not by the date it was undertaken.³²⁰

In 2001, the *Franklin v. University of Toronto* class action lawsuit brought university salary discrimination to light. Each of the representative plaintiffs, Ursula Franklin, Blanche Lemco van Ginkel, Cicely Watson, and Phyllis Grosskurth, were highly regarded scholars and retired former faculty members of the University of Toronto. They advanced claims on their own behalf and on

³¹⁹ Eberts, 65.

³²⁰ *Franklin v. University of Toronto* [2001] at 38.

behalf of certain of their former colleagues. They sought to certify their action as a class action. It was their position that they and the other members of the proposed class suffered systemic salary discrimination, as a result of which they alleged they received less money than their male counterparts for the same or similar work, having similar qualifications. They further alleged that the University had been unjustly enriched by this unlawful conduct and they asserted a claim for salary underpayment for the term of their appointments and a consequential recalculation of their respective pension entitlements.

The four plaintiffs each commenced employment at the University at various times between 1950 and 1977. Each retired prior to June 1991 and received a pension from the University. Cicely Watson was employed by the University for two and a half years in the early 1960s before moving over to the Ontario Institute for Studies in Education [OISE] where she worked until she retired in 1987. While it was acknowledged that each of the representative plaintiffs was an unquestioned scholar and academic in her respective discipline, the case dealt with all female faculty members and librarians of the University of Toronto who retired on or before June 1991, whose circumstances were not considered in the Female Faculty Salary Review conducted pursuant to an agreement between Governing Council of the University of Toronto and the University of Toronto Faculty Association.³²¹ While the claim was successful, it is unknown whether women in the law faculty benefitted from the case. Mary Eberts represented the plaintiffs.

Osgoode Hall Law School

Lagging behind all of the other law faculties in Ontario, Dean Harry Arthurs recruited Osgoode's first women faculty – Louise Arbour as a tenure-track assistant professor and Judy LaMarsh as a visiting professor – by 1974. The feminist movement of the 1970s percolated through

³²¹ Franklin v. University of Toronto [2001] at 38.

Backhouse and McIntyre's work at Western and Queen's and into law faculties across Ontario by the 1980s. It began to have more of an influence on the culture of Ontario universities. Mary Jane Mossman arrived at Osgoode Hall in 1977 after four years as a senior lecturer at the University of New South Wales, she had published substantively and was a leader in asserting the importance of feminist legal theory. Mossman's research and scholarship put forward feminist legal ideas to advance the profession's thinking about practicing women lawyers, and those affected by patriarchal institutions. The failure to appoint Mary Jane Mossman to the decanal position in 1987 at Osgoode Hall was evidence of an intrinsic lack of understanding of women's issues. If she had been appointed, it likely would have had an immediate impact on the state of women in the law profession at large, especially since Osgoode Hall had been at the centre of Ontario's legal education since the inception of legal education in the region.³²²

As previously noted, until 1957, Osgoode Hall Law School remained the only entry point for aspiring lawyers in Ontario. When the law faculty became part of York University in 1965, there were no women on the faculty. By 1987, there were seven women members (14 percent of Osgoode's full-time faculty) but, as was the case with all the other Ontario law faculties in the 1960s to late 1980s, there had never been a woman dean. The increasing presence of women in law brought significant changes at Osgoode, including the introduction of dedicated washroom facilities for women faculty and students.³²³ However, requests for other substantive changes reflected the generally chilly climate for women nationwide. What is important to note about Osgoode is that its historical connections to the Law Society's monopoly meant that

³²²Other significant appointments included Madam Justice Bertha Wilson's historic appointment to the Supreme Court of Canada in 1982. In 1987, there were two women deans of law in Canada: University of Calgary and l'Universite Laval.

³²³Mossman, "Herculean Obstacles and Intrepid Complainants," 425.

outsiders were more interested in any political issue that may have arisen. The problem with Mary Jane Mossman represented the media's interest in Osgoode's internal politics more than any other institution – as the decanal search at Queen's was not publicly contentious.

Arthurs credits his years as York University's president with the appointments of women to senior administrative positions and he devised a series of subsidies to encourage academic units to improve gender imbalances in the faculties.³²⁴ However, it is clear that without the human rights complaint, which was a response to Arthurs' failure to appoint Mossman as dean, Osgoode's highly reputable Institute for Feminist Legal Studies [IFLS] would not have formed. This evidence indicates how insidious and invisible sexist attitudes towards feminist women had been. Arthurs' recollection of the incident reveals that he did not choose Mossman because "she had a reputation for bureaucratic behaviour and because she declined to discuss the current state of the law school with me or to suggest how she thought it might be improved." He also noted that "not one female faculty member at York supported the resulting human rights complaint, which was ultimately settled by the university's commitment to establish the IFLS, a highly desirable move on its own merits without regard to the controversy."³²⁵

Although correspondence between York faculty members and Harry Arthurs indicates that he was not an anti-feminist, his decision has significance and reveals how the legal academy in Ontario would only be accepting of liberal or *covert* feminists. In the mid-twentieth century, feminist discourse's association with radicalism led to *overt* feminists being perceived differently from equality or liberal feminists in professional settings.³²⁶ This contrast stemmed from the

³²⁴ Harry Arthurs, *Connecting the Dots: The Life of an Academic Lawyer*, (Toronto: University of Toronto Press, 2019) 88.

³²⁵ Harry Arthurs, *Connecting the Dots*, 88.

³²⁶ Harry Arthurs fonds, 1987-1989, *Clara Thomas Archives and Special Collections*, Box 1992-016-007.

overarching ideas about feminists involved in the Royal Commission on the Status of Women (1970) as politically radical.³²⁷ Furthermore, although rapid changes were in motion concerning advancements towards equality, Osgoode Hall was not yet equipped to represent itself with a feminist woman as dean. It is thus reasonable that Arthurs' decision produced outrage among some students, faculty, and alumni and a human rights complaint filed by Mary Lou Fassel and a group of 124 feminists (inclusive of students but absent of Osgoode faculty). Mossman represented the importance of looking at law from a feminist legal perspective, without which a more comprehensive understanding of substantive equality in the latter years would not have been rendered.

The complaint to the Ontario Human Rights Commission alleged that the decision by York University, its President, and Osgoode Hall Law School to appoint a male dean rather than a qualified woman, gave evidence of a pattern of systemic sex discrimination against women at the law school and constituted discrimination on the basis of sex.³²⁸ The complaint asserted:

This complaint is that York University failed to appoint Mary Jane Mossman as Dean of Osgoode Hall Law School and instead appointed a less qualified male candidate. The failure to appoint Mary Jane Mossman is part of the continuing systemic discrimination against women at Osgoode Hall Law School ... and discrimination on the basis of sex.³²⁹

By 1987 there were only two female law deans in Canada – at the University of Calgary and at l'Université Laval. An article in the *Toronto Star* stated that “those protesting the naming of a man as dean of Osgoode Hall Law School over associate dean Mary Jane Mossman this week say this is an example of the sexual discrimination that affects all women in the law field. The women lawyers,

³²⁷ Joan Sangster, *Demanding Equality*, 6.

³²⁸ Mary Jane Mossman, “‘Herculean Obstacles and Intrepid Complainants’: The Sex Discrimination Complaint at Osgoode Hall Law School, 1987-1994,” *Gender and Careers in the Legal Academy*, (2021) 425.

³²⁹ Fassel v York University et al., paras 1-2, 1989, cited in Mossman, “‘Herculean Obstacles and Intrepid Complainants,’” 425.

law students, and teachers also say it is typical of Canada's law schools and universities."³³⁰



Figure 2.4 – *Chatelaine*, February 1988.

The Report of the Gender Equality Committee at Osgoode appeared in January 1990, with a series of recommendations to remedy gender-based problems in the law school and at the university level. It was a condition of the settlement of the human rights complaint, along with the IFLS. The recommendations addressed the topics of sexual harassment, equality complaints in teaching and curriculum, future student-faculty relations, and included a policy statement regarding student non-academic conduct, and education.³³¹ To say that the IFLS was a desirable “move on its own” disregards the very specific set of conditions outlined in the “Memorandum of Agreement” based on

³³⁰ Catherine Dunphy, “Universities Criticized for Sex Discrimination,” *Toronto Star*, 5 June 1987.

³³¹ See Report of the Gender Equality Committee, Osgoode Hall Law School of York University, January 1990.

Osgoode's clear neglect of gender disparities upon the settlement.³³² Osgoode's internal conflict had much to do with the invisibility of women's issues in the law faculty on the grander scale. The chant "Dare to Dream of a Feminist Dean" echoed through Osgoode, capturing the attention of students, faculty, and the media alike.³³³ Mary Jane Mossman noted to *Chatelaine* in 1988 that the deanship was "a job that has a timeliness attached to it. I think my time may have passed. But it has been an interesting experience. I didn't foresee the way it went, but in retrospect, it doesn't surprise me. It is as if my research caught up with my life."³³⁴ Osgoode Hall Law School appointed Marilyn L. Pilkington to the decanal position in 1993. In fact, the appointment of Pilkington was mentioned in *Macleans* as follows:

Appointed: as dean of York University's highly regarded Osgoode Hall Law School, Prof. Marilyn Pilkington, an expert in constitutional law. The five-year appointment by the university's board of governors which takes effect in July, re-ignited 1987 charges that the board was guilty of biased hiring practices. It had rejected as dean of Osgoode Prof. Mary Jane Mossman, a respected teacher, in favor of James MacPherson, executive officer to then-Supreme Court of Canada Chief Justice Brian Dickson. As a result, a group of 124 female law students, professors and researchers complained to the Ontario Human Rights Commission. They dropped the complaint two years after Osgoode Hall officials pledged to follow a policy of sexual equality. This year, Mossman was one of the four unsuccessful candidates.³³⁵

Pilkington did not have the same public profile as a feminist as Mossman had at the time but she noted in an address to the Women's Law Association of Ontario that "Women have developed their voices in the legal profession, and they are not afraid to use them."³³⁶ Pilkington's appointment was a

³³²Appendix I, "Memorandum of Agreement," Report of the Gender Equality Committee, January 1990.

³³³Claire Bernstein, "War on Sex Discrimination has a New Weapon," *The Calgary Herald*, 2 January 1990; *The Leader-Post Regina*, 16 December 1989; "Dare to Dream of a Feminist Dean," seen frequently in Marilou McPhedran fonds, Clara Thomas Archives and Special Collections.

³³⁴Mary Jane Mossman quoted in Kirk Makin "Did Osgoode Shaft Mary Jane Mossman," *Chatelaine*, February 1988.

³³⁵*Macleans*, 12 April 1993.

³³⁶Marilyn Pilkington quoted in Heather Gardiner, "Retiring Former Osgoode Dean Honoured by

significant and noteworthy first, and she was indeed an ally toward the struggle for women's equality. However, it is important not to overlook the complex tribulations that had preceded her appointment in 1993.

Conclusion

Women's issues with respect to feminism brought law faculty and university prestige into disrepute, and across Canada after 1989 individuals became aware of how toxic academic environments were for women. After all, the presence of feminism and women entering spaces designed for men underlay the attack on the women at École Polytechnique in 1989. In the late 1980s, if the dean of a law faculty wrote publicly and taught publicly about the importance of feminism and feminist legal theory, the entire law faculty might have been regarded by the public in an unenthusiastic way. Indeed, law faculties in Ontario were supposed to be the institutions which trained the next generation of intellectuals who would acquire privileged status and power. If the law faculty subscribed to any movement deemed "radical", there seemed to be concerns that they, too, would bear the same public reputation. By the end of the period, the University of Ottawa was the only institution in Ontario to take the bold step of appointing a feminist dean, with Sanda Rodgers being appointed in 1994 – an overt feminist. The breaking of silences with respect to gender issues caused many to look the other way on issues prevalent at other institutions. The legal academy in Ontario remained a place that appeared to be constructed to advance the knowledge of men and implicitly tried to neutralize feminist politics. By comparison, both British Columbia law faculties appointed overt feminists to decanal positions in the 1990s.

This chapter examined numerous internal affairs that arose in the Ontario law faculties in the last three decades of the twentieth century. It explored how the post second world war university

WLAO," *The Canadian Lawyer*, 20 June 2013.

connection to the law faculty was a promising start, but it ultimately did not change the state of women's acceptance in law faculty teaching positions. It can be concluded that equality and equity were grappled with but not made in the professional and social hierarchies within the law faculty. The hierarchical nature of the university and law faculty persisted. During what Feldthusen described as "The Gender Wars," women's experiences emphasized the need for action. This led to efforts focused on raising awareness, such as organizing internal ad hoc women's committees, launching commissions, filing complaints, and promoting ideas central to feminist legal theory. In fact, Kathleen Lahey recalled a more fractured atmosphere after developments in Affirmative Action and equity policies in the 1990s.³³⁷ Women in Ontario law faculties remained divided on feminist issues into the years beyond 1994 and with silent acquiescence many went about their careers without paying any attention to the despairing calls to action from feminist women for change and opportunity. Hostility toward women in the Ontario legal professoriate had been built into the walls, oozing through the foundations of the law building even after the institutions had been picked up, relocated, or forced to reopen. A more nuanced depiction of the implications of both physical and theoretical space in relation to feminism will be explored through the British Columbia law faculties in Chapter 3.

³³⁷ Kathleen Lahey email correspondence with Taylor Starr, 8 June 2021.

Chapter 3

Trailer Blazers: Space for Women and Feminist Legal Studies in British Columbia

British Columbia housed two common law schools through the years of 1961 to 1994 and by the end of the time period, women were appointed as Deans of Law in both faculties. Maureen Maloney was appointed to the decanal position at the University of Victoria Faculty of Law in 1990, and Lynn Smith was appointed at the University of British Columbia Faculty of Law in 1991. Both women were overt feminists. Historians have asserted that by 1945 British Columbia's legal institutions, to some extent, put the worst of gender bias behind them. Whether because of the faculty personnel, a tradition within the university systems, or a local elite culture intensely influenced by white male elite lawyers and academics who felt secure in a world that included professional women because of individuals such as Evelyn Farris, the new law faculties had an ostensibly inclusive start in the post-Second World War period.³³⁸ However, according to Lee Stewart, because women had been excluded from higher education for a considerable period of history in Canadian university institutions, the process by which women's higher education became defined and deemed acceptable was completed in the years leading up to the end of the Second World War. By the time British Columbia established a provincial university in 1915, the enrollment of women was assured, which affected how social expectations of women both altered and defined the limits of their educational and career opportunities within the university institutions, and as a result, they continued to be relegated to different spaces than men in the latter half of the twentieth century.³³⁹

³³⁸Evelyn Farris was a scholar and advocate for continuing education and women's rights. Founder of the first University Women's Club of Vancouver and elected to the Senate of the University of British Columbia. W. Wesley Pue, *Law School: The Story of Legal Education in British Columbia*, (Vancouver: University of British Columbia Press, 1995) 210.

³³⁹Lee Stewart, "The Experiences of Women at the University of British Columbia," 3.

The early history of education in the province of British Columbia established the social, psychological, economic, and political background that produced attitudes toward the education of women up to World War One. The early history of women's higher education in Canada provides the contextual background for understanding British Columbia's university traditions. However, British Columbia's higher education traditions depended heavily upon the way in which its governance was patterned after Oxford and Cambridge's structures.

The first provincial university Act in British Columbia was introduced in 1890, and it was modelled after Oxford and Cambridge. Section fifty-two of the Act ensured the admission of women, requiring that "no woman shall, by reason of her sex, be deprived of any advantages or privileges accorded to other students of the university."³⁴⁰ Those who drafted the amendment did not envision coeducation in the same way that Henry Esson Young, the Minister of Education in 1912, imagined it twenty-one years later.³⁴¹ Young created the instructions and regulations of the architectural competition for university buildings, and he foresaw a women's college. The permanent campus of the provincial university was not realized until 1925, and the separate college for women was distant from it in time.³⁴² The intent to make higher education equally available to women, established by the Amendment Act 1891 was not tampered with in subsequent Acts, prior to the opening of the University of British Columbia in 1915. The construction of separate building facilities for women were in process from 1914 to 1923. However, coeducation without segregation was, in fact, the least expensive way in which the

³⁴⁰ *Statutes of British Columbia, 1891*. (Victoria: Queen's Printer for British Columbia, 1891) 383-389.

³⁴¹ Harry T. Logan, *Tuum Est: A History of the University of British Columbia*, (Vancouver: University of British Columbia, 1958) 33.

³⁴² Eric Damer and Herbert Rosengarten, *UBC: The First 100 Years*, (Vancouver: The University of British Columbia, 2009) 62.

university could accommodate women and not deprive them of any advantages or privileges, in accordance with the disposition expressed by the Act.³⁴³ Since the first provincial university Act was modelled after Oxford and Cambridge, the formative period of women's education in England provides important context in terms of patterns of change and continuity in the relationship of women to their social and physical environments, as has been noted in the Introduction. By looking to examples from nineteenth-century Britain, we gain an improved understanding of the character of the acceptance of women's ideas and educational endeavours in British Columbia. For example, in 1865, Frances Mary Buss, Dorothea Beale and Emily Davies appeared before the Taunton Commission to plead for endowments for girls' education but relied on their own finances to run their schools.³⁴⁴ These economic realities for women's colleges heralded the progression of the establishment of institutional traditions in British Columbia.

Oxford and Cambridge not only served as models for university governance in British Columbia, but also for equal education. Women's status in these British universities was far from equal or even secure, but the publicity surrounding their admission generated the impression that the issue was in the past. By 1891, the woman's colleges at Oxford and Cambridge appeared to tolerate coeducation. The female students studied the same curriculum, were taught by the same professors, and sat for the same examinations as their male colleagues, yet Oxford did not admit women to its degrees until after the First World War, and Cambridge resisted until 1948.³⁴⁵ The British Columbia University Amendment Act, however, represented only the idea of a university

³⁴³ Stewart, "The Experiences of Women at the University of British Columbia," 23.

³⁴⁴ Elizabeth Coutts, *Frances Mary Buss*, Oxford Dictionary of National Biography, September 2004. <https://doi.org/10.1093/ref:odnb/37249>.

³⁴⁵ Lee Stewart, *It's Up to You: Women at UBC in the Early Years*, 14.

framed by a small but influential group who regarded a university as an emblem of the maturity of their new province.

Within this façade of commitment to coeducation, Lee Stewart asserts that the women who carved out opportunities in the early years at the University of British Columbia had to form a network which continued for several generations against strong resistance. These networks intersected with the university and nurtured many aspects of women's education. One important force in British Columbia was Evelyn (Kierstead) Farris, a member of elite society through her husband (John Wallace de Beque Farris who was Attorney General at the time) gave her the opportunity to establish a network in support of the women's cause for education in 1907. The University Women's Club [UWC] envisioned that a union of all college women of British Columbia would have important influence on the cause of higher education for women. The functions of the UWC were to offer graduates the opportunity to recreate the networks they established in their studies and to be able to share their experiences among other women in education. Anne B. Jamieson, the second president of the UWC, wrote that the club "was at first a kind of protective association, fighting back the encroachments of a materialism everywhere present and threatening to engulf us."³⁴⁶ The relationships among women in male dominated environments characterized their interactions within the club. The members originally represented a "businesswoman, doctor, lawyer, dentist, journalist, editor, teacher, nurse, and doctor of music" who did not have daily contact with other women in their work.³⁴⁷ For these women, the UWC was a designated region away from their male surroundings which worked to restore the strengths of their association. Thus, the separate spirit of the UWC had an engrained

³⁴⁶ Phyllis Reeve, *The History of the University Women's Club of Vancouver, 1907-1982*, (Vancouver: University Women's Club of Vancouver, 1982) 22.

³⁴⁷ Reeve, 24. Cited in Stewart, *It's Up to You*, 23.

optimism regarding inclusion within the university, but their efforts were met with opposition.

The UWC campaigned for the selection of Point Grey as UBC's permanent site, and in 1912, they turned their attention to lobbying for the appointment of women to the Board of Governors, a powerful administrative body in the university. However, when Dr. Frank F. Wesbrook took on his duties as the first president in January 1913, he attempted to keep the university immune from political influence. He was assured by the government that the appointments to the Board would be made without regard to political considerations. No women were appointed to the Board and women had to continue to advocate for the university to meet their interests, strategizing within the UWC. Organized women had access to power through their club activities but did not, in 1913, exercise enough power individually, or represent any constituency, to be considered governors of the university. It was not until women had won the vote from the newly elected Liberal government in 1917 that Farris, who had helped to establish the Women's Liberal Association of Vancouver, would be appointed as the first woman on the Board.³⁴⁸ While the club was successful in serving as a springboard for women in their pursuit to enter traditionally male domains, the university tradition of pushing women to organize in a space outside the formal university continued in the latter half of the twentieth century.

By 1945, formal addresses and informational materials acknowledged, if not celebrated, the presence of women students in British Columbia. Indeed, the reports of men and women graduates of the period recognized an intellectual and social climate that was open to the participation of women as equals.³⁴⁹ In fact, on the front page of the 1948 graduation issue of *Ubysssey*, the university's student newspaper, a young woman is situated next to a bird's eye view

³⁴⁸ Stewart, *It's Up to You*, 23.

³⁴⁹ Pue, *Law School: The Story of Legal Education in British Columbia*, 210.

of the developing university.³⁵⁰ Nevertheless, Stewart describes the post-Second World War period in Canada as “a low-point for women in universities.”³⁵¹ Immediate post-war attitudes transformed the campus space, because the government, using legislation and propaganda, told women that they should leave their educational endeavours to make room for the returning soldiers and concentrate on providing them with a warm home life. The university might have perpetuated an inclusive atmosphere within informational materials, but it had much to do with maximizing enrollments in the face of economic instability and depression frugality. The result of governmental and social propaganda was the creation of an ideology which represented a return to a middle class cultural bias in favour of female domesticity. However, several women wanted to continue to push the boundaries of their educational aspirations and acquire new skills.

In the decades which emphasized the importance of the household, the ideology of separate spheres was reinforced by cultural media. Manufacturers devised new plans for consumers, amidst depression-era prudence and a consciousness of setting priorities within families.³⁵² Parents, however, saw university as an investment that would provide their children with valuable and transferrable skills. During the economic boom years of the 1960s and 1970s, changes occurred on university campuses because of university expansion and social pressures. Developments for women materialised, but they were short-lived because of the economic recession of the late seventies and early eighties which led to cutbacks in universities.³⁵³ At the University of British Columbia by the 1980s, faculties had been operating on a relatively

³⁵⁰ *The Daily Ubysey*, 13 May 1948, (Vancouver: University of British Columbia Library). DOI: 10.14288/1.0124047.

³⁵¹ Stewart, *It's Up to You*, x.

³⁵² Joy Parr, *Domestic Goods: the Material, the Moral and the Economic in the Postwar Years*, (Toronto: University of Toronto Press, 1999) 14.

³⁵³ Ibid.

decentralized scale. Each department had its own authority model and set of administrative policies, and in the 1980s, cutbacks necessitated the centralization of university decision-making. Nevertheless, deans still had a lot of power.³⁵⁴

The decades following the Second World War were ones of great transition for Canadian women in almost every political, economic, and social aspect of their lives. The personal and professional experiences of women in higher education illustrate how much the world within universities changed, especially for those middle-class women aiming to attain careers in predominantly male, white-collar occupations. Sequestered in such fields as nursing, home economics, and teaching, and within the law profession, in family and property law, women slowly began to aspire to assignments that would put them beside their male colleagues beyond the classroom. It took them more than thirty years to accomplish these goals as a collective rather than as individuals in British Columbia, a development which parallels that of other women professionals in the remaining provinces. By 1993, women represented just twenty-seven percent of the Canadian legal profession.³⁵⁵ Much of Canadian women's struggle for equal rights before and after the Second World War had to do with overcoming deep-seated prejudices about proper gender roles. These attitudes stressed women's femininity, domestic skills, and biological ability to bear children over their other capabilities, especially in relation to men, who learned to prize their masculinity and their capacity to provide for their wives and children. Not all families fit that pattern, but the laws that governed work and family life took it as the norm, which meant that men were paid a "family" wage and women paid a lesser, "living wage" even if they worked

³⁵⁴ Cynthia Hardy, *The Politics of Collegiality: Retrenchment Strategies in Canadian Universities*, (Montréal and Kingston: McGill Queen's University Press, 1996) 100.

³⁵⁵ The Canadian Bar Association, *Touchstones for Change: Equality, Diversity, and Accountability*, (Ottawa: Canadian Bar Association, August 1993) 9.

just as hard or were equally educated. These ideas predetermined the availability of women's employment opportunities.

Since both law faculties were constructed in the years after the Second World War in British Columbia, the character of unenthusiastic attitudes toward potential women faculty members lingered in the years of physical construction and establishment. In the years after the Second World War, unenthusiastic attitudes towards women faculty were prevalent, reflecting broader societal norms that relegated women to traditional roles and resisted their integration into professional spheres. This period in Canada, including British Columbia, was marked by a conservative approach to gender roles, with the workforce prioritizing the reintegration of returning male soldiers while women, who had filled many jobs during the war, were often encouraged to return to domestic duties.³⁵⁶

Women's anticipated placement in intellectual and social spheres had been cast aside and thought unimportant especially in the context of the law profession. The first women law professors at each law faculty in British Columbia experienced differential treatment, and the inclusion of courses on Women and the Law and Feminist Legal Theory did not occur until there were faculty members deemed appropriate to teach them. Mai Lutterus taught the first Women and the Law Course at the University of British Columbia in the 1974-1975 academic year.³⁵⁷ At the University of Victoria, the first formal course dealing with women's issues (Feminist Legal Theories) did not occur until 1992 through to 1994 and was taught by Hester Lessard.³⁵⁸ While the University of Victoria Faculty of Law jumped past offering courses on Women and the Law

³⁵⁶ Jennifer Stephen, *Pick One Intelligent Girl: Employability, Domesticity, and the Gendering of Canada's Welfare State, 1939-1947*, (Toronto: University of Toronto Press, 2007).

³⁵⁷ University of British Columbia Faculty of Law, *Course Calendar, 1974-1975*, 229.

³⁵⁸ University of Victoria Faculty of Law, *Course Calendar, 1992-1994*, 27. Not included in the Canadian Association of Law Teachers, *Directory of Law Teachers 1992-1994*.

and immediately undertook feminist legal studies and sociology of law. While the common law curriculum in British Columbia was not unique, what set it apart was the experience of women law professors. To have their ideas on women's studies in law acknowledged as essential to high-quality legal education, they had to work outside formal legal structures—often literally outside the physical law school buildings.

The chart on legal education in British Columbia illustrates that both the University of Victoria and the University of British Columbia followed similar trends in their curricular developments [See Appendix A, p 345]. The University of Victoria, despite being viewed as progressive, did not include courses specifically focused on women in the law during its early years from 1976 to 1984. This trend changed in the 1980s when the university began offering courses in feminist legal theory and analysis, coinciding with an increase in the number of women on the faculty. Similarly, the University of British Columbia did not initially offer courses centered on women in the law. However, UBC began offering a course titled “Women and the Law” in 1975, marking an earlier introduction of gender-focused legal education compared to the University of Victoria.

Lynn Smith has asserted that the University of British Columbia was able to play a leadership role in the appointments of women faculty as the process continued throughout the last decades of the twentieth century.³⁵⁹ As this chapter will show, commitments to inclusion did not guarantee the acceptance of women or feminism by the 1980s. This struggle played a significant role in women achieving leadership positions within the male-dominated British Columbia law faculty by 1990. Furthermore, British Columbia was not necessarily

³⁵⁹ Lynn Smith, “Gender Equality – Professional and Ethical Issues,” (Conference of the Canadian Bar Association’s Continuing Education Committee and the Task Force on Gender Equality, 1992).

a leader in this regard, as was made apparent in Chapters 1 and 2.

To discern whether or not the appointment of feminist women deans was representative of a true commitment to equality and diversity, this chapter evaluates both the physical and theoretical space for women and feminism within the British Columbia law schools. While the formal barriers to entry into representative positions had been dismantled, it is challenging to identify the more informal, structural, cultural, and social barriers that impeded the progress women had made by the 1990s in the province. To understand these unique deanial appointments, it is necessary to historically deconstruct and contextualize each law faculty and the early formations of the university as they converged with legal professionalism in the province. It is noteworthy that university legal education began in British Columbia in 1945 when the university and law school formerly run by the BC Law Society joined together. The Law Society of Upper Canada had a more deeply entrenched set of legal educational traditions than did British Columbia, and its members did not want to let go of their privileges.³⁶⁰ An analysis of women's experiences, inclusion of feminist initiatives, and the representative meaning of feminist deans at each institution exemplify how equality was expounded but not entirely realized by 1994. Oral testimony, in conjunction with archival materials (newspapers, magazines, yearbooks, correspondence, letters, and reports concerning the development of the new faculties etc.), law faculty calendars, and teaching directories, show that although British Columbia was regarded as a progressive place for women in the law profession in the late twentieth century, feminist

³⁶⁰ Kyer and Bickenbach, *The Fiercest Debate: Cecil A. Wright, the Benchers, and Legal Education in Ontario, 1923-1957* (Toronto: The Osgoode Society, 1987); Girard, Phillips, Brown, *A History of Law in Canada Vol II: Law for the New Dominion 1867-1914, 192-196*.

professors had to continue in their careers with trepidation.³⁶¹

More than any other province in the country, the law faculties in British Columbia were often adversely affected by a lack of space – both physical and theoretical – and this had a direct influence on internal initiatives for the inclusion of women undertaken throughout the period. Joyce Green's edited collection, *Making Space for Indigenous Feminism*, informs the theoretical approach to this chapter, as it explores the unmapped terrain of Canadian feminist legal scholarship at a time when very few women had written feminist legal scholarship because many were prohibited, out of fear, from making what would be characterized as a feminist claim. It argues that law faculties offered minimal space for feminism within the existing cultural and intellectual domains, and that this limited the dialogue for broad institutional changes in the time period under investigation.³⁶² British Columbia provides a site where we can begin to understand the ways in which reified practices of exclusion in law and in policies reflected social realities which continued to prohibit women and racialized peoples from access to equal opportunities in the law profession.

The British Columbia law society and universities appeared to be inclusive but the limited professional progress of women continued throughout the entire twentieth century.³⁶³ The lack of intellectual and inclusive physical spaces in British Columbia law faculties hindered

³⁶¹University of British Columbia Faculty of Law fonds, University of Victoria Faculty of Law fonds, University of Victoria Faculty Women's Caucus fonds, and the University of Victoria Status of Women Faculty Association fonds. UBC law calendars 1961-1994, UVic law calendars 1976-1994.

³⁶²Joyce Green (eds.), *Making Space for Indigenous Feminism*, (Winnipeg: Fernwood Publishing, 2007) 14-32.

³⁶³Joan Brockman, "Exclusionary Tactics: The History of Women and Visible Minorities in the Legal Profession in British Columbia" *Essays in the History of Canadian Law, vol. VI: British Columbia and the Yukon*, Hamar Foster and John McLaren, eds. (Toronto: Osgoode Society for Canadian Legal History, 1995).

the vigorous and open exchange of ideas, particularly critical and oppositional perspectives associated with feminist legal theory. Although a tiny fraction of women did take those risks, making profound intellectual contributions to their fields, and while some ended up as law deans, they were seen as indicators of progress that had not entirely been made. As well, in British Columbia, the coalescence between the university and the profession, inherent in the establishment of new faculties of law, fuelled national concern about whether law was a learned trade or an academic endeavour.³⁶⁴ Concerns about feminist courses appearing on transcripts after the 1980s were expressed by students because of the risk factors associated with market pressures, causing low enrollment and the inevitable cancellation of these courses.

The history of the British Columbia legal profession is important to mention because many of the high-status positions (such as those at the British Columbia Court of Appeal) were represented by Canadian-born white males (six Protestant and two Catholics) of British or Irish ancestry by 1940. The first eight, all born before 1880, migrated west from Ontario with stops in the prairies, whereas the last two were BC-born. In an era when legal training in most Canadian jurisdictions, including BC, relied more on articling in lawyers' offices than on academic degrees, six of the ten are known to have had some higher education than high school curriculum and articling.³⁶⁵ However, British Columbia's history of exclusion and racism goes beyond the

³⁶⁴Pue, *Law School*, 13.

³⁶⁵ Christopher Moore, *British Columbia Court of Appeal: The First Hundred Years*, (Vancouver: UBC Press for the Osgoode Society, 2010) 29.

law profession and can be found within BC society as a whole.³⁶⁶ In particular, people of Asian-descent experienced widespread social and legal discrimination prior to the 1947 repeal of the 1923 act prohibiting Chinese immigration. Philip Girard notes that Asians and Indigenous Peoples had long been excluded from the franchise, and by 1907 “Hindu” was added to a list excluding any “Chinaman, Japanese or Indian” from appearing on the register of voters.³⁶⁷ The exclusion applied to British subjects and those born in British Columbia.³⁶⁸ Joan Brockman has investigated British Columbia’s patterns of exclusion for women and visible minorities through her examination of the cases of Mabel Penery French and Gordon Won Cumyow. French, the first woman admitted to the bar in New Brunswick in 1906 and British Columbia in 1912, broke significant barriers to women’s entry into the legal profession, becoming a symbol of early progress despite widespread societal resistance. Cumyow, the son of the first Chinese man born in the province, applied to be enrolled as a student-at-law in January 1918, prompting the Vancouver Law Students Society to petition the Law Society benchers to prohibit “Orientals” from joining the profession.³⁶⁹ The BC Law Society rejected Cumyow’s application because its rule required applicants to be on the voters’ list, and provincial law excluded Chinese, Japanese, “Hindus” and Indigenous persons from the provincial franchise. These qualifications for the

³⁶⁶ See for instance Patricia Roy, *A White Man’s Province: British Columbia Politicians and Japanese Immigrants, 1858-1914* (Vancouver: UBC Press 1989); Kay Anderson, *Vancouver’s Chinatown: Racial Discourse in Canada, 1875-1980* (Toronto: McClelland and Stewart, 1995); David Cheuyan Lai, *Chinatowns: Towns within Cities in Canada*, (Vancouver: UBC Press, 1995); Paul Phillips, *No Power Greater: A Century of Labour in British Columbia* (Vancouver: BC Federation of Labour, 1967); David Goutor, “Constructing the ‘Great Menace’: Canadian Labour’s Opposition to Asian Immigration, 1880-1914,” *The Canadian Historical Review*, Vol 88.4 (December 2007) 549-576; David Bercuson, “Labour Radicalism and the Western Frontier: 1897-1919,” *The Canadian Historical Review*, Vol 58.2 (1977) 154-175; John Belshaw, *Becoming British Columbia: A Population History*, (Vancouver: UBC Press, 2009); Jean Barman, *The West beyond the West: A History of British Columbia*, 3rd edition, (Toronto: University of Toronto Press, 2007).

³⁶⁷ Philip Girard, “The Legal Professions and Legal Education 1914-1949” forthcoming in *A History of Law in Canada Vol III*, Presented at the Osgoode Society Workshop, 2020.

³⁶⁸ Philip Girard, “The Legal Professions and Legal Education 1914-1949” Ibid.

³⁶⁹ Joan Brockman, “Exclusionary Tactics: The History of Women and Visible Minorities in the Legal Profession in British Columbia” 519-524; Mossman, *Quiet Rebels*, 50-53.

provincial franchise would not be changed until 1947 (for Chinese and “Hindus”) and 1949 (for Japanese and Indigenous People), completely forbidding members of these groups from becoming lawyers in British Columbia.³⁷⁰

Brockman also emphasizes how the first inquiry from a woman about admission to the bar in the province was through a letter dated 10 March 1908 from Eva Maude Pawley (a barrister of Port Arthur, Ontario). Pawley was writing an article on “Women in the Legal Profession in Canada” and wanted more information on women practicing law in British Columbia. Oscar Bass, secretary of the Law Society, replied to her inquiry with “Dear Sir... the fair sex have not yet threatened to invade the legal profession in British Columbia” and that a “modern Blackstone in petticoats” had not yet been considered by the benchers.³⁷¹ Aside from the clear misogyny expressed by Bass, this attitude was characteristic of most of the benchers who built the profession in the years beyond the war. Social attitudes about women professionals lingered, and racialized women faced additional barriers. Margaret Jean Gee was the first woman of Chinese descent to be called to the Bar in British Columbia in 1954, and she enrolled in law school three years following the formal end of the restrictions against “females of Chinese origin” from joining the profession.³⁷²

Girard also asserts that aside from BC’s restrictive rules, everywhere in Canada between 1920 to 1922 and 1933 to 1951, the *Indian Act* posed the threat of non-voluntary enfranchisement for those status Indians who obtained university degrees or joined a profession.

³⁷⁰Joan Brockman, “Exclusionary Tactics,” Ibid. Also cited in Girard, “The Legal Professions and Legal Education.”

³⁷¹ Letter from Oscar Bass to E.M. Pawley, 17 March 1908; MSS 948, Series 8, Vol. 40, File 14, *British Columbia Archives and Records Service*, cited in Brockman, “Exclusionary Tactics,” 510.

³⁷²Margaret Jean Gee, [UBC Allard History Project](#), Carol Liao is also working on a chapter on the early Asian women law professors. Forthcoming, 2024.

Although the Department of Indian Affairs rarely pursued enfranchisement, its threat was a probable deterrent to some who might have aspired to become lawyers or law professors. It is for these reasons that there was a lack of Indigenous women's representation in the Canadian legal profession; the first Indigenous woman to be called to the bar across Canada was Marion Ironquill Meadmore in 1974. She was also a residential school survivor, as will be further discussed in Chapter 4.³⁷³

University of British Columbia Faculty of Law

The law school at the University of British Columbia [UBC] formally began in 1945. Before 1945, the Law Society of BC had operated the Vancouver Law School [VLS] since 1914 but closed the school during the First World War and again in 1943 during the Second World War. They had also operated a law school in Victoria from 1914 to 1923.³⁷⁴ The *Legal Professions Act* was amended in 1944 to allow the Law Society to merge the VLS with the new law faculty at UBC. Throughout the late nineteenth and early twentieth centuries, the university undertook many developmental and structural changes which might explain how prepared it was for the addition of a law school by the end of the Second World War. The idea of a provincial university in British Columbia was fostered by many of the universities in eastern Canada to “serve the needs of the young province.”³⁷⁵

In 1877, the initial proposal for a provincial university was made by the Superintendent of Education, John Jessop, just six years following British Columbia's move to join confederation. By 1890, *An Act Respecting the University of British Columbia*, was passed by

³⁷³ Marion Ironquill Meadmore, *The Canadian Encyclopedia*, last modified January 27, 2022, <https://www.thecanadianencyclopedia.ca/en/article/marion-ironquill-meadmore>; See also, Girard, “The Legal Professions and Legal Education,” 18.

³⁷⁴ Wesley Pue, *The Story of Legal Education in British Columbia*, Chapter 2.

³⁷⁵ Harry T. Logan, *Tuum Est: A History of the University of British Columbia*, 3.

the provincial legislature, but it was politically contested because of the opposition between Vancouver Island and the mainland about the location of the university. The university was to be empowered to grant degrees in Arts, Science, Medicine, and Law.³⁷⁶ While no provision was made for actual courses to be given in Medicine and Law, the University Council was authorized to: “make and alter any statutes... touching the curriculum and examination necessary for degrees and the granting of the same,” and in the meantime, subject to approval by the Lieutenant-Governor in Council, the University Council would be allowed to admit to examination for degrees in Medicine or Law, and graduates or students from approved Medical or Law schools situated in the province or elsewhere.”³⁷⁷

Meetings on the Act subsequently failed, and it lapsed, but by 1899 Vancouver High School established Vancouver College which was affiliated with Montréal’s McGill University. In 1906, Vancouver College was taken over by McGill and renamed McGill University College of British Columbia, which exclusively offered two-year programmes in arts and sciences. The new *University Endowment Act* (1907) provided for the funding of a provincial university through the sale of up to two million acres of Crown land in central and northern BC. Harry Logan has asserted that the years between 1908 to 1915 were a time of uncertainty and anxiety for staff and students alike, caused by repeated changes in the projected opening for the new university. However, the passage of the 1908 *University Act* established UBC as it provided for a Chancellor, a Convocation, a President, a Board of Governors, and a Senate but it was in 1910 when a province-wide survey selected the site of the UBC Campus.³⁷⁸ Although a faculty of law

³⁷⁶ Harry Logan, *Tuum Est*, 3.

³⁷⁷ Harry Logan, *Tuum Est*, Ibid.

³⁷⁸ Logan, *Tuum Est*, 34; George Woodcock and Tim Fitzharris, *The University of British Columbia – A Souvenir*, (Toronto: Oxford University Press, 1986).

was not included in the initial plans, developments in the melding of university and law practice for British Columbia legal education were underway.

During the province's early years, most established lawyers saw little reason to change a system under which professional qualification was earned principally through apprenticeship. Benchers had the power to appoint and pay lecturers because of constitutional grants of authority over legal education from 1884 to 1888. However, they did not make use of this power until the twentieth century for several reasons.³⁷⁹ The concern would have been that if legal education formalized, self-interested Benchers would lose the services of the underpaid apprentices. As a result, there was no pressing need for change. The turn of the century, however, characterized the development of formalized legal education across the nation, so a handful of elite lawyers worked against the Benchers to create a system of formal lectures and examination.

The construction of the first permanent buildings on the Point Grey campus in Vancouver began in 1914, but the outbreak of the First World War halted the plans with only land-clearance and the frame of the science building completed. In fact, the librarian, J.T. Gerould, was hired to purchase books in Europe when war broke out and was subsequently arrested as an accused spy in Leipzig, Germany – the incriminating evidence included a copy of the UBC site plan in his baggage.³⁸⁰ By 1915, UBC welcomed 379 students in three faculties (Arts, Applied Science, and Agriculture and 34 full- and part-time faculty. The headquarters were located temporarily at the former McGill College facilities (named “the Fairview shacks”). Military training was included in the curriculum for the duration of the First World War. 697 students participated in military

³⁷⁹Alfred Watts, *History of the Legal Profession in British Columbia*, (Vancouver: Law Society of BC, 1984) 47-67.

³⁸⁰ The Story of the University of British Columbia, *UBC Archives*, <https://archives.library.ubc.ca/general-history/a-brief-history-of-ubc/>.

service, and 78 were killed in action. The return of students from war-time increased enrolment to 890 in the year 1919-1920 and the shacks quickly became over-crowded, with classes being held in tents, churches, and Sunday schools. In 1922, enrolment reached 1200 and many grew weary of the over-crowded conditions. It took a publicity campaign to convince the government to complete the Point Grey campus and it responded by signing a \$1.5 million loan to resume construction.³⁸¹

In 1919, the University was the first in the British Empire to establish its nursing program, but it was one of the last to provide Home Economics in 1943. As the most common program for women, lobbying efforts and organizing were necessary for its establishment. There was not another issue at the university which demanded as much sustained and energetic support from women in British Columbia as the movement to establish the Home Economics Department, as Stewart shows in her book.³⁸² The campaign mobilized popular support, educated public opinion, raised money for an endowment fund, and demonstrated continuous pressures on both the provincial government and the university. However, the movement lacked the kind of male support that helped to develop the nursing program, while context of the Second World War profoundly shaped women's educational aspirations.

From 1923 to 1938, the university developed new buildings for Science, the Library, a power plant, nine "semi-permanent" buildings (Arts, Agriculture, Applied Science, Administration, the Auditorium, four laboratory/workshop buildings), and the Gymnasium. The Great Depression forced major reductions for university operating grants by the provincial government from \$626,00 to \$250,000 it was not until the years after 1945 that the

³⁸¹Logan, *Tuum Est*, 88-89.

³⁸² Stewart, *It's Up to You*, 44.

university began a process of complete reconstruction. The years of the Second World War initiated the Canadian Officer Training Corps unit on campus, and 1680 students enlisted in the armed forces. During the war, the campus became a space to serve the needs of the federal government and military. Indeed, seventy-six Japanese UBC students were removed from the BC coast in 1942 when the Canadian government implemented internment as part of its policy after Canada's declaration of war on Japan.³⁸³ The Home Economics Department and Law Faculty were part of the period of post-war academic expansion.

In the late 1930s, there was great pressure on the university to begin work in Law, Pharmacy, advanced Pre-Medical Training, and Home Economics. The advancements were postponed because of lack of funds, but the President and Senate recommended that the Home Economics Department be established first – that is, before the Faculty of Law. Home Economics had been authorized in 1929-1930 but the Department was curtailed because of funding problems and resistance to women's educational aspirations. Women were persistent and advocated for the establishment of the department and pressed the government for action. Finally, in 1943, the Minister of Education estimated a sum of money to cover the cost of establishing the department in the university, using the laboratories in the Vancouver High Schools.³⁸⁴ The department win was an obvious outcome of wartime pressure with women increasingly present in the workforce and taking up new educational endeavours.³⁸⁵ Perhaps the Minister of Education anticipated the return of men, so it would have been essential to teach women the necessary skills required for domestic life. Perhaps post-war university reconstruction began in the years leading up to war's end. In April 1944, the Parent-Teacher Federation had

³⁸³ Ibid.

³⁸⁴ Logan, *Tuum Est*, 157.

³⁸⁵ Jennifer Stephen, *Pick One Intelligent Girl*, (Toronto: University of Toronto Press, 2007).

urged that the fund of \$20,000 be used for the erection of a Home Economics Management House on the campus, and the project was finally realized by 1956.³⁸⁶ In 1948, the government gave UBC a grant of \$650,000 specifically allotted for women's residences.³⁸⁷

UBC faculty and staff expected an influx of students following the war, but the numbers were much higher than anticipated. Before German surrender in May 1945, veterans were requesting admission encouraged by the funding within the Veterans Rehabilitation Act. Nationwide by 1946, veterans made up of forty-five percent of university enrolment. As the university struggled to make emergency provisions to meet the crisis of enrolment, the Board gave President Norman MacKenzie freedom to act and move the university in "unexpected ways."³⁸⁸

Professor George F. Curtis, of Dalhousie University Law School, served as the first Dean of Law from 1945 until his retirement in 1971, and many have credited his initial faculty as a significant turning point for British Columbia and Canadian common law legal professionalism.³⁸⁹ The University of British Columbia was the first law faculty to open immediately in the post-war period. In fact, scholars have asserted that the "Indigenous" origins of formal legal education represent the outcome of nearly a century of educational development in the province. Once the social and formal acceptance of formal legal education and practice were realized, the creative union caused the production of the modern law faculty. The early Curtis faculty merged a distinguished cultural tradition in legal curriculum (which had roots in Prairie and Maritime faculties) with a more contemporary vision of law and law's role in

³⁸⁶ Logan, 157.

³⁸⁷ Eric Damer and Herbert Rosengarten, *UBC: The First 100 Years*, 138.

³⁸⁸ Damer and Rosengarten, *UBC: The First 100 Years*, 122.

³⁸⁹ Pue, *Law School*, 9.

Canadian society. The objective was to fully take on board the post-New Deal welfare state and include courses and content to meet such social realities. The new curriculum as adapted from the Richard Weldon Tradition (Dalhousie Law School as will be explored in Chapter 5), mixed political science, cultural or public law, with professional or strictly legal courses.³⁹⁰ The “standard curriculum” was initiated during the First World War by Prairie lawyers which included two other similarly impractical subjects (jurisprudence and legal ethics), while the Manitoba Law School linked Roman law and ancient law into the cultural mix.³⁹¹

The development of the law faculty in British Columbia was coupled with the post-war academic expansion of the university. To accommodate the expansion, fifteen abandoned army and air force camps were dismantled and shipped to Point Grey, where the huts served as classrooms, laboratories, and residences for both students and faculty. In 1945 a large number of veterans returned and sought out legal education but there was no space for them. More than any other university institution in Canada, the University of British Columbia underwent a series of developmental and structural changes in the years beyond the war. The increase in student population in the post-war period caused the Department of National Defence to turn over abandoned Army and Airforce camps to UBC.

³⁹⁰ John Willis, *A History of Dalhousie Law School*, (Toronto: University of Toronto Press, 1979) 31.

³⁹¹ Pue, *Law School*, 76-79.



Figure 3.1 – Faculty of Law huts, September 1951, [UBC Archives Photograph Collection](#).

In November 1951 the law building, comprised of 28,984 sqft., was made available for \$325,000 which was less than one half of one percent of UBC's total capital expenditures, in the region of \$70 million by the late 1960s.³⁹² In 1967, the faculty was asked by university administration to provide specific details of the physical needs of the faculty, including the design of a new law building. The building was designed as a first unit for ultimate expansion and the UBC university-wide master plan report of 1968 recommended that the law faculty be a multi-storey building. The first permanent unit of the law building would accommodate the needs of the faculty (classrooms, library, offices and ancillary facilities) for ten years. Space for offices, classrooms, and seminars had to be found outside the building. At the time, the building was entirely devoted to the Law Library, with the exception of the Dean's Office and three

³⁹²UBC Faculty of Law Planning Committee, "Space Requirements and Facilities for UBC Faculty of Law," September 1968, *University of British Columbia Archives*, Faculty of Law fonds, Box 6.

faculty offices, a small student common room, and basement washroom facilities. The remaining offices, all the classrooms, and seminar rooms were located in the army huts adjacent to the law building.

In 1968, the UBC Law Faculty Planning Committee made a series of recommendations for the new law building. It is evident that women were not on the Planning Committee which had 48 members. There was also no expectation that women would eventually take up space or offices as professors. The committee was comprised of five sub-committees to make recommendations based on teaching, faculty, administration, student services and library, and “almost all of the faculty [had] participated in the planning process.”³⁹³ The report outlined that there were 48 faculty members each required to have 225 sq ft office suites. The gendered expectations outlined in the report note that a “Female Library Staff Lunchroom,” was necessary and that the “law professor’s office must reflect its dual role as a place where *he* can talk to individual students, or more usually, two or three students who wish to huddle over a common problem, and a working area.”³⁹⁴ Although the use of the male pronoun was normative at the time, a report of this nature could have recognized the growing numbers of women taking up professional positions, but reflected the assumption that a division and hierarchy of labour would continue to be gendered in the future. After all, it was a report on what the university was to become, and there were already women in other departments within the university and at other institutions of higher learning. At the UBC law faculty, Diana Priestly was the law librarian for an entire decade from 1953 to 1963 and although she was not on faculty during the time of the

³⁹³UBC Faculty of Law Planning Committee, “Space Requirements and Facilities for UBC Faculty of Law,” September 1968, *University of British Columbia Archives*, Faculty of Law fonds, Box 6.

³⁹⁴Ibid, “Space Requirements and Facilities,” September 1968, 8.

report and development of the new law building, her education and the record of her employment at the faculty should have held significance.³⁹⁵

Priestly's accomplishments in the legal profession have recently been commemorated mostly at the University of Victoria (with the formal naming of their library in her name) and nationwide for her contributions as one of the earliest women to attain representation in a leadership role within a law faculty. Before she was hired, and before the law faculty opened, Priestly submitted recommendations to the University of Victoria for books and materials necessary for law students. The development of the law library was an effort led by Priestly through her professional experience at other law schools. Although Priestly's employment at UBC pre-dated the report, the Committee could have done its due diligence to research the sheer number of women taking up tenured positions across Canada at the time, and to recognize that one of their own members was climbing up the ranks to a leadership position within the wider national profession. Word must have travelled to the remaining faculty members that Priestly was taking up prestigious positions in the Ontario law schools. The way in which the committee overlooked Priestly's employment at UBC in the years before the report reveals how women's accomplishments were considered unimportant and reveals the looming unreceptive environment for women who came after her.

Diana Priestly became the first professional Law Librarian at UBC in 1953. According to Anne Rae and Balfour Halevy, law librarianship was not Priestly's first choice of career. Upon completing her BA in 1947 she pursued law school after being a Wren [Women's Royal Naval Service] during the Second World War. In an interview, Priestly noted: "I thought I could

³⁹⁵Diana M. Priestly Curriculum Vitae, 17 February 1987, University of Victoria Archives, Faculty Files – Diana Priestly, 1974-1987.

perhaps play a role in the Department of External Affairs in diplomatic work... but I didn't get into External Affairs because they weren't taking women in those days."³⁹⁶ After earning an LL.B. in 1950, Priestly articulated with a law firm on Vancouver Island and stayed on until she went to the University of Washington to pursue the Master of Law Librarianship (M.L.L.) Program because her "mother had always wanted her to be a librarian."³⁹⁷ Priestly became Canada's first dual-degree law librarian and influenced many lawyers to pursue library education.³⁹⁸ In 1964, Priestly began her trek as a member of various Ontario law faculties: The University of Toronto Faculty of Law (1964 to 1967), Osgoode Hall Law School at York University (1967 to 1970) and the University of Western Ontario (1970 to 1972).³⁹⁹ When Dean Cecil Wright (Dean of the University of Toronto Faculty of Law) initially approached Priestly in the early-1960s, she was appointed as law librarian and assistant professor, making her the first woman with professorial rank on a common law faculty.⁴⁰⁰ By the time Priestly arrived at the University of Victoria in 1974, her important contributions to the law profession were noted in the first faculty of law calendar. She was the only woman to begin on the University of Victoria Law Faculty, and very few others were hired throughout the period.⁴⁰¹ However, there were conditions to Priestly's appointment at the University of Victoria, as will be explained below.

³⁹⁶ Interview by Maryla Walters and Balfour Halevy with Diana Priestly, as part of the Aural History Programme, Provincial Archives of British Columbia (30 September – 1 October 1988) Unpublished transcript, cited in Anne Rae and Balfour Halevy, "Diana Mary Priestly: An Appreciation," *Law Library Journal*, 90.2, (1988): 123.

³⁹⁷ Priestly cited in Laura M. Goldsmith, "History of the University of Washington Law Librarianship Program," *University of Washington School of Law*, (1990): 254.

³⁹⁸ Laura M. Goldsmith, "History of the University of Washington Law Librarianship Program," *Ibid.*

³⁹⁹ Diana M. Priestly, Curriculum Vitae, 17 February 1987, see also John M. Davis, "On the Front Cover: Diana M. Priestly," *The Advocate*, 45, (1986).

⁴⁰⁰ *Ibid.*

⁴⁰¹ University of Victoria Faculty of Law Calendar 1975-1976, Faculty of Law fonds, *University of Victoria Archives*.

The Secretaries Lunchroom was described as requiring “400 sqft... for a lunchroom, lounge, and restroom for the faculty secretaries. Similar facilities will be required for the *female* law library staff and administrative secretaries, and it may be possible in the ultimate design to *combine* two or all of the three facilities depending on the relative locations of the faculty, library, and administrative offices.”⁴⁰² The gendered set of expectations demonstrated that the faculty at the time did not foresee women taking up space as law professors. Yet, Pauline Vaver was hired in 1971, and Elizabeth Edinger and Mai Lutterus were hired in 1973. From 1973 to 1981 there were a total of 6 women on the faculty. A few more women were appointed throughout the period, including Beverley McLachlin, Marilyn MacCrimmon and Caroline Needham. In the year they were both hired, Needham and MacCrimmon were listed on a faculty correspondence list as “New Members of Faculty: Marilyn MacCrimmon (Mrs. and Caroline Needham (Ms., which contrasts with the rest of the appointments of men which were made without such marital status distinctions.”⁴⁰³ In the 1980s, the number of women students at UBC Law rose significantly, approaching levels seen in Québec’s civil law schools, but the hiring of women faculty did not keep pace.⁴⁰⁴ As well, in 1981-1982, Lynn Smith was the only woman present on faculty because Marilyn MacCrimmon took a leave year.⁴⁰⁵

⁴⁰²UBC Faculty of Law Planning Committee, “Space Requirements and Facilities,” September 1968, 12.

⁴⁰³New Faculty Members List, 1976, UBC Faculty of Law fonds, Box 6, *UBC Archives*.

⁴⁰⁴ Canadian Law Faculty Reports, Faculty of Law fonds, *University of Victoria Archives*

⁴⁰⁵The Legal Who: UBC Faculty of Law Yearbook 1981-1982, Faculty of Law fonds, *UBC Archives*.

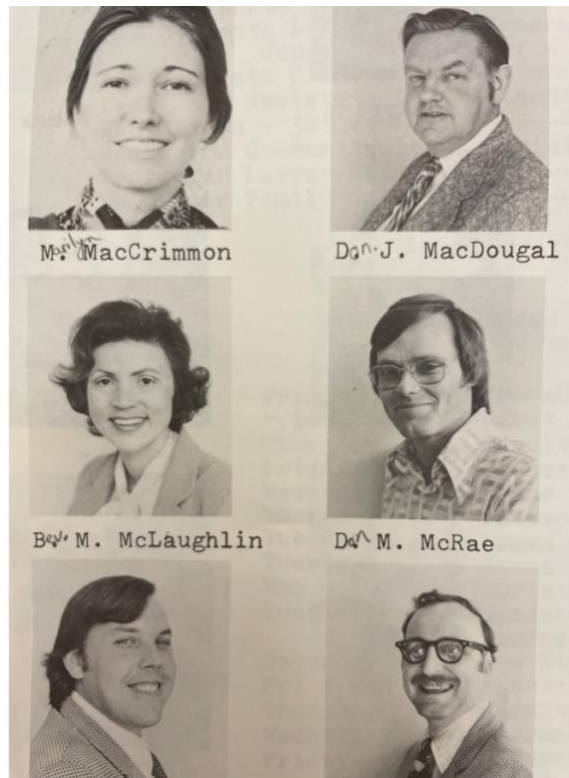


Figure 3.2 – The Legal Who: UBC Law Faculty Yearbook 1977-1978, *UBC Archives*.

Lynn Smith attended law school at UBC in the early 1970s. She had observed that it was only when Beverley McLachlin was a member of the faculty that the curriculum began to reflect a more respectful and inclusive awareness of issues affecting women.⁴⁰⁶ Beverley McLachlin plunged into law school life with enthusiasm, finding it a sociable environment populated by young professors around her age. Despite this camaraderie, McLachlin faced the looming expectations and challenges of being a woman in an entirely male-dominated faculty. While she formed lifelong friendships with colleagues like Jim Taylor, her professional aspirations were met with significant obstacles. The courses she was most passionate about teaching—torts and constitutional law—were already claimed by other professors. Despite her interest and expertise,

⁴⁰⁶ Pue, *Law School*, 213.

exemplified by her published article on damages in tort, which was favorably cited in a seminal Supreme Court of Canada decision, McLachlin was not allowed to teach torts. Although it is not explicit that gender, age, or experience factored into this restriction, she noted that she was not allowed to put her head into a torts classroom.⁴⁰⁷ Instead, she had to settle for teaching evidence law and contracts law. Over the years, she also took on a range of subjects that “no one else wanted to teach,” including copyright and creditors’ remedies.⁴⁰⁸

Wesley Pue noted that after the university confrontations about women’s issues in the 1970s, the first women and the law course was developed.⁴⁰⁹ These confrontations began with the development of feminist courses beyond the law school. As one newspaper article in *The Vancouver Sun* dated 2 October 1970 indicates, the development of feminist courses at UBC was causing tension. Specifically, the course entitled “Women in a Changing World” was an evening course offered by UBC’s Extension Department. The course attracted participants from a wide variety of individuals in various professional fields. Discussions within the course about the study of the secondary social status of women, the socialization process, the influence of education, and the obstacles to social autonomy for women, left the men feeling “boggled.”⁴¹⁰ Aside from men’s incapacity to understand feminism at the time, tensions within the university were influenced by external social movements arguing for fundamental social change to eradicate sexism. For example, the mission of the BC Federation of Women (created in 1973-1974 – although not without resistance) was to work to implement the necessary changes into policy.

⁴⁰⁷ Beverly McLachlin, *Truth Be Told*, (Toronto: Simon & Schuster, 2019) 85.

⁴⁰⁸ Ibid.

⁴⁰⁹ Pue, *Law School*, Ibid.

⁴¹⁰ Leslie Peterson, “A Look at Women’s Lot,” *The Vancouver Sun*, 2 October 1970.

It is important to note that the general movement of the New Left in Canada took shape predominantly on university campuses. Women's liberation was aligned with the thrust of political mobilizations in the late 1950s and early 1960s. Many Canadian women were involved in anti-nuclear work, the CCF/NDP, the Young Socialists/Ligue des jeunes socialistes, the Canadian Campaign for Nuclear Disarmament, and the Student Union for Peace Action (SUPA). Joan Sangster asserts that SUPA organized teach-ins on the Vietnam War and campus demonstrations for educational democracy, protesting university administrations immersed in the aristocratic inevitability that they should make all decisions, from setting curriculum to firing radical professors.⁴¹¹ When women's liberation emerged from the political climate in 1968, the media labelled them as overly passionate, pampered student radicals which assumed that feminism was limited to white, university educated, middle-class women. These assumptions characterized and obscured the many parallel equality-seeking movements for poor, working-class, Indigenous, and Black Women.⁴¹² SUPA women, however, argued that New Left women catered to male leaders and their ideas would not be given credibility until the *covert feminists* recognized that women who did not fit the feminine mould were marginalized by the men whom they had turned into "intellectual father figures."⁴¹³ *Women Unite!*, the first Canadian Women's Liberation anthology, critiqued the RCSW and declared that: "women are oppressed by an economic system based on the exploitation of many by a few powerful owners and a social system dependent on racial, national and sexual chauvinism... a few token women in corporate board rooms will not and cannot liberate women."⁴¹⁴

⁴¹¹ Joan Sangster, *Demanding Equality*, 266.

⁴¹² Sangster, 267.

⁴¹³ Ibid.

⁴¹⁴ "Pie in the Sky" in *Women Unite! An Anthology of the Canadian Women's Movement*, (Toronto: Canadian Women's Educational Press, 1972) 40-42.

The changing image of UBC coeducation in the 1968-1969 academic year revealed that women were becoming increasingly recognized for their academic merit. The UBC Dean of Women, Helen McCrae, compiled a report which revealed that greater numbers of mature women returned to university, and 43 percent of the women students at UBC at the time had children. She asserted:

In the 1968-1969 winter session 865 women ranging from mid-20s to the mid-60s attended UBC. The mothers who are students have a total of 943 children, 241 of them pre-school age. While 79 percent were single parents – two percent widowed, eight percent separated, five percent divorced and six percent unmarried. These are significant figures and indicate the need for counselling for these women and such practical help as day-care facilities and financial assistance.⁴¹⁵

The report also noted that if UBC decided to increase admission standards the proportion of women attending the university would increase. A study done during 1968-1969 by UBC's Office of Student Services indicated that the mean high school average of women entering first year at UBC continued to be significantly higher than that of men students.⁴¹⁶ Therefore, the context in which Smith entered law school was tumultuous on the political front but somewhat more welcoming to women for their meritorious accomplishments and needs.

Smith taught Women and the Law when she was hired in 1981 and continued to teach it up until she was appointed Dean of the Faculty of Law in 1991.⁴¹⁷ She was the third publicly feminist dean of a law faculty (of common law) in Canada, and her achievements as dean were meaningful. Many women hired under Smith's tenure as dean recalled an inclusive atmosphere regarding gender issues which translated into positive experiences for the faculty at large. Smith's time as dean influenced the acceptance of the Centre for Feminist Legal Studies [CFLS] at UBC.

⁴¹⁵Dean Helen McCrae, *The Province*, 4 February 1970.

⁴¹⁶Dean Helen McCrae, *Ibid.*

⁴¹⁷UBC Law Faculty Calendar 1981-1982.

Susan Boyd and Marlee Kline were fundamental forces in developing the initiative.

Feminist initiatives at the law school began in the 1970s and 80s. Feminist faculty and students organized various lectures and seminars over the decades to cover a wide range of topics including “Women and the Law” offered by Lynn Smith, Marguerite Jackson, and Barbara Findlay. “Feminist Legal Theory” was offered by Marlee Kline, “Reproduction and the Law” was offered by Nitya Iyer, and “Women, Law, and the Family,” was offered by Susan Boyd. Christine Boyle joined the UBC law faculty in 1990.⁴¹⁸ Claire Young joined the UBC law faculty in 1992 as an internationally renowned expert on women and tax,⁴¹⁹ and Ruth Buchanan, an expert on globalization, labour, and women also joined the faculty.⁴²⁰

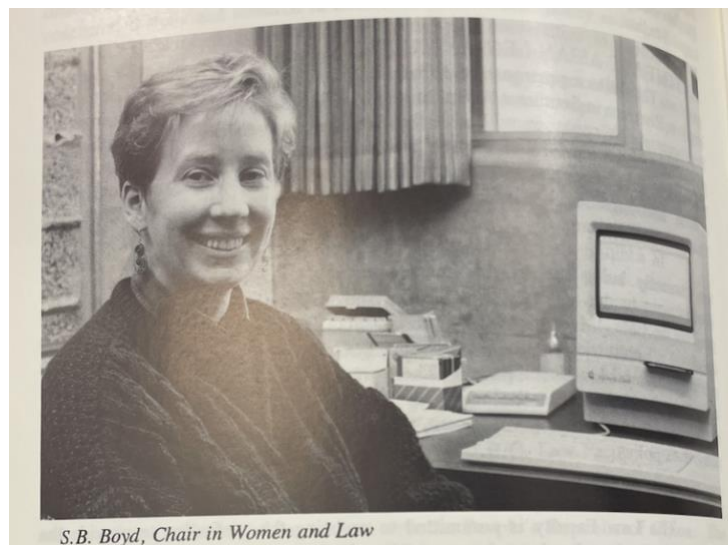


Figure 3.3 – Susan Boyd, Chair in Women and the Law, University of British Columbia Faculty of Law Calendar, 1992-1993, *University of British Columbia Archives*.

Susan Boyd came from Carleton’s Law Department, having taught criminal law in the 1980s before she was hired at UBC in the 1990s. Prior to Carleton, she worked at the Law

⁴¹⁸Christine Boyle is a central figure in Chapter 5.

⁴¹⁹Claire Young is a central figure in Chapter 2. See for instance: Claire Young, “What’s Sex Got to Do With It?: Tax and the ‘Family’” Law Commission of Canada, 15 May 2000.

⁴²⁰ Susan Boyd, “Women and the Law at UBC: A Look Back,” Unpublished Document, 2001.

Reform Commission doing legal research and developed a particular curiosity about the state of women and the law because “we were still using the male pronoun to design suggestions to existing laws.”⁴²¹ During her time at Carleton, Boyd contributed to one of the most significant pieces of Canadian feminist legal scholarship with Elizabeth Sheehy.⁴²² Providing an overview of feminist perspectives and the chronology of their development in the law by breaking down the literature into five major theoretical frameworks and approaches, they noted: “Theoretical work does not predominate Canadian legal scholarship. We were therefore not surprised to find that much of the feminist legal literature also leaves theory unstated, and thus explicitly or implicitly adopts the liberal human rights paradigm.”⁴²³ Boyd and Sheehy’s work marked the beginning of scholarship that explored the implicit feminist perspectives introduced by the first female faculty members, highlighting the diverse approaches these women brought to legal academia. Boyd has also argued that the 1990s represented a brief peak of liberal feminism and there were differences of opinion amongst women on feminism and feminist legal theory.

Boyd’s scholarship presented her as a feminist, and in fact, she believed she was hired at UBC to be *the feminist*.⁴²⁴ She recalled that her job was much easier having a feminist dean, but the CFLS startup came from her collective organizing with other feminists. In fact, Boyd was recruited to take up the new chair in Women and the Law (later renamed to the CFLS) in 1992. She developed courses related to feminism, but she was required and expected to teach Family Law. She noted that it was unusual for feminist legal scholars to be appointed exclusively for their expertise as “feminist legal scholars,” just as it was uncommon for scholars to be appointed

⁴²¹ Susan Boyd interview with Taylor Starr, 25 November 2021.

⁴²² Susan Boyd and Elizabeth Sheehy, “Canadian Feminist Perspectives on Law,” *Journal of Law and Society*, 13.3, (Autumn 1986): 283-320.

⁴²³ Ibid, 283.

⁴²⁴ Susan Boyd Interview.

for their expertise in racism/sexual orientation and law.⁴²⁵ Boyd asserted that these fields held value for legal education, but they were not central and accompanied other fields viewed as core in law school curriculum.⁴²⁶ Aside from her ideas for the establishment of a centre dedicated to feminist legal studies, Boyd initiated the centre with an initial \$20,000 of her own funds. When the CFLS was approved by the law school, it was required to be “resource neutral.”⁴²⁷ A few decades beyond the construction of the new law building, and beyond the 1968 Faculty Report for Space Requirements and Facilities, which was particular about where women should be placed within the building, the CFLS had its beginnings not in an army hut, but in a trailer. It is understandable that the university was often uncertain about where certain faculties and departments were to be placed, but in the law faculty’s developmental phases it could have accounted for the increasing numbers of women entering the law profession and the new approaches and perspectives to legal education they would bring with them.

UBC Law’s endowment of a research chair in women and the law in the early 1990s was nevertheless noteworthy in that it was the first such position nation-wide. UBC’s appointment of Lynn Smith as its first female dean of law in 1991, an individual who had long been involved in the women’s movement and feminist organizations such as the Women’s Legal Education and Action Fund (LEAF), was momentous for overt feminists. The funding for the chair came from a combination of private donations (including Boyd’s) and a time-limited government matching arrangement. The chair was positioned as additional to others in the Faculty of Law with separate funding. In addition, the initial title of the chair was Women and the Law because it was

⁴²⁵ Susan Boyd, “Spaces and Challenges: Feminism in Legal Academia,” *University of British Columbia Law Review*, 44.1, (2011): 209.

⁴²⁶ Susan Boyd, “Spaces and Challenges: Feminism in Legal Academia,” *Ibid.*

⁴²⁷ Susan Boyd interview, 25 November 2021.

regarded as more neutral than Feminist Legal Studies. In fact, Boyd believes that one senior donor removed her name from the list of donors when the name was formally changed to Chair in Feminist Legal Studies.⁴²⁸ However, the chair initially gained support from colleagues at the law faculty because it meant that those who were less enthusiastic would be able to delegate the responsibility of students with feminist concerns to it. Students were directed to Boyd for answers to their questions.⁴²⁹ Boyd recalled facing challenges in her efforts to teach about women and the law, as well as feminist legal theory, within the UBC law faculty. However, these topics were generally met with greater acceptance following the appointment of a feminist dean.⁴³⁰ She also recalled that although the CFLS was initially positioned outside the law faculty, it was a place of community building and was an overall positive experience. In the trailer, which was formally termed “The Annex”⁴³¹, feminists gathered frequently inside its turquoise green walls. Since many prominent Canadian feminists were hired as instructors in British Columbia, it can be considered to have been a more welcoming place than other common law schools, especially since The Annex was built to support and engage individuals in a wide range of topics related to feminist legal theory.

⁴²⁸Boyd Interview.

⁴²⁹ Boyd, “Spaces and Challenges in Legal Academia,” 210.

⁴³⁰Boyd Interview.

⁴³¹ Ibid.



Figure 3.4 – Nitya Iyer in *The Annex*, 1995, *Faces of Feminism 1995-2005*, Centre for Feminist Legal Studies UBC Faculty of Law, Courtesy of Susan Boyd.

Dean Smith was able to accomplish much in the face of strong resistance to her tenure as dean. In fact, Claire Young alleged that the power ascribed to male deans was as much a social development as a professional one. Deans and faculty members built their reputations outside of the law faculties, often at dinners with their wives, and they played sports together.⁴³² Generally regarded as neutral on faculty issues, Smith had to support feminist efforts carefully and strategically. Although most Deans (and even department Chairs) succeed in their roles by presenting themselves as neutral to minimize conflict within the faculty, it seemed that a liberal approach to legal education was a prerequisite of Smith's acceptance by faculty and the wider legal profession.

Intellectual challenges to women in the UBC law faculty continued into the twenty-first century but were exacerbated in the late twentieth. In a new age where law school tuition fees had risen exponentially, and with the lack of government funding, students had become less willing to select courses that could hinder their employment prospects upon graduation because

⁴³² Claire Young Interview with Taylor Starr, 25 January 2022.

of debt accumulation. In addition, opportunities for articling in public or social justice law were less well paid than those in corporate firms. These circumstances confined students to larger firms where a traditional professional ethos prevailed, and transcript entries for courses titled “Feminist Legal Studies” were often viewed undesirably. Susan Boyd recalled that students consulted her with concerns about the implications of “having feminist courses or feminist volunteer work on their resumes.”⁴³³ Even further, because of risk factors including market pressures, workload fears, ambiguity about the importance of feminism, and stereotyped perceptions about courses on feminism, fewer students enrolled in feminist law courses which caused their cancellation.⁴³⁴ Although this was not the case at UBC specifically during Boyd’s tenure, she cites an Australian example from Margaret Thornton:

The knock-on effect of diminished feminist legal studies or related fields is that hiring of professors who specialize in feminist legal studies or related fields becomes a lower priority... the story of one Australian law school that terminated the services of five feminist and socio-legal scholars during a period of organizational change, due to their failure to meet the imperative of ‘professional practice.’⁴³⁵

Drawing upon her experience at UBC, Boyd noticed parallels in the way in which feminist credentials were hidden from prospective employers – whether law schools or law firms.⁴³⁶

These experiences illustrate the theoretical and intellectual challenges women encountered at the UBC law faculty as they were presented in both explicit and implicit ways. As we have seen in Chapter 2, Claire Young’s experience in tax law made her more likely to refrain from the use of the feminist agenda in her scholarly articles, and her recognition of “the feminist voice” within her scholarship did not become entirely explicit in her work until the years beyond this

⁴³³ Boyd, “Spaces and Challenges in Legal Academia,” 212.

⁴³⁴ Boyd, 213.

⁴³⁵ Ibid. See also, Margaret Thornton, “The Dissolution of the Social in the Legal Academy,” *Australian Feminist Law Journal*, 25 (2006): 12.

⁴³⁶ Boyd, Ibid.

chronological study.⁴³⁷

Pue's assertion that the BC law faculties had put the worst of gender bias behind them by 1945 holds certain validity but the reluctant acceptance of feminist legal studies by the end of the period suggests a different narrative. The historical context of British Columbia fostered acceptance of women in male dominated spaces but the gendered pillars of the law profession, which persisted in many of the other common law school faculties, still dictated the spaces where women's ideas would be welcome, as long as they were not overtly feminist. Indeed, the economic theme of philanthropic endowments to fund women's programs and spaces steadily persisted and can be seen in Boyd's own initiation of the CFLS. The development of women's programs in the law faculty were not anticipated in the 1968 Faculty Report, which meant that if women and marginalized groups sought initiatives that involved law beyond doctrinal courses, they would be excluded from the building, physically and theoretically. This is not to proclaim that the women law faculty members were unsuccessful or undesirable in the traditional fields, as during the late 1990s, Lynn Smith was appointed to the B.C. Supreme Court and Nitya Iyer to the B.C. Human Rights Tribunal. It also could have been the case that there was no physical space to accommodate these new initiatives and groups, and administrators had convinced themselves that they were providing equal conditions because women's faculty offices were within the law building. However, recognition of the subtle way in which women were cast aside at UBC law helps to explain the place of women at large in the Canadian legal profession in the late twentieth century.

⁴³⁷ See Claire Young and Susan Boyd, "Losing the Feminist Voice? Debates on the Legal Recognition of Same Sex Partnerships in Canada," *Feminist Legal Studies*, 14.2, (2006): 213-240.

University of Victoria Faculty of Law

At the University of Victoria Faculty of Law, no building or initiative comparable to the Centre for Feminist Legal Studies at UBC existed within the law school, but there was inter-faculty correspondence to and from the island among feminist women, and women worked together to further the development of feminist legal studies and demonstrated an active commitment to remedying gender disparities within the profession by the 1990s. The University of Victoria Faculty Women's Association did much of the equity groundwork across the institution. Maureen Maloney was one of the first few chairs before she became dean of the faculty of law.⁴³⁸

The University of Victoria Faculty of Law opened later than most law faculties in Canada and welcomed students in the fall of 1975 after official discussions in the late 1960s. The initial proposal for the establishment of a Law School at the University of Victoria had been made almost a decade preceding 1975. One of the chief proponents of the law faculty was Professor Ronald Cheffins, who held an appointment in the political science department at the university during that period. In 1973, the Attorney General of the Province of British Columbia announced that the Government would support the establishment of a Faculty of Law at the University of Victoria. The University subsequently appointed Professor Murray Fraser as the Founding Dean of the Faculty as of 1 July 1974.⁴³⁹

The University of Victoria was also founded as an affiliate of McGill University in 1903, to offer degree programs as part of an arts and science part-time BA program. The subsequent opening of UBC in 1915 resulted in the suspension of the university, but it reopened as an

⁴³⁸“Who are the Faculty Women's Caucus,” *The Ring*, 10 March 1995. University of Victoria Archives, Jennifer Waelti-Walters fonds, Box 1.

⁴³⁹ University of Victoria Faculty of Law Calendar, 1980-1981. Faculty of Law fonds, *University of Victoria Archives and Special Collections*.

affiliate of UBC after its establishment. Through the 1950s, the college expanded its curriculum to a full degree program in arts and science and was founded with the recognition of the importance of interdisciplinary studies. All of this sets up the way in which the law faculty in Victoria became distinguishable from the other common law institutions. However, the late establishment of the law faculty did not free it from the hiring practices which overlooked women for professorial status in the university, and indeed women were underrepresented across departments into the 1980s. However, before the law faculty could be established, collaboration with the government of BC and Victoria Bar Association [VBA] was necessary.

In a report submitted by the VBA dated 7 October 1966, an overwhelming vote passed favouring the establishment of a Faculty of Law at the University of Victoria. The report was divided into four facets: the need and advantages of a faculty of law to the university, faculty, and finances.⁴⁴⁰ At the time, UBC was the only law faculty in the province and the growing population meant that businesses, industries, government, and legal bodies would demand individuals with legal training. The VBA recommended that the establishment of a law faculty would enrich the development of traditional legal education. They noted that “legal education from 1870 has revolved around the use of what is generally referred to as ‘case method’, the bar recognized that the teaching of law must be supplemented by other methods.”⁴⁴¹ They continued:

The lawyer must be aware of contemporary thought and trends in other disciplines to ensure the development of law is in step with social change. The Bar is firmly convinced that the introduction of material from other disciplines, the opportunity to study the functions and methods of government and administrative bodies and the observation by students of how law works in Government and daily practice, are essential elements of legal education.⁴⁴²

⁴⁴⁰ Report of the VBA, 7 October 1966, 1. *University of Victoria Archives*, Faculty of Law fonds.

⁴⁴¹ Ibid, 2.

⁴⁴² Ibid.

In addition to making a call to assert the importance of a contextual legal education, the Bar noted that the leading American law schools were becoming increasingly aware of drawing on other disciplines. They asserted that members of the University of Victoria academic staff could contribute to the success of the school through collaboration with law teachers in a number of law courses. As well, members of the law faculty would be able to enhance and enrich courses in other faculties. In other words, the Bar thought that the incorporation of the law faculty with the university would be mutually beneficial to the development of education in the province. Furthermore, since Victoria is the capital of the province, it was regarded as ideal for the establishment of the second law school because its location would render available a large number of key governmental personnel, who would provide or assist in the provision of legal training. Finally, the VBA report noted that the bulk of the academic teaching would be carried out by full-time teachers. “The members of our Association, among whom are a number of men who have established themselves as leading legal writers and specialists in various aspects of the law, would stand ready to assist in supplementing the work of the full-time teachers by giving special lectures or conducting seminars if it should be considered desirable by the faculty.”⁴⁴³ Although this report seemed inclusive, it revealed that “high quality of scholarship, represented by graduates (both those leaving the university and those returning to resume further studies) ultimately depend[ed] on the standard of *men* attracted to teach at the university.”⁴⁴⁴ The response by the Committee established by the University of Victoria to Investigate the Faculty of Law responded to the VBA Report in November 1968.

The Senate undertook an examination of the questions outlined in the VBA which urged

⁴⁴³ VBA Report, 7.

⁴⁴⁴ Ibid.

the establishment of a law faculty at the university. They generally agreed with the report and recommended a series of developments for the new institution:

There is no profession of which the public demands and expects more than the legal profession. It is required that from the ranks of this professional group will come men who will be expected to be not only expert technicians, but from whose ranks will come a great many of the country's most important decision-makers. The community expects that the legal profession will supply it with men who, for purposes of litigation, are masters of the spoken word and yet, at the same time, are competent to draft important documents, such as statutes, regulations, by-laws, contracts, judicial decisions, and constitutions.⁴⁴⁵

However, the Senate report was unique in that its curriculum recommendations seemed inclusive of innovation and developments in intellectual reform. The ad hoc committee proposed that the law faculty should not duplicate existing law training available across the country. Teaching methods required innovation and scope for both law as an intellectual discipline and as professional service to the citizen.⁴⁴⁶

In a letter dated 14 February 1973, Minister of Education Eileen Dailly stated that the government was requesting proposals for the types of programmes and inventory capacity for the development of the new faculties and new major buildings on the campus.⁴⁴⁷ This included the development of the law library. In the correspondence on the development of the new law faculty, Diana Priestly wrote to the University Librarian Dean W. Halliwell about the budget of the law library. In Priestly's correspondence with Halliwell, she attached what was a recent issue of the *Law Library Journal*, because of Guy Tanguay's piece "Le bien-fondé du statut particulier de la bibilothèque juridique universitaire," (1969) and work by Morris Cohen, the law librarian at

⁴⁴⁵Report of a Committee Established by the Senate of the University of Victoria to Investigate the Establishment of a Faculty of Law, November 1968, 1-2. Faculty of Law fonds, Senate Minutes and Materials of the Faculty of Law, 1966-1973. *University of Victoria Archives*.

⁴⁴⁶ Ibid, 4.

⁴⁴⁷ Letter to University President Hugh E. Farquhar from Minister of Education Eileen Dailly, 14 February 1973, Faculty of Law fonds, University of Victoria Archives.

Harvard at the time.⁴⁴⁸ Tanguay and Cohen's work appended to Priestly's correspondence attests to her role in transforming the inclusion of educational materials at university law faculties. Among other reasons based on Priestly's clear accomplishments and merit, her insights in this correspondence swayed Halliwell to recommend Priestly for the position at Victoria.

The first woman present on the faculty at the University of Victoria Faculty of Law was Diana Priestly. When she was first appointed, there were some questions asked at Senate regarding giving a Law Librarian faculty status. In response to these questions, Dean of Law Murray Fraser explained that the practice in Canadian law schools was to appoint the librarian to the faculty, and completely justified Priestly's appointment.⁴⁴⁹

Shortly after Murray Fraser was appointed Dean-Designate of the Faculty of Law, he recommended that Miss Diana M. Priestly be appointed Professor of Law on the understanding that, in addition to her responsibilities as a faculty member, she would be appointed as Law Librarian. This latter recommendation had been discussed with Mr. Halliwell, the University Librarian. In his letter of recommendation, dated 6 May 1974, Dean Fraser left open the question of salary and terms of appointment. Later telephone conversations with Dr. Farquhar and Halliwell led to the recommendation that Miss Priestly's salary be \$20,000 per annum, but apparently Dean Fraser overlooked completely the question of whether or not she should be appointed with tenure. The end result was that the May 1974 Board of Governors approved the appointment of Miss Priestly in the Administrative Specialist Librarian Category, with her appointment as Professor being contingent upon her continuing to hold the appointment on the

⁴⁴⁸Letter to Dean W. Halliwell from Diana M. Priestly, 21 March 1973. University of Victoria Archives, Faculty of Law fonds.

⁴⁴⁹Letter from University President Howard E. Petch to Vice-President S.A. Jennings, Re: Diana Priestly, 17 March 1975, Faculty Files – Diana M. Priestly, University of Victoria Archives.

Library staff. It was only when the question was raised of whether or not Professor Priestly was a “regular full-time faculty member,” in connection with her membership in the Faculty of Law, that the nature of her appointment became clear to Dean Fraser.⁴⁵⁰ At this point, Fraser had realized and noted “it was my intention that Miss Priestly be treated in the same way as other senior members of faculty who were appointed last fall.”⁴⁵¹ He also commented that “I did not contemplate that her appointment would terminate should she decide to relinquish her responsibilities as Law Librarian. In retrospect, I suppose I should have recommended tenure, as I did in the other cases, and if this can be accomplished retroactively it would, in my opinion, be appropriate.”⁴⁵² Priestly’s appointment was subsequently revised to Professorial status as of 1 June 1974.⁴⁵³

The fact that Dean Fraser overlooked Priestly for tenure leads one to wonder if it would not have been an issue had she not been a woman. From the start, she might have been provided treatment “in the same way as other senior members of faculty.”⁴⁵⁴ However, Priestly’s position of librarian further complicates this matter. Librarians had different employment status than full-time professors. Yet, one only has to look to Priestly’s employment history at other law faculties to draw the inference that she was hired with the differential woman factor in mind. As has been previously noted, her experience should have qualified her for tenure: she worked as Law Librarian and Lecturer for a decade at UBC; she was Law Librarian and Assistant Professor at the University of Toronto Faculty of Law for three years, making her the first woman at that

⁴⁵⁰Letter from University President Howard E. Petch to Vice-President S.A. Jennings, Re: Diana Priestly, 17 March 1975, Ibid.

⁴⁵¹ Ibid.

⁴⁵² Letter to S.A. Jennings from Dean Murray Fraser, 14 March 1975, Faculty Files – Diana M. Priestly, University of Victoria Archives.

⁴⁵³ Letter to H.E. Petch from S.A. Jennings, 17 March 1975.

⁴⁵⁴Fraser to Jennings correspondence. 14 March 1975. Ibid.

institution to bear that title; she was Assistant Librarian and Assistant Professor at Osgoode Hall at York University for three years, associate professor of law at Western's law faculty, and finally, she was Legal Officer at the Department of Justice in Ottawa for four years.⁴⁵⁵ The other appointments of Fraser's first faculty did not have the equivalent amount of experience.⁴⁵⁶

Aside from this oversight, the initial appointments of women faculty at the University of Victoria Faculty of Law were representative of covert feminists. The first faculty appointment with teaching responsibilities was Mary Anne Waldron in 1978.⁴⁵⁷ However, through the period of 1976 to 1981, only one other woman was appointed (Sandra McCallum) and in 1984 Maureen Maloney joined the faculty.

In an interview with Maloney, she recalled that in her early days at the faculty the other two women, Mary Ann Waldron and Sandra McCallum, advised her that it would be in her best interest to not get involved with women's issues.⁴⁵⁸

I was the third woman hired at UVic, and I would often go to lunch with my then colleagues. During one of those lunches, they said to me 'no matter what you do, don't join any of the women's organizations. You will be just blacklisted forever. So don't do anything like that.' And so then, of course, I went immediately and joined LEAF. But I remember that very distinctly, they were kind of basically saying, just keep your head down, and you'll be okay... I have a lot of respect for these women, but they also told me when I submitted my first article that I should not put my full name, and to just to put my initial because it would be more likely to be published.⁴⁵⁹

Waldron herself was not a feminist and did not identify as one. She was, however, committed to equality and her scholarship identifies problems in how the courts perpetuated more differences in society than had previously been considered.⁴⁶⁰ Maloney's courage to publish an article

⁴⁵⁵ Priestly, CV, 17 March 1987.

⁴⁵⁶ University of Victoria Faculty of Law Calendar, 1976-1977.

⁴⁵⁷ University of Victoria Faculty of Law Calendar, 1978-1979.

⁴⁵⁸ Maureen Maloney Interview with Taylor Starr, 17 October 2022.

⁴⁵⁹ Ibid.

⁴⁶⁰ Mary Anne Waldron, *Free to Believe: Rethinking Freedom of Conscience and Religion in*

entitled “An Analysis of Direct Taxes in India: A Feminist Perspective” (1988) would have been considered advanced, in that it raised questions about the ways in which tax law provoked systemic inequality.⁴⁶¹ Maloney took an intersectional approach based on her understanding of the way in which class and gender factored into the making of tax laws. Maloney utilized the framework of the Indian tax system to provide an understanding of the necessary measures to be adapted in Canadian law. She asserted:

From a feminist perspective, individual unit taxation is to be applauded. The social relationships that one enters should have no effect on the tax liability of a tax-payer. In the case of married women this is particularly important. Tax systems which treat the marital unit as the assessment vehicle and even those based on individual taxation which make concessions in the form of a married man’s or other spousal allowance, work to the detriment of married women who wish to work outside the home after marriage, as many do in increasing numbers.⁴⁶²

Considering the Bird Commission [1970] rejected a proposal to tax imputed income primarily on the ground that husbands would be required to give money to their wives so they might pay those taxes, Maloney’s claims within the paper brilliantly argued that the Canadian dynamic be reformed to be inclusive of working women’s needs – without explicitly mentioning it.⁴⁶³ This was a radical stance to take at the time.

As was previously noted, Maureen Maloney arrived as the first woman law dean in the province, which was a remarkable achievement considering she was an overt feminist, both in terms of her scholarship and activities within the faculty. The University of Victoria was first in this regard, and this generally could be attributable to the more inclusive environment outlined in the 1968 Report and recommendations by the VBA. However, Maloney relied on the work of

Canada, (Toronto: University of Toronto Press, 2013) 241.

⁴⁶¹ Maureen Maloney, “An Analysis of Direct Taxes in India: A Feminist Perspective,” *Journal of the Indian Law Institute*, Vol 30.4, (December 1988): 397-314.

⁴⁶² Maloney, “An Analysis of Direct Taxes in India: A Feminist Perspective,” (1988) 398.

⁴⁶³ Report of the Royal Commission on the Status of Women, 1970, 298.

newer woman faculty members to establish effective equity policies, and the faculty was still regarded as divided on issues facing junior faculty members when she was dean. Indeed, women in the faculty needed to join the University Faculty Women's Caucus (including Maloney) in order to push forward concerns related to gender disparities. Maloney was Chair of the Faculty Women's Caucus from 1989 to 1990.

Hester Lessard joined the faculty in 1989 and she was hired specifically, she believed, to teach feminist legal theory.⁴⁶⁴ Lessard's legal education took her on a coast-to-coast path, as she was initially a student of Christine Boyle's at Dalhousie from 1982 to 1985. She was part of the new wave of law students who were getting instruction on the new part of the constitution, the Charter. Second-wave feminism generally raised questions about the politics of pay equity, and about male privilege in politics during the last three decades of the twentieth century.⁴⁶⁵ However, debates specifically following the enactment of the Charter in 1982 surfaced because it originally privileged individual rather than collective or social rights. In addition, feminists had to advocate diligently to secure changes to section 15, the Charter's principal equality rights guarantee.⁴⁶⁶ Indeed, being a student in law school during this time would encourage thinking on inequality in Canada and how the existing social and political structures worked to reinforce the subjugation of marginalized communities and peoples.

Aside from the time in which she entered law school, Lessard's education was shaped by influential feminist voices. As a student of both Boyle and Colleen Sheppard, Lessard

⁴⁶⁴ Hester Lessard Interview with Taylor Starr, 2 November 2022.

⁴⁶⁵ See Eric Sager, "Fractured Echoes of Inequality in the Welfare Era, 1940s-1960s, *Inequality in Canada: The History and Politics of an Idea*, (Montréal: McGill Queen's University Press, 2020) 299.

⁴⁶⁶ Mary Eberts, "The Fight for Substantive Equality: Women's Activism and Section 15 of the Canadian Charter of Rights and Freedoms," *Atlantis*, 37.2, (2016): 100.

recalled being influenced and inspired by their approaches to law which were moulded by rights discourse and feminist approaches to legal problems. In 1986, one of Sheppard's articles formally addressed "Equality, Ideology, and Oppression" within the Charter for women, which sought to explain the impact of potential equality provisions on women's lives.⁴⁶⁷ After clerking for the Honuorable Bertha Wilson at the Supreme Court of Canada, Lessard believed that feminism affected her career initially in a positive way. Upon her arrival at the University of Victoria, she immediately became a member of the Women's Caucus, and she describes its beginnings as having developed in two distinct phases. In the initial years, the Women's Caucus was shaped by women coming together on campus with energy and exhilaration. The second stage was when the community had established itself with a strong identity which allowed for the politics among women on campus to identify concerns with more complicated matters.⁴⁶⁸ Lessard described the early years of the caucus as a consciousness-raising effort, because women felt under siege. She also noted that the year she was hired, 50 per cent of the hires across the university were women, but they were far from 50 per cent representation on each individual faculty.⁴⁶⁹

The Women's Caucus had much to do with this wave of hiring, as they submitted a report and recommendations with the Joint Advisory Committee on Employment Equity in 1986.⁴⁷⁰ In addition, they produced the Positive Action to Improve the Status of Women Report [1986] and

⁴⁶⁷ N. Colleen Sheppard, "Equality, Ideology, and Oppression: Women and the Canadian Charter of Rights and Freedoms," *Dalhousie Law Journal*, 10.2, (1986): 195.

⁴⁶⁸ Hester Lessard Interview with Kyle Mitchell, Faculty Women's Oral History Project, 22 October 1997. *University of Victoria Archives*, Oral History Collection 1997-175-05A.

⁴⁶⁹ Hester Lessard Interview with Taylor Starr, 2 November 2022; Faculty Women's Caucus fonds 1985-1996, *University of Victoria Archives*.

⁴⁷⁰ Draft Deans v. Status of Women Proposal, "Recruitment and Hiring of Female Faculty Members," 18 December 1986, Jennifer Waelti-Walters fonds, *University of Victoria Archives*, 1997-137. Box 1.

designed much of the policy on the progress of employment equity to require that the faculty association negotiate with the board of governors for the creation of a university wide review committee. The purpose of the work was to ensure that women with the appropriate qualifications were to have equal opportunity to undertake academic careers at Canadian universities. As well, in a footnote it is mentioned: “We chose the term ‘Positive Action Officer’ instead of Affirmative Action Officer or Employment Equity Officer because Positive Action is the term employed in the Canadian Association for University Teacher’s policy statement.”⁴⁷¹ Furthermore, the justification for the position and the term comes from Justice Rosalie Abella’s 1984 Report on Equality in Employment.⁴⁷² Their need to justify the use of the terminology is indicative of resistance to new measures in remedying gender discrimination, which was clearly defined in the Abella Report: “The Commission notes in order to propose that a new term, ‘employment equity’ be adopted to describe programs of positive remedy for discrimination in the Canadian workplace. No great principle is sacrificed in exchanging phrases of disputed definition for newer ones that may be more accurate and less destructive of reasoned debate.”⁴⁷³

However, in January of her first year of teaching, Lessard recalled an issue concerning the Vancouver law firms. As a consequence of being a feminist, and finding footing within her new position, Lessard welcomed “well-meaning” senior faculty who would turn to her for solutions to “feminist problems.”⁴⁷⁴ Since all of the major firms were clustered in Vancouver, law students would need to interview for summer jobs and articles so the firms would send

⁴⁷¹ A Statement on Positive Action to Improve the Status of Women at the University of Victoria, 1986, 16. Jennifer Waelti-Walters fonds, *University of Victoria Archives*. Box 1.

⁴⁷² Report of the Commission on Equality in Employment/Judge Rosalie Silberman Abella, Commissioner, October 1984.

⁴⁷³ Ibid, 7.

⁴⁷⁴ Lessard Interview, 2 November 2022.

representatives to undertake the interviews on the University of Victoria campus. These representatives would stay on the island for two to three days, and it was regarded by some people as a perk and holiday. The island was out of sight, and these representatives were, according to Lessard, acting in inappropriate ways toward women, including offering dinner dates. Female faculty complained, and in her first year of teaching Lessard was asked to chair a committee to draft a set of interview guidelines that the law firms would have to follow. Upon drafting the report, Lessard began a consultation with the firms, and their reaction was not pleasant. They were furious, and Lessard believes that this task was an inappropriate responsibility for a junior faculty member – but because she was the feminist, she was expected to engage in reports of this nature. Lessard subsequently took on more work with similar political contentiousness, but the Women’s Caucus at the University of Victoria provided the support she needed to persevere.

The strength of the Women’s Caucus at the University of Victoria was informed by the political overtones and requirements for change with regard to women’s issues at the university level. Departments such as Political Science, History, and Law, which still had a minority of women faculty by 1989, required much attention.⁴⁷⁵ Lessard took the initiative to develop advanced courses and seminars in feminist legal theory and critical race theory within the law school without teaching credit, and she was also called to do much of the advocacy and equity work for a “Chilly Climate Issue” which occurred in the political science department in the 1990s.⁴⁷⁶

In the spring of 1993, an event in the political science department at the University of

⁴⁷⁵ Faculty Data – Women @UVic 1989, Maggie Mayfield fonds, *University of Victoria Archives*, Box 1.

⁴⁷⁶ Hester Lessard Interview with Taylor Starr, 2 November 2022.

Victoria created a “real crisis for all women on campus.”⁴⁷⁷ A 21 April 1993 article in The Times-Colonist, titled “UVic’s Poli-Sci Faculty Divided by War of Sexes,” described divisions within the department over the Equal Rights and Opportunities Committee Report, which reviewed harassment policies and aimed to improve conditions for women through a two-year campus-wide evaluation. Eight male faculty felt their reputations were damaged by the report and wanted an apology and retraction asserting that the report lacked credibility. The women believed that the men’s hostile reaction was further indication that the department was not willing to listen to the concerns of women. It generated a great deal of backlash and a hostile environment for feminists. Lessard described it as a difficult issue in terms of the implications but also the way in which it created divisions within faculties. At the time, Lessard was chair of the pan-university Equal Rights and Opportunities Committee [EROC] which was engaged in review of the harassment policy on campus. It started out obscure, and not many people were interested in it. Essentially, it was a two-year review of how the new policies were working. During her time as chair of the EROC, Lessard was thankful that the Faculty Women’s Caucus was there to support her. She was an untenured junior professor, and she recalled that “it was probably not good for me to be chair of this committee. It was in fact, probably a really stupid thing.”⁴⁷⁸ At the time, there was enormous growth of women from the first few faculty appointments, and the small token groups jumped to around 20% in the late 1980s and early 1990s, and women were being deployed and spread very thinly into these positions. The expectation that a junior member of faculty – without tenure – would develop, teach, and engage with the matters concerning equity in during a

⁴⁷⁷ Hester Lessard Interview with Kyle Mitchell, 22 October 1997, 6.

⁴⁷⁸ Ibid; Lessard reiterated her comments in her interview with me.

controversial time proves how isolated women still were even after progressive numerical developments. Lessard comments that she was stressed, exhausted, and burnt out and it was dangerous for her career, but she persisted.⁴⁷⁹

Conclusion

By 1994, law faculties in British Columbia became models of the progress made in Canadian legal education – specifically, they came to attain representative positions as deans, and designed precedent setting reports on employment equity, as law faculties continued to perpetuate the idea that the profession had made a commitment to the inclusion and equal treatment of women. Maureen Maloney and Lynn Smith were unique, however, as the only other public feminist equivalent was Sanda Rodgers at the University of Ottawa Common Law section. As has been shown, British Columbia's early twentieth century practices of legal exclusion had in fact percolated into ideas concerning the placement of women and feminism throughout the period. Post war reconstruction and developments at the University of British Columbia and University of Victoria ensured that women would need to be treated differently upon their arrival as professors – or that they must maintain a liberal equality outlook approach to the law. Furthermore, the culture of differential treatment for women characterized the way in which they thought about themselves in relation to their careers.

Many of the first women faculty members navigated their careers carefully, mindful of how they were perceived, and often advised newer faculty to avoid women's advocacy groups to protect their professional reputations. Yet, had the overt feminists been timid, meaningful appointments would not have been attained and women's concerns would have remained unaddressed. British Columbia was first in a host of ways to implement changes in legal

⁴⁷⁹ Hester Lessard Interview with Taylor Starr.

curriculum to reflect the growing needs of Canadian society in a post-war context. As demonstrated, the appointment of women faculty members in the province between 1971 and 1994 was not unusual. However, their ideas and presence were marginalized because of entrenched traditions that confined them to classrooms while excluding them from the broader intellectual spheres of coeducation.

Once a more open atmosphere for women was accomplished, they were quick to realize that their place within legal academe remained relatively designated to acceptable spaces. Their isolation pushed them to establish their own plot of community building, consciousness raising groups, and a space within a trailer where they could openly engage in ideas related to feminist legal theory. Thus, although the appointments of two feminist women deans were significant, sexism still underlay expectations of where women and their concerns were designed to go in law faculties in British Columbia in the late twentieth century. Similar patterns of subtle exclusion existed in the Prairie law faculties, but in different ways.

Chapter 4

Tilling New Frontiers: Legacies of Homesteading on the Cultivation of Women Leaders in Prairie Law Faculties

When Margaret Hughes was appointed Dean of Law in 1984, university faculties across Canada took notice of the historic appointment.⁴⁸⁰ As the only woman to attain representation in a leadership role at the University of Calgary Faculty of law – a new law faculty – she represented the successes of feminist voices and their influence on the Canadian legal profession. Two years before Hughes' appointment, the Honourable Justice Bertha Wilson had been appointed to the Supreme Court of Canada. Among the many public celebrations of Wilson's historic appointment was a CBC news television broadcast which aired the following: "The Scottish-born former Ontario Appeal Court Judge finally breached the last major national institution to have remained an all-male preserve... [she shared] words of pride, pride about becoming the first sister among the so-called brethren of the Supreme Court."⁴⁸¹ However, the broadcast failed to recognize the ongoing gap in female representation within Canada's law schools.

The Prairies, consisting of three provinces, had four law faculties from 1961 to 1994. A closer examination of the legal and political history of the Prairie provinces reveals how women came to attain leadership roles within the legal profession: in the political economies of regional agriculture, gender norms developed differently than elsewhere, with urban centers fostering diverse opportunities while rural areas often reinforced traditional roles tied to farming.

⁴⁸⁰ Catherine Lawson, "Hughes First Woman to Head Law School," *The Star Phoenix*, 26 June 1984; "UofC Appoints Law Dean," *The Calgary Herald*, 10 May 1984.

⁴⁸¹ "Bertha Wilson joins the Supreme Court of Canada," *CBC Television Archives*, 30 March 1982.

It explores how homesteading laws and male-dominated spheres shaped perceptions of women in leadership, providing deeper insight into their roles within the legal academy.

Examining the development of law faculties at the University of Alberta, University of Calgary, University of Manitoba, and University of Saskatchewan provides a compelling way to unravel the legacy of Canadian prairie homesteading on higher education. The appointment of the first female law dean in Canada in the Prairies represents a significant milestone, challenging societal norms that viewed women as unsuitable for law professorships, echoing the historical sentiment that women were not meant to be farmers during the era of prairie homesteading. While the elevation of a female dean symbolizes progress, it also exposes the complexities of women's representation within these institutions. This shift highlights a parallel struggle against covert sexism nationwide, emphasizing how women, against societal norms, asserted their presence and expertise both on the farm and in the academic realm. Analyzing the development of law faculties in prairie universities within this context provides a new understanding of the multifaceted forces shaping the history of Canadian prairie homesteading and its effects on the development of higher education.⁴⁸²

Beyond rural gender roles, urban centres like Winnipeg were pivotal in industrial development during industrialization, providing a platform for women's collective organization. In these new urban spheres, women emerged as leaders beyond traditional roles, navigating challenges within urban labour environments and contributing significantly to these new spaces. Women's leadership influenced the city's social fabric through their roles

⁴⁸² Georgina Binnie Clark (with a new introduction by Sarah Carter), *Wheat and Woman*, (Toronto: University of Toronto Press, 2006) reprint of the 1914 ed., (Toronto: Bell and Cockburn, 1914).

as social and immigrant aid workers, and this created an intersection between urban labour relations and academia that influenced gender roles in the prairies as a product of industrialization. At the same time, technological innovations such as the telephone, radio, and automobile significantly transformed farm life, reducing isolation and improving the quality of life for rural women more than advancements in household technology.⁴⁸³

The leadership roles assumed by women in urban labour, politics, academia, and social work were an extension of their resilience and determination to challenge traditional norms in rural environments.⁴⁸⁴ However, it is important to recognize that many urban leaders, particularly in cities like Winnipeg, were immigrants arriving from Eastern Europe in the late nineteenth century who may not have had prior involvement in rural settings.⁴⁸⁵ The influence of technological advancements, fostering connections and breaking isolation, could still be viewed as expanding the agency of rural women, but this narrative may not fully encompass the experiences of all women, particularly those who came directly to urban environments. The dual trajectories of urban and rural developments converged, highlighting how women shaped their own roles and opportunities across various fields beyond the private sphere.

The unique legal history of laws governing women's full right to equality in Western

⁴⁸³ Angela E. Davis, "Valiant Servants: Women and Technology on the Canadian Prairies, 1910-1940," *Manitoba History*, 25 (1992): 10.

⁴⁸⁴ Alison Prentice et al., *Canadian Women: A History* (Toronto: Harcourt Brace & Company Canada Ltd., 1996) 64, 114-115, 126, 134.

⁴⁸⁵ See for example: Lesley Erickson, "The Interplay of Ethnicity and Gender: Swedish Women in Southeastern Saskatchewan," *Sisters or Strangers: Immigrant, Ethnic, and Racialized Women in Canadian History*, 2nd Edition, Marlene Epp and Franca Iacovetta eds. (Toronto: University of Toronto Press, 2016); Anna Feldman, "A Woman of Valor, Who Can Find: Jewish-Saskatchewan Women in Two Rural Settings, 1882-1939," in *Historical Essays on Saskatchewan Women*, David De Brou and Aileen Moffatt eds. (Regina: Canadian Plains Research Center, University of Regina, 1995), 62.

Canada had long been governed by an ongoing struggle between dower acts, women's property acts, and homestead acts on the prairies.⁴⁸⁶ The progression of the rights of married women to possess and manage property in the western provinces was characterized by an enduring conflict between legislative bodies and the judiciary. In response to societal and economic shifts, the legislatures in each western province swiftly granted property rights to married women. However, the judiciary persisted in restricting the extent of property women could own. Key legal cases that defined separate property outlined the limits of liability for husbands and wives and addressed related property issues. Despite successive statutes that gradually dismantled the common law doctrine of marital unity, judges adhered to traditional common law notions of family, staunchly resisting full implementation until the 1920s.⁴⁸⁷

Understanding the historical context of homesteads and similar legal elements highlights a crucial point: the practical challenges of settlement contradicted the optimistic visions of policymakers. This contradiction became apparent as women, recognizing their economic importance, utilized it strategically to gain political influence and achieve enhanced social inclusion during the early-to-mid twentieth century.

The way in which organized rural women sought support for their grievances from male farmers with tempered feminism is integral to understanding the history of gender dynamics in this region. This awareness influenced women's perspectives within law faculties, encouraging a thoughtful consideration of the distinct challenges faced by women in legal academia. The interest in defending married women's right to paid employment, as

⁴⁸⁶ Catherine Cavanaugh, "No Place for a Woman": Engendering Western Canadian Settlement," *Western Historical Quarterly*, Vol 28.4, (Winter 1997): 494.

⁴⁸⁷ Sheri Allen, "One Hundred Years of Solitude – Judicial Resistance to Reform of Married Women's Property Law in the West," *Dalhousie Journal of Legal Studies*, Vol 4, (1995): 176.

advocated by feminists in both rural and urban settings, suggests a broader understanding of women's roles beyond private spheres. This progressive perspective may have influenced the mindset of women entering law faculties, leading to a more inclusive and diverse legal academic community.⁴⁸⁸

While much historical scholarship suggests that the prairie provinces gave greater acknowledgment to women's roles, especially during the early waves of feminism, it is important to note that this recognition and representation did not necessarily translate into paths toward equality in professional spaces. The distinct dynamics forged on the prairies, in partnership between men and women, alongside early advancements in women's voting rights, offer important context that deepens the understanding of women's rights, legal education, and societal roles in the region.

⁴⁸⁸ Veronica Strong-Boag, "Pulling in Double Harness or Hauling a Double Load: Women, Work and Feminism on the Canadian Prairie, *Journal of Canadian Studies/Revue d'études canadiennes*, Vol 21.3, (Fall 1986): 44.

The Legacy of Homesteading⁴⁸⁹

In the late nineteenth and early twentieth centuries, pioneers braved the challenges of homesteading in the vast prairies, establishing farms and communities despite harsh conditions.⁴⁹⁰ Recognizing education's significance, settlers prioritized it for community prosperity.⁴⁹¹ Schools became vital, with residents pooling resources to establish them. This grassroots commitment laid the groundwork for higher education and professional schools, reflecting a legacy deeply rooted in prairie settlers' experiences.⁴⁹²

Ideas about homesteading, women's undervalued relationship to their work in both public and private spheres, and the subsequent development of higher education in the Canadian prairies nevertheless reveal deep convictions about gender. By the early twentieth century, the close connection between feminist organizing and prairie populism extended from, and permeated into, farm homes. Although the homesteading experience was not universal on the prairies, it held cultural dominance, with the family farm serving as society's

⁴⁸⁹ Not just anyone could claim the right to homestead. Under the *Indian Act* (1876), no "Indian" could homestead. Before 1874, any single woman or any male over the age of twenty-one could homestead. In 1876, while entry could be made by any person who was a sole head of a family or any male over the age of eighteen, single women were no longer permitted to homestead. A woman could homestead only if she was a sole head of household with a minor child or children – which usually meant widow. Sarah Carter, *Imperial Plots: Women, Land, and the Spadework of British Colonialism on the Canadian Prairies*, Winnipeg: University of Manitoba Press, 2016) 3.

⁴⁹⁰ Carolyn Podruchny, Jesse Thistle, and Elizabeth Jamieson, "Women on the Margins of *Imperial Plots: Farming on Borrowed Land*," *Journal of the Canadian Historical Association/Revue de la Société historique du Canada*, Vol 29. No 1, (2018); "Sarah Carter, *Imperial Plots* Roundtable Commentary: A Reply," *Journal of the Canadian Historical Association/Revue de la Société historique du Canada*, Vol 29. No 1, (2018).

⁴⁹¹ Gerald Friesen, *The Canadian Prairies: A History*, (Toronto: University of Toronto Press, 1987) 211.

⁴⁹² David M. Duncan, *The Prairie Provinces: A Short History of Manitoba, Saskatchewan, and Alberta*, (Toronto: W.J. Gage, 1908); Carl Dawson and Eva R. Young, *Pioneering in the Prairie Provinces: The Social Side of the Settlement Process*, (Toronto: 1940); Jean Burnet, *Next Year Country: A Study of Rural Social Organization in Alberta*, (Toronto: 1978).

primary social, economic, and political unit. The family farm, central to the development of both feminism and populism on the prairies, gave rise to maternal feminism, emphasizing women's roles as mothers, wives, and essential contributors. This role, valued economically and socially, mainly thrived in farm society. The family farm also underpinned the populism of the United Farmers of Alberta. Both feminists and populists shared the belief that the family farm had shaped the prairies, sustained the nation, and served as a moral stronghold.⁴⁹³

The late nineteenth and early twentieth centuries, characterized by economic uncertainty and social upheaval, witnessed the emergence of agrarian movements, or populist movements, as responses to the perceived neglect of the working class and rural communities.⁴⁹⁴ As these movements gained traction, diverse perspectives on feminism emerged. Some populist sentiments aligned with traditional gender norms, initially posing challenges to the acceptance of feminist ideals. However, over time, populist leaders recognized the need for social justice and equality, and certain populist factions began to align with feminist principles. This dynamic interplay between populism and feminism reflected the nuanced response of the prairies to societal changes during the twentieth century, contributing to a more comprehensive and diverse understanding of gender roles and equality.⁴⁹⁵

⁴⁹³ Reginald Whitaker, "Introduction to the Carleton Library Edition," William Irvine, *The Farmers in Politics*, (Ottawa: McClelland and Stewart, 1920) 2nd edition (Ottawa: McClelland and Stewart Ltd., 1976) xii.

⁴⁹⁴ Reginald Whitaker, "Introduction to the Carleton Library Edition," William Irvine, *The Farmers in Politics*, (Ottawa: McClelland and Stewart, 1920) 2nd edition, (Ottawa: McClelland and Stewart Ltd., 1976).

⁴⁹⁵ John Frederick Conway, "To Seek a Godly Heritage: The Prairie Populist Resistance to the National Policy in Canada," (Vancouver: Simon Fraser University, 1978) PhD Thesis; Peter Sinclair, "Class Structure and Populist Protest: The Case of Western Canada, *Canadian Journal of Sociology*, Vol 1.1, (Spring 1975); Mark Bednorski, "Manitoba Populism and the Farmers' Movement in the Provincial Elections of 1920 and 1922," (Winnipeg: University of Manitoba, 1997) M.A. Thesis; Amy Elizabeth Nugent, "Feminism and Populism on the Canadian Prairies," (Calgary: University of Alberta, 2002) M.A. Thesis; David Laycock, *Populism and Democratic*

Not all of the feminist concerns were reflected in the broader politics of the farm movement. Some of these concerns, especially issues about property rights, did not find widespread support among agrarian radicals, in part because populists were ideologically splintered along right and left-wing lines. Accordingly, despite being relatively more inclusive of women than other political parties of the time, the farm movement ultimately resisted a fundamental challenge to its patriarchal origins.⁴⁹⁶

The foundation laid by the feminist movement in the prairies, particularly during the early 1900s, played a vital role in shaping attitudes for women in prairie law faculties from 1961 to 1994. The Women's Christian Temperance Union (WCTU) and its feminist ethos inspired rural women and contributed to a broader awareness of gender-based issues, including domestic and workplace violence. The political awakening of prairie women during the agrarian protest era instilled in them a sense of agency and purpose, setting the stage for their involvement in various arenas, including legal education.⁴⁹⁷

Thought on the Prairies, 1910 to 1945, (Toronto: University of Toronto Press, 1990); Georgina Taylor, "The Women... Shall Help Lead the Way," Saskatchewan CCF-NDP Women Candidates in Provincial and Federal Elections, 1934-1965" *Building the Cooperative Commonwealth: Essays on the Democratic Socialist Tradition in Canada*, J. William Brennan eds. (Regina: Great Plains Research Center, 1984) 141-196.

⁴⁹⁶ Amy Elizabeth Nugent, "Feminism and Populism on the Canadian Prairies" 120.

⁴⁹⁷ Mary Kinnear, *A Female Economy: Women's Work in a Prairie Province, 1870-1970*, (Montréal and Kingston: McGill-Queen's University Press, 1998); Nanci Langford, *Politics, Pitchforks, and Pickle Jars: 75 Years of Organized Farm Women in Alberta*, (Calgary: Detselig Enterprises, 1997); Sheila McManus, "Gender(ed) Tensions in the Work and Politics of Alberta Farm Women, 1905-1929," in *Telling Tales: Essays in Western Women's History*, (Vancouver: UBC Press, 2000) 123-146; Michael Palamarek, *A History of Women and Politics in Alberta, 1900-1988*, Report for Senator Martha Bielish (Edmonton, 1989); Patricia Roome, "Amelia Turner and Calgary Labour Women, 1919-1935," *Beyond the Vote: Canadian Women and Politics*, Sangster and Kealey eds. (Toronto: University of Toronto Press, 1989); Sangster, *Dreams of Equality: Women on the Canadian Left, 1920-1950*, (Toronto: McClelland Stewart, 1989); Christine Smillie, "The Invisible Workforce: Women Workers in Saskatchewan from 1905 to WWII," *Saskatchewan History*, 34.2 (Spring 1986) 67-79.

Many of the feminists in Manitoba, Saskatchewan, and Alberta were pragmatic. Their understanding of the conditions necessary for success fostered a resilient spirit that persisted into the mid-twentieth century. As women gained recognition for their labour and autonomy in the 1920s and 1930s, it laid a foundation for challenging gender norms and roles, creating an environment conducive to increased female representation in higher education.⁴⁹⁸

The agrarian emphasis on revitalizing rural living and campaigns for domestic science instruction indicated a broader societal shift towards recognizing the importance of women's contributions. During The Great Depression, the Canadian Prairies faced severe economic hardship and environmental challenges. Plummeting grain prices devastated the agricultural economy, leaving many farmers unable to make a living. The region also suffered from extreme drought and dust storms, further reducing crop yields and exacerbating financial distress. Communities struggled with widespread unemployment and poverty, leading to a mass exodus as families sought better opportunities elsewhere. Despite these hardships, the resilience and solidarity of the prairie communities became a defining feature of their response to the crisis.⁴⁹⁹ While the challenges of the 1930s persisted, the enduring insight of prairie women into the nature of their sex's oppression contributed to a feminist voice that continued to challenge the male-centred view of the human experience.

By the 1940s and the onset of the Second World War, important changes occurred on the home front, including mobilization efforts and the beginnings of the welfare state, which

⁴⁹⁸ Ernest Forbes, "The Ideas of Carol Bacchi and the Suffragists of Halifax: A Review Essay on Liberation Differed? 1877-1918," *Atlantis* 10.2 (Spring 1985): 119.

⁴⁹⁹ See James H. Gray, *The Winter Years: The Depression on the Prairies*, (Macmillan of Canada, 1966); Barry Broadfoot, *Ten Lost Years 1929-1939: Memories of the Canadians Who Survived the Depression* (Toronto: McClelland & Stewart; Reprint, 1997).

had roots in the prairies.⁵⁰⁰ The effort unified Canadians and led to increased industrial production and employment, altering the economy. Additionally, the post-war era saw the establishment of key social welfare programs, laying the foundation for modern social security systems, and more women pursuing professional educational programs. The period followed the influence of the First World War and the Winnipeg General Strike of 1919, both of which had profound economic and social repercussions. Acknowledging these important historical moments accentuates their importance in shaping Canadian society and the prairies' role in national development. Thus, the groundwork laid by the feminist movement in the prairies, focusing on women's rights, labour, and autonomy, provided a backdrop for the increased participation and acceptance of women in law faculties from 1961 to 1994.

In the mid-twentieth century, socialist ideas gained traction and altered the course of women's roles in higher education. This confluence of women's newly appreciated role in society, along with the socialist ideologies, fostered a deeper awareness of women's belonging in androcentric spheres. Yet, the handful of women who managed to surmount obstacles created by men found themselves marginalized within institutions that viewed them and their concerns as intruders in predominantly male domains. It is no surprise that they encountered significant challenges in translating their individual successes into a broader transformation of legal institutions to represent the needs and experiences of women more accurately.⁵⁰¹

The common law curriculum in the Prairies shared similarities with civil law programs

⁵⁰⁰ Alvin Finkel, *Social Policy and Practice in Canada: A History*, (Waterloo: Wilfrid Laurier University Press, 2006)

⁵⁰¹ Veronica Strong-Boag, "Pulling in Double Harness or Hauling a Double Load: Women, Work and Feminism on the Canadian Prairie, *Journal of Canadian Studies/Revue d'études canadiennes*, Vol 21.3, (Fall 1986): 33.

but had key distinctions. Like civil law, first-year students studied core subjects such as contracts, torts, criminal law, and legal research. However, common law strongly emphasized case law and judicial reasoning, fostering engagement with appellate court decisions and advocacy skills through moot court competitions. While elective courses were offered, common law education often emphasized traditional subjects like property law and evidence. Common law education prioritized case law, advocacy, and adherence to legal precedent, strongly influenced by the corresponding Law Societies within the provinces.

In 1974, women in common law schools designed the Women and the Law courses, which addressed gender inequality in legal education. This specialized program, crafted by female legal scholars and practitioners, examined the law's intersection with gender through courses on discrimination, reproductive rights, and women's roles in the legal profession. However, Alberta adopted a standard curriculum in 1949 until 1974, when the first Women and the Law course was offered. The University of Calgary, while a younger law faculty, did not introduce courses on Women and the Law during this period. The University of Manitoba offered it in 1974, but only when a woman was available to teach it. Yet, the first National Association of Women and the Law [NAWL] conference was held at The University of Manitoba, as discussed below. The University of Saskatchewan remained committed to offering academic topics such as philosophy throughout its history, introducing Women and the Law in the 1974-1975 academic year and feminist legal theory in 1986 [See Appendix A, p. 346].

The inclusion of courses on Women and the Law in prairie law faculties indicates a push for more opportunities for previously disadvantaged and underrepresented groups in the legal profession. For instance, Roberta Jamieson became the first Indigenous woman to earn a

law degree in Canada, graduating from Western in 1976. While she did not go on to be called to the bar, her influence extended far beyond legal practice. As a Mohawk woman from the Six Nations of the Grand River, Jamieson became a trailblazer in Indigenous rights and conflict resolution. She later served as Ontario's first female Ombudsman and the first Indigenous Commissioner of the Indian Commission of Ontario. In contrast, Marion Ironquill Meadmore, who graduated from the University of Manitoba in 1977, was the first Indigenous woman to officially become a lawyer in Canada, marking an important milestone in Indigenous legal history in the Prairies.⁵⁰² Furthermore, while the issue of Indigenous women law faculty members exists outside the chronological scope of this study within the prairie region, the recent problem pertaining to Mary Ellen Turpel Lafond's Indigenous identity also informs the complexities of representation and the continuity of invisible barriers in the legal profession.⁵⁰³ Turpel was employed at Dalhousie during this period, but she moved to the University of Saskatchewan College of Law in 1995 where she became the first "aboriginal scholar."⁵⁰⁴

Against the backdrop of the twentieth-century legal academy, where some men actively supported women's ideas and contributions, it is crucial to recognize the historical

⁵⁰² Marion Ironquill Meadmore graduated from the University of Manitoba Faculty of Law in 1977. She was employed at Legal Aid Manitoba, practicing criminal and family law. She later opened Winnipeg's first all-female law firm, focusing on corporate law. See Heather Conn, *The Canadian Encyclopedia*, 18 January 2018. See also Marion Meadmore fonds, *University of Manitoba Archives*.

⁵⁰³ Jack Aubry, "Flying to Great Heights," *Calgary Herald*, 30 April 1995; Darryl Dyck, "Mary Ellen Turpel Lafond Removed from Order of Canada after Indigenous ID Questions," *Vancouver Sun*, 4 November 2023.

⁵⁰⁴ Jack Aubry, *Calgary Herald*, 30 April 1995.

context of legal exclusion faced by women, particularly in the prairies. The legal profession and legislative policies were marked by discriminatory acts, such as the exclusion of women from homesteading, which limited their access to economic opportunities and land ownership. This legacy translated into a unique relationship and recognition of the centrality of women's work in prairie society. In the legal academy, this played out through the acts of some supportive men who played a pivotal role in challenging and reshaping deeply entrenched norms. By championing women's rights, recognizing their intellectual contributions, and appointing them to law faculty leadership roles, these men shaped the Canadian legal profession and fostered societal inclusivity. However, invisible barriers persisted. The intersection of legal exclusion in homesteading and advocacy within the legal academy emphasizes the complexities of gender dynamics and the need for continued efforts to address systemic inequalities. A crucial starting point is examining each law faculty's relationship with its university.

University of Manitoba Faculty of Law

The University of Manitoba was founded in 1877, seven years after the creation of the province. The origins of the institution are those of the province, deep in the history of the Red River Settlement. It was formed by the amalgamation of three existing colleges for the training of a native ministry and the higher education of laymen: St. Boniface College (1854), St. John's (1849) and Manitoba in 1871. Missions of the Roman Catholic and Protestant clergy had led to the establishment of their respective churches in the North-West. The expansion of the Presbyterian church began with the arrival of settlers from Canada after 1860 which had been carried forward by money and men from Upper Canada. The annexation of Rupert's Land, the creation of North-West Territory, and the Province of Manitoba opened the way for an inrush of settlers from Canada and the British Isles. The fifteen thousand

people of the province in 1871 were to increase more than fourfold by 1881. Thus, the demand for higher education replicated the denominational conflict over higher education in Ontario.

The development of higher education on the Canadian prairies during the nineteenth century mirrored the prevailing tensions regarding secularism that characterized the educational landscape in Ontario. As settlers established communities across the prairie expanse, the question of the role of religion in education became a focal point. Similar to the debates in Ontario, the prairies witnessed a struggle between advocates for a secular education system and those championing religious influence in academic institutions. The tensions were manifested in discussions about curriculum content, the role of religious orders in education, and the establishment of denominational schools. These debates reflected broader societal and political influences, revealing a complex interplay between religious beliefs and the desire for secular education. These tensions, and the fear of conflict, according to W.L. Morton, led to the foundation of the University of Manitoba.⁵⁰⁵

From 1877 to 1889, the involvement of clerical instructors in colleges became intertwined with laymen. Government financial support to these institutions was meagre, and governmental control was limited and indirect. The university operated as an autonomous corporation, established under an act of the provincial legislature. Its connection to the evolving education system was also indirect, with the University Council holding complete control and exerting a powerful influence on secondary school curricula, compelling high schools to prepare students for matriculation.

⁵⁰⁵ W.L. Morton, *One University: A History of the University of Manitoba*, (McClelland and Stewart Ltd., 1957) 18.

While the new university was essentially a federation of liberal arts colleges, it was also designed to confer degrees in arts, science, and law.⁵⁰⁶ The constituent colleges, authorized in 1877, were granted the power to establish faculties for conferring degrees in theology, though this authority was not explicitly granted until 1895. This freedom from restrictions enabled the university to extend its focus beyond the liberal arts, paving the way for the establishment of professional schools in its early years. In 1878, a committee was appointed to collaborate with the Law Society of Manitoba on assimilating entrance standards, and by 1884, a reading course in law, culminating in the degree of LL.B., was established with three annual examinations. Acquiring this degree was not necessary for call to the bar and few aspiring lawyers pursued it.

Despite uncertainties regarding the constitution and site, the university's relations with professional schools and studies continued to evolve. The creation of the Manitoba Law School resulted from a new relationship with the Law Society of Manitoba. Before this, law students had to article in a law firm. The LL.B. reading requirements were reorganized in 1908, and in 1914, responding to a petition from arts and law students, the Manitoba Law School was established under an agreement between the Law Society of Manitoba and the University. It was not a faculty of the University, and classes were held in the courthouse. Administered by five trustees appointed by the Law Society of Manitoba and the University Council, it marked another variant in the university's relationships with professional bodies, shaped by professional preferences and the strength of these entities.⁵⁰⁷

External pressures and competitive threats also drove this collaboration. The

⁵⁰⁶ Medicine was added in 1880.

⁵⁰⁷ Morton, 99.

development of the Manitoba Law School was hastened by the fear that a private, commercial provider of legal instruction might emerge. In 1912, when the Manitoba Legislature considered a University Extension Bill that would have allowed a private business to confer degrees by correspondence in fields such as law and business, it triggered significant concern among the legal community.⁵⁰⁸ Lawyers in Manitoba, like George R. Coldwell, feared that such a move would undermine the rigorous training required by the Law Society Act, potentially leading to a decline in the quality of legal education and the profession itself. The prospect of a private law school offering degrees without sufficient training was alarming enough to prompt a swift and decisive response, resulting in the establishment of a formal law school under the joint administration of the Law Society and the University. This background provides a foundation for a detailed examination of the Manitoba Law School's curriculum, revealing the extent to which it was shaped by professional influences and the distinctive educational philosophy that emerged.

The development of the law curriculum at the University of Manitoba reflects a gradual response to changing societal needs and educational paradigms. Beginning in 1919, discussions within legal circles, including the Canadian Bar Association, emphasized the standardization of legal education across provinces. By 1921, Manitoba adopted a standard curriculum, with subsequent adjustments reflecting the transition from a three-year to a four-year program. However, this four-year program was short lived and it was not until the aftermath of the Second World War and the societal shifts of the 1960s and 1970s that significant changes occurred. The National Association of Women and the Law conference at

⁵⁰⁸ Wesley Pue, *Lawyers Empire: Legal Professions and Cultural Authority, 1780-1950*, (Vancouver: University of British Columbia Press, 2016) 158.

the University of Manitoba in 1975 proved instrumental, sparking a heightened awareness of gender issues within university legal structures. This event catalyzed curricular changes, including a dedicated course on Women and the Law in 1975, a reflection of the increasing appointment of women in law schools and their influence in shaping legal education to address gender-related concerns.⁵⁰⁹

Clifford Edwards and Jack London have also asserted that the new building on the main University campus effectively met the new demands placed on it, with one notable exception. When it was designed in the late sixties, the total female enrollment across all three years had never exceeded half a dozen students. Although the building accounted for an increase in female enrollment, the extent and speed of this increase were not anticipated. By the 1972-73 academic year, 24 women were admitted into the first year, and by 1978-79, this number had risen to 46, making up more than one-third of the general admissions.⁵¹⁰

In addition to the unique dynamics shaped by professional preferences and the influence of professional bodies, the University of Manitoba achieved another milestone by being the first common law school to appoint a full-time, female tenure-track faculty member. This marked a significant shift in the university's approach to faculty appointments and highlighted its commitment to fostering diversity in legal academia.

Janet Baldwin assumed the inaugural appointment as the first female tenure-track faculty member in 1967. Patricia Walker (Hyndman in 1966) was a lecturer at the institution,

⁵⁰⁹ E.K. Williams, "Legal Education in Manitoba: 1913-1950," *Canadian Bar Review*, Vol 28, (1950): 881; The National Association of Women and the Law (NAWL) was founded at a conference at the University of Windsor in 1974. The first conference, however, was not held until 1975 at the University of Manitoba.

⁵¹⁰ Clifford H.C. Edwards and Jack R. London, "The University of Manitoba Faculty of Law, 1966-1984" *Dalhousie Law Journal*, Vol 9. No 1. (1985): 168.

teaching legal history and law from 1964 to 1966, and later moved to Dalhousie.⁵¹¹ Baldwin was hired at the University of Manitoba after pursuing an LL.B. at the University of London King's College and an LL.M. from the University of Illinois after attending the University of Warsaw, Poland, from 1964 to 1966. She was also the Associate Dean of Law for four periods between 1982 and 1997. Baldwin recalled three female law students, one in each year that she taught at the University of Manitoba.⁵¹² Upon Baldwin's initial arrival, the joint agreement with the Law Society had ended, and the Law School was now the Faculty of Law of the University of Manitoba. However, this legal integration did not yet include physical integration. Her teaching duties commenced in the downtown courthouse, an intriguing setting for her. Baldwin recalled her initial impression as one of trepidation. Being of similar age to most students pursuing law as a graduate degree or with at least two years of undergraduate work, she found herself immersed in the Canadian legal system, heavily influenced by the English legal system. She recalled that mentorship was virtually nonexistent at that time. Baldwin further reflected on the faculty composition, estimating it to be around ten to twelve members, all men, predominantly older white men, with a few closer to her age like Cameron Harvey. Individuals such as Barney Sneiderman, Gerry Nemiroff, and Phil Osborne joined the faculty as time progressed. Despite having legal training, Baldwin had no experience teaching. Comparative Law had no place in the curriculum at that time. The first and second years were mandatory, and even the third year was not entirely optional. The curriculum focused on fundamental subjects, and Baldwin's teaching responsibilities included Contracts and Trusts, subjects she had appreciated as a student but ones in which she did not

⁵¹¹ Discussed in chapter 5.

⁵¹² Interview with Janet Baldwin by Jessica Davenport and Ryan Trainer, *Manitoba Law Journal*, Vol 39.1, (2016): 118.

specialize.

Baldwin recalled that the concept of sexual harassment was not prevalent, but there existed a sexualized environment. With very few female students and Baldwin being the sole female faculty member, she confronted these issues in an isolated way. Regarding the student climate, Baldwin recalls that Friday afternoons involved students going out for a beer at places featuring exotic dancers, with the expectation that one would join. The now-abolished Beer and Skits included inappropriate sexual comments. While not precisely labelled as sexual harassment and certainly not perpetrated by colleagues, the atmosphere was “undeniably sexualized.”⁵¹³

In terms of attitudes toward women, Baldwin noticed a consistent pattern in Faculty Council meetings. When she spoke, it would be referred to as “somebody said that.” As a woman, she always felt relegated to being just “somebody.” Even with more women present, they were still collectively referred to as “somebody,” diminishing the individuality of each woman. Another perception Baldwin observed was that women were often thought to lack a sense of humour.⁵¹⁴

The Faculty of Law at the University of Manitoba had or was marked by several pioneering initiatives. While she noted the absence of mentorship, Baldwin attributed much of the progressive credit to Cliff Edwards, faculty dean during her employment. She believes Edwards did not hire her based on gender but rather because of their shared college background. Edwards’ influence set the tone for the faculty during that period. The development of the first Women and the Law course was a collaborative effort involving

⁵¹³ Interview with Janet Baldwin, *Manitoba Law Journal*, Vol 39.1, (2016): 124.

⁵¹⁴ Interview with Janet Baldwin, *Ibid*.

Mary Jane Mossman from Osgoode Hall, Beverley Baines from Queen's, and Baldwin herself.⁵¹⁵ The course began in the early 1970s, and Baldwin recalled a dynamic class primarily comprised of strong and interesting young women.

Baldwin noted Cliff Edwards' consistent support for initiatives fostering gender inclusivity. Edwards also backed the inaugural Canadian Conference on Women in the Law held in 1975. Although Baldwin's recollection of the conference was somewhat unclear, she attributed this decision to the broader awareness in the 1970s that law was an open field for women, leading to an increase in female students. Edwards, she notes, appeared to be gender-blind in this regard.⁵¹⁶ In 1975, during the International Women's Year, the National Association of Women and the Law (NAWL) held its inaugural Biennial Conference at the University of Manitoba's Faculty of Law. Lynn Kaye, a co-founder of NAWL and a second-year student at the University of Ottawa at the time, delivered the conference address. The gathering brought together women from across Canada, fostering unity and collaboration.⁵¹⁷ Following this conference, NAWL successfully formulated a set of policies that provided structure and guidance to the organization. Additionally, law schools were beginning to recognize the importance of women's issues around this time, with an emerging trend of offering courses specifically focused on women and the law.

Baldwin recalled Edwards' support extending to her personal endeavours. He appointed her as the law school's representative to the Canadian Association of Law Teachers, and subsequently, she became the delegate to the Social Sciences and Humanities

⁵¹⁵ Interview with Janet Baldwin, *Manitoba Law Journal*, Vol 39.1, (2016): 126.

⁵¹⁶ Interview with Janet Baldwin, 126.

⁵¹⁷ "Our History," National Association for Women and the Law (NAWL), <https://nawl.ca/about-us/history/>.

Research Council of Canada (SSHRC). Remarkably, she achieved the distinction of being the first female president of both organizations. While Edwards did not play a direct role in her presidency, he actively encouraged her to engage with and contribute to these influential organizations. The subsequent full-time appointment of a female tenure-track faculty member occurred in 1974 with the hiring of Linda Vincent. By 1990, the faculty boasted five full-time women, Baldwin included, along with a couple of part-time members. Similar to her experiences as a student in London England, there was a notable cohesion among them despite their diverse backgrounds and personalities.⁵¹⁸

Two women who shared their experiences of working in Ontario faculties during the tumultuous times of the 1970s began their academic careers and legal education at the University of Manitoba: Constance Backhouse and Diana Majury. Baldwin even recalled the *Backhouse Report* and how the University of Western Ontario was hostile for women. Baldwin reflected on an issue pertinent within the report about a female dean at the university who received a dean's salary during her first year but faced a reduction in pay in her second year. Upon questioning the central administration about this pay cut, she was told, "We assumed that because you are Dean, you were a man and therefore entitled to this salary, but we cannot pay this salary to a woman."⁵¹⁹

Baldwin acknowledged her inability to comment on salary levels when she began her career, as this was before salary disclosure. She suspected significant salary differentials

⁵¹⁸ Ibid; It is important to note that the University of Manitoba Course Calendars do not list faculty members in teaching years. Information on women's employment has been extracted entirely from the Canadian Association of Law Teachers Directories and published interview transcripts.

⁵¹⁹ The Backhouse Report in Constance Backhouse, "Reflections on the Western Employment Equity Award," *Breaking Anonymity*, 62.

existed at the time, and it was challenging to ascertain such information without disclosure. She started at around nine thousand dollars a year, which she considered a substantial amount as a recent graduate student, and she did not compare her salary with anyone else at the time. Baldwin notes that justifications for salary discrimination often included examples of practitioners who, allegedly because of their experience, received significantly higher salaries, which she noted were legitimate reasons for determining salary levels.⁵²⁰

Backhouse graduated in History and Political Science in 1972 and then pursued a legal education at Osgoode Hall. Majury, however, began her law degree at Manitoba in 1973 but transferred to Queen's in her second year.⁵²¹ Majury, originally from Winnipeg, pursued her undergraduate studies in English literature at the University of Manitoba, where she found it enjoyable. However, her experience at the law school in the first year was less favourable: she found the curriculum dry and uninspiring. Driven by the desire for social justice and a realization that the law was not an uncomplicated solution, Majury, in her first year, encountered traditional courses such as torts, contracts, and business law, predominantly required courses with a lack of social justice-oriented options.

During her time at the University of Manitoba, Majury noted a shift with about a third of the class being women, a significant change from the experiences of women in preceding years who often found themselves isolated. Despite encountering sexism, including jokes and a male-dominated environment, Majury excelled in her studies, and her property professor recognized her achievements. However, an incident where a fellow student expressed surprise at her intelligence served as a wake-up call. She recognized her participation in conforming to certain stereotypes and transferred to Queen's.

⁵²⁰ Baldwin.

⁵²¹ Diana Majury Interview with Taylor Starr, 14 February 2022.

While Manitoba seemed to be an inclusive environment for women from the outside, it was still shaped by the androcentric nature of the common law world—a symptom of the law faculty scene since its inception.

University of Alberta Faculty of Law

A brief overview of the development of the University of Alberta is essential as it provides a contextual foundation that illuminates the historical, institutional, and philosophical factors shaping the evolution of the Faculty of Law and, in turn, the employment of women faculty at the end of the century. Premier Alexander Cameron Rutherford's decisions were connected to the Methodist Church's evolving plans for higher education in Alberta. An illuminating account of this aspect is found in Dr. J.H. Riddell's "Methodism in the Middle West," published by Ryerson Press in 1946. Dr. Riddell recounts a meeting of the Edmonton District of the Methodist Church in the spring of 1903.⁵²³ During this meeting, a resolution advocating the establishment of a college in Edmonton under the auspices of the Methodist Church was sent to the Annual Conference. The Conference approved the suggestion, and the Quarterly Official Board of McDougall Church, Edmonton, was given responsibility nominating a provisional board for the college.

In 1904, the college received incorporation by the Legislative Assembly of the Northwest Territories and Dr. Riddell. A faculty member at Wesley College, Winnipeg, accepted the board's invitation to become its first principal. Collaborative arrangements with McGill University were established for academic work, facilitated by Dr. Henry Marshall

⁵²³ John Henry Riddell, *Methodism in the Middle West*, (Toronto: Ryerson Press, 1946).

Tory, the first president of the University of Alberta and McGill's emissary in these discussions. Alongside regular academic subjects, the college introduced Departments of music, elocution, and commercial subjects. Regarding the Law faculty, committees were set up to consult with the Supreme Court Justices and the Law Society about holding joint examinations in Law.⁵²⁴ The recommendation could not be implemented until *the University Act* was passed, which gave the institution the power to enter arrangements with professional associations, and the Faculty of Law was inaugurated in 1912. The arrangement with the Law Society afforded the institution considerable control over the conduct and content of the examinations.

The Law Society sponsored lectures in both Calgary and Edmonton, sparking a rivalry between the two cities for the establishment of the province's law school. Students and members of the Calgary bar, aiming to collaborate with Calgary College, faced strong opposition from Tory, who sought exclusivity for his institution in granting degrees in the province. Tory actively opposed the establishment of a second law faculty by refusing to acknowledge Calgary College's law course. In 1914, he attempted to maintain control by offering free law lectures in Edmonton and Calgary through the Law Society. As a result, the University Commission urged against establishing a second university law faculty, allowing the University of Alberta to play a pivotal role in shaping university legal education in the province until 1976.⁵²⁵

In 1914, a group of eight students were the first to graduate with an LL.B. in Alberta.

⁵²⁴ Walter Johns, *A History of the University of Alberta 1908-1961*, (Edmonton: University of Alberta Press, 1981): 31.

⁵²⁵ John Law and Roderick Wood, "A History of the Law Faculty," *Alberta Law Review*, Vol XXXV No 1., (1996): 5.

From its inception, the university mandated a policy of co-educational equality, where “no woman shall by reason of her sex be deprived of any advantage or privilege accorded to male students of the university.”⁵²⁶ The language regarding women at the institution within *The University Act* in Alberta, replicates the first provincial university act in British Columbia of 1891, as discussed in chapter 3. In 1915, Lillian Ruby Clements became the first woman to graduate from the law faculty. Despite coeducation, it did not remedy the challenges women encountered in the legal profession. Sandra Petersson prompts us to explore the absence of formal opposition to women’s admission in Alberta, considering the prevailing resistance to women entering the legal field across Canada at that time. Petersson contends that there was no explicit prohibition in Alberta despite numerous reasons to oppose Clement’s admission in 1915, including the belief in common law prohibiting women from becoming lawyers. Interestingly, the University of British Columbia had a similar institutional origin with no public prohibition and a co-educational clause in the founding Act. However, even after the Second World War, while all faculties technically allowed women, early twentieth-century societal constraints acted as a formidable barrier to their active participation, contradicting the misconception that women were fully embraced as members of university politics.⁵²⁷

⁵²⁶ Law and Wood, “A History of the Law Faculty,” *Alberta Law Review*, (1996): 5.

⁵²⁷ Sandra Petersson, “Ruby Clements and Early Women of the Alberta Bar,” *Canadian Journal of Women and the Law*, Vol 9, (1997): 367.



Figure 4.1 - Ruby Clements Bottom Right with her classmates from 1915, *University of Alberta Archives*.

Alberta's law faculty curriculum underwent significant changes over time, particularly with the establishment of a formal legal education monopoly within the province. Initially, the curriculum aligned closely with the Law Society's examinations, focusing on fundamental legal principles such as common law, equity jurisprudence, and constitutional law.⁵²⁸

However, after 1974, as other law faculties across the country were changing their curricula to be more inclusive and diverse, Alberta also introduced a Women and the Law course. While practical experience gained through articles remained important, the introduction of courses like Women and the Law signalled a broader acknowledgment of the need to integrate theoretical and practical aspects of legal education and the inclusion of female faculty members. In the genesis of the University of Alberta, women found representation but were not embraced as welcome members.⁵²⁹

⁵²⁸ John Law and Roderick Wood, "A History of the Law Faculty," *Alberta Law Review*, Vol XXXV No 1., (1996): 5.

⁵²⁹ There is a dense body of historiography on the development of the University of Alberta. See, for example, William Hardy Alexander, *The University of Alberta: A Retrospect, 1908-1929*, (Edmonton: University Printing Press, 1929); Duncan Campbell, *Those Tumultuous Years: The Goals of the President of the University of Alberta During the Decade of the 1960s*, (Edmonton: The University of Alberta Library and the Alumni Association, 1977); John W. Chalmers, *Schools of the Foothills Province: The Story of Public Education in Alberta*, (Toronto:

The post-World War II era brought about transformative changes, with Wilbur Bowker, a distinguished alumnus, assuming a pivotal role as Acting Dean in 1947 and subsequently serving as Dean for two decades, leaving an enduring mark on the faculty's trajectory, which theoretically could be considered more welcoming to women than others.

Throughout the twentieth century in the legal academy, there were notable instances of men who actively supported women and their ideas, contributing to the gradual evolution of a more inclusive environment. Despite historical gender biases within the legal profession, some men championed the cause of gender equality, recognizing the intellectual contributions and perspectives that women brought to the field. These supportive figures played crucial roles in fostering an atmosphere where women's voices were acknowledged and respected, challenging traditional norms. Their advocacy, whether in promoting equal opportunities, encouraging collaborative research, or dismantling barriers to women's advancement, served as significant catalysts for positive change. These collaborative efforts helped pave the way for increased gender diversity and a more equitable representation of ideas across the legal

University of Toronto Press, 1967); and *Teachers of the Foothills Province: The Story of the Alberta Teachers' Association*, (Toronto: University of Toronto Press, 1968); R.K. Gordon, "University Beginnings in Alberta," *Queen's Quarterly*, 58 (1951-1952): 487-96; Johns Walter, *A History of the University of Alberta, 1908-1969*, (Edmonton: The University of Alberta Press, 1981), *A History of the Faculty of Law*, (Edmonton: The University of Alberta, 1971); Rod Macleod, *All True Things: A History of the University of Alberta, 1908-2008*, (Edmonton: The University of Alberta Press, 2008); John Macdonald, *The History of the University of Alberta, 1908-1958*, (Toronto: W.J. Gage, 1958); Thomas Lewis, *The Liberal Party in Alberta: A History of Politics in the Province of Alberta from 1905-1921*, (Toronto: University of Toronto Press, 1959); Association of Professors Emeriti of the University of Alberta, *Echoes in the Halls: An Unofficial History of the University of Alberta*, (Edmonton: University of Alberta Press and Duval House Publishing, 1999).

academy. Wilbur Bowker was one of them.

Bowker's commitment to legal scholarship and reform was demonstrated when he became the inaugural Director of the Alberta Law Reform Institute in 1968. Honoured with the Order of Canada in 1990 and an Honorary Doctor of Laws in 1992, Bowker's contributions resonate as a cornerstone of the faculty's distinguished heritage.

Bowker's determined spirit of progressiveness extended beyond institutional leadership, marking a pivotal chapter in the University of Alberta Faculty of Law's history. Notably forward-thinking, Bowker played a seminal role in fostering inclusivity within the faculty. Bowker championed the admission of women into the legal profession, contributing significantly to the diversification of the student body and faculty. The most profound influence on Bowker's life was by one of the law students George Steer (one of Bowker's instructors at the firm in which he worked preceding his deanship) hired, Marjorie Montgomery.⁵³⁰ Steer hired Montgomery as a summer student in 1937, and she began her articles with Steer after graduating near the top of her class in 1939. Engaged by the summer of 1938, Wilbur and Marjorie married in the fall of 1940. In the years preceding the wedding, Bowker had worked his way from student to associate to named partner in the firm. By 1942, he had earned a Commission at the rank of Second Lieutenant with the 3rd Active Battalion of the Edmonton Fusiliers, a position he promptly resigned so he could enlist as a private in the infantry. Taking a leave of absence from his law firm, Marjorie assumed responsibility for his clients and files when he reported for duty within Canada.⁵³¹

⁵³⁰ Eric Adams, "The Dean Who Went to Law School: Crossing Borders and Searching for Purpose in North American Legal Education, 1930-1950," *Alberta Law Review*, Vol 54. No 1, (2016): 10.

⁵³¹ *Ibid*, 11.

Legal historian Eric Adams has emphasized the role of Marjorie Montgomery in the development of the Faculty of Law because of the way in which Bowker remembered his call to take up a position in the law school: “So the deal was this, that Mr. Steer would lend the university my services for the year if I was willing and if Dr. Newton... could get me out of the army... I had my talk with Dr. Newton and went back to our little suite... and talked it over with my wife, and we said, ‘okay’”⁵³²

The many instances of Bowker’s visionary approach to legal education reflected a commitment to equality and propelled the faculty into a new era of academic openness and innovation. Bowker’s legacy as a progressive leader endured in the continuing inclusiveness of the faculty, illustrating his persistent impact on the legal community and the broader landscape of higher education. Bowker was Dean of the Faculty of Law when Ellen Picard entered it in 1964.⁵³³

Bowker’s legacy as a progressive leader extends beyond fostering inclusiveness within the faculty to shaping the very foundations of the academic institution itself. In fact, Adams asserted that because of his lifelong deanship, Bowker personified his institution, fashioned a law school that reflected his values, visions, attributes, and deficiencies.⁵³⁴ Bowker’s dedication to progress and forward-thinking leadership finds resonance in historical decisions akin to Premier Alexander Rutherford’s declaration on April 6, 1907. During this pivotal moment, Strathcona, previously the McDougall homestead, was designated as the site for the

⁵³² Interview of Wilbur Bowker by Christine J.N. Kates (June 1987-April 1988), Toronto: Archives of Ontario (C 81-1-0-6-1).

⁵³³ Interview with The Honourable Madame Justice Ellen Picard and Ken Tingley, *Legal Archives Society of Alberta: Edmonton Bench and Bar Oral History Project*, 2 December 2003, AC2004016, 8.

⁵³⁴ Eric Adams, “The Dean Who Went to Law School” (2016): 38.

University of Alberta. The choice made by Premier Rutherford reflected a nuanced understanding of the broader considerations that shape the landscape of higher education, marking the genesis of an institution that would go on to play a crucial role in the academic and intellectual development of the region. In this way, the enduring impact of leaders like Bowker and Rutherford intertwines, threading a narrative that spans generations and underscores the significance of visionary decision-making in shaping the trajectory of educational institutions.

Ellen Picard was the first woman appointed to the faculty of law in 1972, after receiving a B.Ed. in 1964 and an LL.B. in 1967, followed by Christine Davies, a family law scholar in 1974. Anne McLellan relocated to the University of Alberta after being the first tenure-track woman professor at the University of New Brunswick. Anne McLellan's distinguished career spans both law and politics, encompassing four terms as a Member of Parliament (1993-2006) and significant roles such as Deputy Prime Minister, Minister of Natural Resources, Federal Interlocutor for Métis and Non-Status Indians, Minister of Justice and Attorney General of Canada, Minister of Health, and the inaugural Minister of the Department of Public Safety and Emergency Preparedness. However, delving into her career path through legal education and employment at the University of Alberta Law Faculty reveals a more nuanced narrative. Before entering politics, McLellan held the position of Associate Professor, specializing in teaching Contracts and Constitutional Law. Despite her remarkable political career, the available sources pertaining to her experiences during her legal education and faculty employment are limited.

Anne McLellan's introduction to politics was deeply rooted in her family, notably her father's active involvement in provincial and federal Liberal parties and her mother's role as a

county Councillor in Hants East. As a Young Liberal at Dalhousie and during her tenure in Law School, McLellan navigated political spaces where, as a young woman, she likely faced unique challenges. Despite potential hurdles, her unwavering commitment to Liberal politics was evident in her attendance at conventions and involvement in the political scene. Initially working behind the scenes, McLellan's trajectory took a pivotal turn in 1992-93 when she was approached to consider running for a federal seat. This experience culminated in a narrow victory in the 23 October 1993 election, leading to twelve and a half years in politics. Her experiences as one of the first women in the legal academy, serving as a law professor at both the New Brunswick Faculty of Law and the University of Alberta Law Faculty, likely influenced her political ideologies. Navigating pioneering roles in academia and politics, McLellan's interconnected experiences shaped her perspectives and solidified her commitment to advancing liberal values. Reflecting on her formative experiences at Dalhousie, McLellan emphasized the transformative impact of post-secondary education on individual growth, learning, and community prosperity.⁵³⁵

These ideas accentuate a recurring theme of gilded representation, where outward appearances suggest inclusivity, yet deeper exploration reveals the challenges and limitations faced by women in their workplaces during the twentieth century. McLellan's dual role as a prominent political figure and a member of the legal academy exemplifies the complexities surrounding women's experiences in historically male-dominated spheres. In the same vein, when Picard began her legal studies in 1964, Dean Wilbur Bowker emerged as a crucial mentor. This theme, previously observed in Anne McLellan's multifaceted career,

⁵³⁵ Short Interview with Anne McLellan and Erica Gagnon, *Dalhousie University*, 5 October 2016. <https://soundcloud.com/user-968283455/dalhousie-original-anne-mclellan/s-pDnGo>

becomes even more nuanced in Picard's context. Picard's experiences reveal the outward façade of representation by the university. On the surface, the institution might have appeared inclusive, with Bowker assuming a prestigious role as dean and serving as a mentor for Picard over the years.

In the summer of 1964, Picard found herself on the campus one Saturday morning, drawn to the Faculty of Law building. Following the signs, she was guided by the aroma of a cigar wafting through the air. Continuing her exploration, she came across a partially open door and peered inside to find a man behind a desk with a cigar in hand. The man, none other than Wilbur Bowker, welcomed her in. Little did Picard know that this encounter marked the beginning of a significant mentorship that would shape her career.

Bowker, inquisitive about her presence, asked Picard why she was there. She expressed her desire to study law, setting in motion a conversation that would alter the course of her academic endeavours. Picard left that day with a piece of paper in her hand bearing the words: "Let this woman enter law school, Wilbur Bowker." Recognizing that she lacked two required courses, Bowker's endorsement was crucial for her admission, especially considering her background in education. When she arrived at law school in the fall of 1964, while others presented their transcripts as entry tickets, Picard handed over her transcripts, along with this significant piece of paper. In a memorable exchange, Professor Trevor Anderson, the person receiving the documents, scrutinized the paper and then looked at Picard before declaring, "Well, okay."⁵³⁶

Recalling her time in law school, Picard remembered being called on frequently by

⁵³⁶ Interview with The Honourable Madame Justice Ellen Picard and Ken Tingley, *Legal Archives Society of Alberta: Edmonton Bench and Bar Oral History Project*, 2 December 2003, AC2004016, 6.

Bowker during classes, sensing a high expectation that motivated her to consistently perform at her best. Bowker's influence transcended the academic sphere; his wife, Judge Marjorie Montgomery Bowker, became a source of inspiration for Picard. Bowker's graciousness and her efforts to organize social events for women in law school left a lasting impact. She became a role model, demonstrating the possibility of successfully balancing a legal career with family life.

Reflecting on her law school experience, Picard acknowledged another influential figure, Dr. Smith, who taught contracts. A challenging Christmas exam initially led Picard to contemplate leaving the program. However, after seeking guidance from Dr. Smith and Bowker, Picard found renewed determination to persevere. Bowker's nudging proved instrumental in Picard's involvement with the Institute of Law Research and Reform, expanding her horizons into medical legal work. Recognizing the lack of suitable textbooks for Canadian students, Picard approached Bowker with a proposal to co-author a comprehensive textbook.

When she became a professor in 1972, she found herself in a surprising turn of events. At the time, Gerald Fridman held the position of Dean of Law, a distinguished individual renowned for his contributions to agency law and torts through numerous textbooks. The reason behind his sudden call to Picard remained unclear to her. Nevertheless, he invited her over for a conversation and proposed a unique opportunity. In retrospect, Picard recalled the possibilities that existed in the 1970s, allowing deans such freedom. However, a touch of cynicism made her consider that perhaps Dean Fridman sought her assistance to establish something significant. It appeared that he required her expertise to contribute to the early stages of developing student legal services. This venture had already taken form but lacked

the guidance of a practicing professional. Embracing the challenge, Picard played a pivotal role in setting up systems for student legal services. Simultaneously, Dean Fridman entrusted her with teaching responsibilities, introducing her to the realms of torts and agency. Under the guidance of Dr. Smith, Picard expanded her teaching portfolio to include contracts as well. The subjects contracts and torts became integral parts of her entire legal career.

Evidence from course calendars suggests that Picard was hired as “Ellen I. Jacobs” in 1972 and taught torts, legal process and advocacy.⁵³⁷ That same year, a group of young men at the law school approached Dean Fridman to complain about their discomfort with a woman professor, and he dismissed them.⁵³⁸ Picard became the Associate Dean of Law from 1974 to 1980 to 1981.

In her interview with Ken Tingley, Picard did not reflect on her personal experiences in leadership roles within law faculties. However, the interview highlighted key considerations about the broader role of women in leadership positions across Canada. Picard recalled that she had the opportunity to take up a position at the Supreme Court of Canada after she left academia and took up the role as a justice at the Alberta Court of Appeal in the 1980s.⁵³⁹ However, she decided not to take the opportunity because she “didn’t want to leave the community.” When friends and colleagues approached her about her choice and indicated that the role would have been an important opportunity for a woman, she replied, “Well, that may have been the case... I have a personal interest in a certain quality of life, and I made my decisions on that basis.”⁵⁴⁰ Anna Lund has also reflected on how, in the short period before accepting her judicial appointment, Picard

⁵³⁷ Course Calendar, *University of Alberta Faculty of Law*, 1972

⁵³⁸ Interview with The Honourable Madame Justice Ellen Picard and Ken Tingley, *Legal Archives Society of Alberta: Edmonton Bench and Bar Oral History Project*, 2003, 13.

⁵³⁹ *Ibid*, 18.

⁵⁴⁰ *Ibid*, 19.

submitted her candidacy for the Dean of the Faculty position. Bowker wrote a supportive letter underscoring her merits as a teacher, researcher, and administrator, noting her ability to handle office responsibilities tactfully and skillfully. He also emphasized her intangible qualities such as loyalty to the University of Alberta, “high principles,” and her seamless integration with the practicing profession. Despite these commendations, her colleagues ultimately recommended another recently hired male colleague for the deanship, overlooking Picard’s extensive administrative experience. Some speculated that this setback might have influenced her decision to pursue a judicial career. According to Picard, however, she had already resolved to join the Bench before learning the outcome of the decanal competition.⁵⁴¹ In essence, it was not a determining factor. The Faculty of Law would not appoint a woman as Dean until Barbara Billingsley assumed the role in 2020.⁵⁴²

In response to a question regarding how women were thought of to make decisions with preconceived notions about discrimination and sexism, Picard responded:

Well, no I don’t think it’s too optimistic: I would say, there really is not much of a problem any longer. Of course, I’m in a special situation here because the majority of members of the Court of Appeal of Alberta are women. This is unique in the common law world and probably in the world. I tell people from other countries about this when I travel and go and teach in other places. They are amazed. Many of our counsel are women and we just - just don’t think about it, I mean, it is just not an issue now. Does it make a difference to our decision-making - perhaps? If we’re talking here about dealing with children and custody and access, I’m a divorced person who has been through it. I’d bring that, I think, to the table. My colleagues, the Chief Justice has not been divorced but she’s been engaged in dealing with huge corporations in the oil and gas industry, and I think she brings that experience to the table.⁵⁴³

Picard was appointed to the Court of Queen’s Bench in 1986, and she made an essential

⁵⁴¹ Anna Lund, *Early Women*, forthcoming.

⁵⁴² “Barbara Billingsley named the new dean of UAlberta Faculty of Law” (3 December 2019) *University of Alberta* online <www.ualberta.ca/law/about/news/2019/12/dean-billingsley.html>

⁵⁴³ Interview with The Honourable Madame Justice Ellen Picard, *Legal Archives Society of Alberta: Edmonton Bench and Bar Oral History Project*, 2 December 2003, 19.

designation about her role on a case that shaped how the courts understood women's circumstances. One of Picard's judgements addressed the monetary value of housework in the 1990s, which was her way of trying to reconcile the "real world with the legal world." She explained that the work done at home by a wife, partner, or mother is often so valuable that it can be considered priceless. Yet, the courts continued to have a problem with it.⁵⁴⁴

Picard's decision in *McLaren v. Schwalbe* [1994] made an important contribution to the jurisprudence on the valuation of homemaking work, recognizing its economic importance in legal disputes as opposed to earlier views that it did not warrant monetary compensation. By the early 1990s, courts began to acknowledge that injuries preventing someone from performing homemaking tasks should be compensated like any other loss of earning capacity. Picard created a framework that required claimants to provide evidence of their pre-injury homemaking tasks and compare them to their current abilities, allowing damages to be awarded based on the economic value of replacement services.

In this case, McLaren was awarded damages for both past and future homemaking services, recognizing her contributions not only in domestic work but also in ranch labour. Picard's approach emphasized the unique and specialized nature of homemaking, treating it on par with paid employment, thus ensuring more equitable compensation for such contributions in personal injury law.⁵⁴⁵ Later, in 1995, Picard gained a position on the Alberta Court of Appeal, a role she held until her retirement in 2016. During her tenure at the university, she authored two editions of the textbook "Legal Liability of Doctors and Hospitals in Canada." In 1977, she founded the Health Law Institute, showcasing her

⁵⁴⁴ Ibid, 22.

⁵⁴⁵ *McLaren v. Schwalbe*, [1994] A.J. No. 58, 1994 CanLII 8908 (Alta. Q.B.).

dedication to the field. Ellen Picard's contributions extended beyond teaching and writing; she served as Associate Dean twice participated on the Board of the Alberta Institute of Law Research and Reform and held the position of Vice-President of the Law Reform Commission of Canada. In recognition of her outstanding contributions, the University of Alberta conferred upon her the Honorary Doctor of Laws degree in 1992.⁵⁴⁶

University of Saskatchewan College of Law

The University of Saskatchewan, established in 1907, holds profound historical significance in the Canadian prairies. The College of Law was established in 1913, and the university's foundation coincided with the westward expansion of settlers. The strategic rural location of the university allowed it to become a vital hub for agricultural innovation. With a primary focus on agricultural research and education, the university played a crucial role in advancing farming techniques, improving crop varieties, and contributing to the economic prosperity of the prairie provinces. Beyond agriculture, the U of S became known for programs in veterinary medicine and health sciences, addressing the specific needs of rural communities. The university also served as a cultural and social centre, fostering a sense of identity and community among the prairie population. Its engagement with Indigenous communities further strengthened its ties to the region's diverse people. The University of Saskatchewan's impact on the prairies is marked by its contributions to agriculture, community development, economic growth, and cultural enrichment, all shaped by its rural environment.⁵⁴⁷

⁵⁴⁶ Ibid.

⁵⁴⁷ Don Kerr, "Building the University of Saskatchewan," *University of Saskatchewan Archives, Digital Archive*, "Building the University of Saskatchewan," *Prairie Forum*, (1980); John Archer, *Saskatchewan: A History*, (Saskatoon: Saskatchewan Press, 1980); Susan Mann Trofimenkoff, *the Twenties in Western Canada: Papers of the Western Canadian Studies*

In 1908, during Walter Murray's tenure as President of the University of Saskatchewan (1908-1937), he developed a keen interest in acquiring colleges of Law, Medicine, and Education, aligning with his commitment to state service. Recognizing the need for professionals in Law and Medicine, Murray initiated plans for a law school, appointing Arthur Moxon and Ira MacKay, both lawyers, to teach classics philosophy and political science, respectively, with the understanding that they would transition to teaching law when feasible. However, opposition arose when the Law Society of Saskatchewan benchers, primarily from the southern part of the province, objected to locating the law school in Saskatoon, advocating for the provincial capital, Regina, citing the legislative library as an essential resource. Despite Murray's efforts and securing Premier Thomas Walter Scott's support, the benchers rejected the Saskatoon location, revealing a complex negotiation over the establishment of the law school within the university. From 1910 onwards, some law classes were available at the university. In 1913, both the university and the benchers established law schools. The Regina Law School operated ad hoc under the direction of its dean, Thomas D. Brown, providing limited lectures by practicing lawyers. Graduates of the school were admitted to the bar but had no degree. The graduates of the university law school received an LL.B. but then had to prepare to pass the bar exam.⁵⁴⁸

Unlike law schools run by law societies, the University of Saskatchewan's law school,

Conference, (Ottawa: University of Ottawa Press, March 1972); Kathlyn Rose Marie Szalasnyj, *The Doukhobor Homestead Crisis, 1898-1907*, (Regina: University of Saskatchewan, 1977) M.A. Thesis; Don Kerr, *Saskatoon: The First Half Century*, (Edmonton: NeWest Publishers, 1982); Seymour Martin Lipset, *Agrarian Socialism: The Cooperative Commonwealth Federation in Saskatchewan: A Study in Political Sociology*, (Berkeley: University of California Press, 1971).

⁵⁴⁸ Michael Hayden, *Seeking a Balance: The University of Saskatchewan, 1907-1982*, (Vancouver: University of British Columbia Press, 1983) 129-131.

under Murray's influence, adhered to an egalitarian vision. Murray championed the notion that the university should be open to all, departing from the practices of some Ontario universities and institutions in other regions.

Michael Hayden asserted that the College of Law at the University of Saskatchewan in the early 1920s had an important influence on the broader profession. J.A. Corry, who later became the principal of Queen's University, was a law student in Saskatoon from 1920 to 1923 and has offered a vivid account of those times. Recollecting the period, he described the college as having two full-time instructors, Moxon and Thaddeus Hebert, who took over from MacKay in 1919. Additionally, a part-time teacher, J.W. Estey (later Attorney General of Saskatchewan and Justice at the Supreme Court of Canada) and two practicing lawyers, each handling one course, constituted a staff that surpassed the size of most law schools in Canada at that time and, according to Corry, excelled in quality.⁵⁴⁹

Women became increasingly visible on campus during this early period. Unlike many other universities, Saskatchewan had women in attendance since its earliest days. However, in the 1920s, there was both an increase in their numbers and a change in their demeanour. The woman in charge of Saskatchewan Hall noticed a difference between the girls of 1912 and those of 1922. In these years, girls were self-reliant and independent, studying while enjoying social activities. Few restrictions were placed on them, but study hours were more strictly observed.⁵⁵⁰

Towards the end of the 1920s and the beginning of the 1930s, female students were said to appear less serious and more stylish than those in the early 1920s. The socio-economic

⁵⁴⁹ Michael Hayden, *Seeking a Balance: The University of Saskatchewan, 1907-1982*, 142.

⁵⁵⁰ Ibid.

status of women who pursued university education after World War One and during the early Depression may have contributed to this change.⁵⁵¹ It is plausible that these women came from wealthier families than before, which could have influenced their demeanour and priorities. In 1922, *The Sheaf* published a statement without subsequent protest: “A higher education enables a woman to be a more interested and interesting companion for her husband. A college career does not change the woman to a pedant; her education is a social asset.”⁵⁵² Perhaps the societal perspective contributed to this shift, as urbanization and increased comfort reduced the evident need for constant physical effort from everyone. Men, less often at home, observed women’s work less, and the pursuit of status provided an incentive to place women on a different societal pedestal.

This historical context of evolving social dynamics at the University of Saskatchewan, particularly in the 1920s and 1930s, lays a crucial foundation for understanding the subsequent role of women in the College of Law, not only as students but also as potential faculty members. The changing attitudes towards women’s education and their shifting roles in society during this period set the stage for a more nuanced examination of how these developments influenced the opportunities and challenges that women faced in pursuing and establishing careers within the academic sphere, specifically within the College of Law at the University of Saskatchewan. As we delve into the history of women’s involvement in legal education, this backdrop becomes instrumental in comprehending the complexities and

⁵⁵¹ Nancy Leigh Chatelaine, “Wages and Wives” *The Chatelaine*, Vol 2.4, April 1929, 23; Veronica Strong-Boag, “The Girl of the New Day: Canadian Working Women in the 1920s,” *Labour/Le travail*, Vol 4 (1979): 137; See also: Katrina Srigley, *Breadwinning Daughters: Young Working Women in a Depression Era City, 1929-1939*, (Toronto: University of Toronto Press, 2010).

⁵⁵² *The Sheaf*, 9 March 1922, 1, cited in Hayden, 142.

transformations that shaped their experiences from students to educators in the legal academy.

The Second World War brought new challenges for both the College of Law and the legal profession in Saskatchewan. The departure of a significant number of the province's young men for military service had direct implications for the College's enrollment. In 1943, Frederick C. Cronkite noted that the majority of students in Law, as well as in Arts and Science, were either women or men deemed medically unfit. With only ten students graduating that spring, including two women and six men who had been rejected for military service, the enrollment took a significant hit. Only two of the graduates had prospects in the military, and one had previously been deemed unfit. Despite this decline, Cronkite vehemently opposed a proposal presented to the Canadian Social Science Research Council board to suspend teaching in arts, law, and business for the duration of the war.⁵⁵³

Paradoxically, despite the legal profession facing challenges during the Depression, the wartime era saw a surge in the demand for legal services. As early as 1941, Cronkite acknowledged this growing demand, noting the pressing issue of securing law students for Saskatchewan offices. He speculated that if the war persisted, there could be a noticeable increase in women entering the profession because of the demand for their services in law offices and government positions. The influential role of women from the University of Saskatchewan on the national stage is often traced back to Hilda Neatby and her involvement in the Commission on the National Development of the Arts, Letters, and Sciences [1949 – Massey Commission].⁵⁵⁴ However, by the 1970s and 1980s, women at the university found

⁵⁵³ Beth Bilson, "Refiner's Fire: The University of Saskatchewan College of Law in Times of Depression and War," *Saskatchewan Law Review*, Vol 80 (2017): 350.

⁵⁵⁴ Hilda Neatby was also Beth Bilson's supervisor when she pursued her Master of Arts in History at the University of Saskatchewan. See the University of Saskatchewan College of Law section.

themselves grappling with questions surrounding feminism and the role of women inside the home.⁵⁵⁵ Despite these ideas about women's place from groups such as REAL Women of Canada, women pursued teaching and leadership positions at the College of Law.

The law curriculum in Saskatchewan underwent changes over time, particularly considering the province's rural context and the practical needs of its legal practitioners. Initially, the curriculum emphasized core substantive subjects relevant to general practice, reflecting the limited resources and practical orientation of the legal profession in smaller communities. However, by the 1970s, the curriculum faced debate over its structure, particularly regarding the balance between mandatory core subjects and elective courses. This debate, which involved input from both male and female legal professionals, highlighted differing perceptions of legal education's role and the skills required for legal practice. Women played a crucial role in these discussions, advocating for a curriculum that addressed gender-related concerns and provided opportunities for diverse perspectives to be integrated into legal education. Despite initial resistance, the majority recommendation for a more flexible, elective system was eventually adopted in 1979. This shift, informed by consultations with both legal professionals and academic experts, aimed to provide students with a curriculum that balanced substantive knowledge with practical skills and better reflected the diverse needs of legal practice.⁵⁵⁶

In 1974, Bonita Rourke became the first tenure-stream female law professor at the College of Law. From 1975 to 1976, she taught personal property, civil procedure, legal writing, and law and medicine. In 1976 Anne Jayne was hired to teach family law, children

⁵⁵⁵ "Women Set to Debate Feminism," *The Star-Phoenix*, 4 March 1987.

⁵⁵⁶ Donald H. Clark, "Legal Education in Saskatchewan: The Last Ten Years" *Dalhousie Law Journal*, Vol 7.2 (1983): 382.

and the law, wills, and trusts. The same year, Audrey Wakeling was hired to teach taxation, torts, product liability, insurance and evidence. Margaret Hughes was hired in 1978 and she also taught children and the law, family law, and torts – before her move to the University of Calgary to take up the decanal appointment. Beth Bilson was hired in 1979 to teach labour law and torts.⁵⁵⁷

Bilson's appointment to the College of Law in 1979 was influenced by Hilda Neatby, her supervisor for her Master of Arts in History. Bilson assumed various pivotal roles in the legal academy, including Assistant Dean of Law (1988-1992), Assistant Vice-President (Administration) for the University (1986-1988), chair of the Saskatchewan Labour Relations Board (1992-1997), and Dean of Law (1999-2002). Bilson was among the first wave of women to make up a substantial portion of her law school class, comprising about 30%. After completing law school, she pursued a PhD and subsequently secured her position in the College of Law. Despite some diversions, such as a five-year stint in the 1990s at the Saskatchewan Labour Relations Board and two and a half years in the mid-1980s at the Central University Administration, Bilson remained connected to the law school until the end of 2016. Her roles extended beyond teaching to encompass positions such as University Secretary, special advisor to the president on legal affairs, and a detour as the interim dean of the College of Education for two and a half years.⁵⁵⁸

During her PhD studies in law, Bilson focused on Labour and administrative law, specifically exploring the impact of wage and price controls on collective bargaining in the U.K. and Canada. Although these controls were significant in the 1960s and 70s, they had

⁵⁵⁷ Teaching Directories, 1974-1979.

⁵⁵⁸ Dr. Beth Bilson Interview with Taylor Starr, 11 January 2024.

become obsolete by the time she completed her dissertation. Notably, Ken Norman, a prominent figure in the College of Law and later a colleague, mentored her. Bilson's research involved numerous interviews, primarily with men in the male-dominated field of labour law. Despite this, she did not encounter resistance, possibly attributed to her supervisor's influential standing in the field. While her topic did not align with a feminist perspective, Bilson's unique focus provided valuable insights into the intersection of legal and economic issues.

Furthermore, Bilson recalled an incident about her colleague Margaret Hughes. Visiting during the summer, Hughes took the opportunity to thoroughly explore Calgary before her decanal tenure began. As Dean, Hughes found herself on a Law Society Committee, and to her surprise, they invited her to a meeting at the Ranchman's Club. However, there was a catch – she was instructed to use the back door because women were not allowed to enter through the front door. Undeterred by this antiquated restriction, she confidently asserted that if she could be the Dean of the Law School, she could certainly use the front door at the Ranchman's Club. The response of the Law Society Committee was dismissive, but this incident in the 1980s exemplifies both the visible and imperceptible barriers that women like Hughes continued to face in certain contexts. True to her character, Hughes stood her ground, refusing to back down.⁵⁵⁹

In reflecting on her early days at the faculty, Bilson noted that, in general, the male faculty exhibited a positive disposition towards the idea of increasing the representation of women. While acknowledging that exceptions might exist, she highlighted the capability of the recruited women, citing Gene Anne Smith, who later became a judge on the Court of

⁵⁵⁹ Beth Bilson Interview with Taylor Starr, 11 January 2024.

Queen's Bench and the Court of Appeal.

Furthermore, she reflected on the climate within the law school faculty, particularly in the aftermath of Sheila McIntyre's memo addressing gender and feminism. She noted that the law school at the University of Saskatchewan had a somewhat unique atmosphere compared to other institutions, with early initiatives like the founding of the Native Law Centre (now the Indigenous Law Centre) in the mid-1970s. Key figures, such as Ken Norman, played influential roles in fostering inclusivity and providing opportunities for diverse individuals.

Despite the best intentions of the faculty, Bilson observed a lack of deep understanding regarding the challenges faced by individuals balancing family responsibilities, exemplified by the scheduling of meetings at inconvenient times. While acknowledging her luck in having a spouse with a flexible schedule, she highlighted the general openness of the faculty to discussions on feminism and critical legal theory.

Bilson emphasized that while there may not have been overt hostility, there were instances where certain faculty members may not have fully comprehended the experiences of those they sought to include. One notable example involved the discomfort of some male faculty members when women, including Bilson, Gene Ann Smith, and Margaret Hughes, gathered for lunch and discussed their children. This seemingly normal conversation about family life was met with resistance from a few male colleagues, indicating discomfort with the changing dynamics in their environment. Nevertheless, Bilson acknowledged a critical mass of faculty members, including Roger Carter, Ken Norman, Peter McKinnon, Dan Ish, and Richard Bartlett, who were keen on fostering change. Despite some conservative orientations among certain faculty members, there was no outright opposition or conflict at the University of Saskatchewan, setting it apart from other law faculties that experienced

gender-related tensions during the same period.

As noted in Chapter 3, in the spring of 1993, a significant event unfolded within the political science department at the University of Victoria, creating what was described as a “real crisis for all women on campus.” The turmoil was highlighted in an article titled “UVic’s Poli-Sci Faculty Divided by War of Sexes,” published in *The Times-Colonist* on 21 April 1993. The focal point of the discord was the Equal Rights and Opportunities Committee Report, a comprehensive two-year review of the harassment policy aimed at enhancing conditions for women on campus. The report, to which Beth Bilson contributed, while intended to bring about positive change, resulted in a contentious divide within the department. Eight male faculty members felt that their reputations were unfairly tarnished by the report and demanded an apology and retraction, asserting a lack of credibility in the findings. On the other side, women in the department perceived the men’s reaction as a clear indication that their concerns were not being heard, fostering a hostile environment for feminists. Bilson was involved in the issue through her position at the Labour Relations Board. Her insights and experiences provided a unique perspective on the broader implications of workplace conflicts.

When asked about her experiences at the Labour Relations Board, Bilson reflected on a recurring theme in her career—the significance of having sponsors, a concept she believed held importance for women and Indigenous scholars, racialized scholars, LGBTQ+ scholars, and others. She highlighted how her appointment to the Labour Relations Board came about through her connection with Bob Mitchell, the Minister of Labour at the time. Familiar with her qualifications and background, Mitchell played a pivotal role in her appointment. Bilson further discussed her involvement in an investigation concerning the mistreatment of women

at the University of Victoria, attributing the opportunity to her work in the central university administration. Working under one of the vice presidents, who had connections to senior university administrations, she was recommended as the ideal candidate to investigate the Political Science Department issue. Bilson, the Saskatchewan Labour Relations Board chairwoman at the time, stated, “It is clear that this dispute has had repercussions beyond the boundaries of that department.”⁵⁶⁰ This remark stresses the broader impact of the conflict on the university community and beyond.

Bilson and former B.C. Supreme Court Justice Thomas Berger led an external review committee addressing the harassment dispute within the University of Victoria’s political science department. Their observations indicated that the conflict and resulting tensions had escalated significantly, creating widespread problems that were affecting the entire campus. In March 1993, the Political Science Department published its own “Chilly Climate Report,” which reported on harassment and hostile treatment within the department. In reviewing this situation, Bilson and Burger sought input from a broad range of students, faculty, and staff. In their report, they emphasized the need to address issues related to academic freedom, the handling of allegations of racist or sexist behaviour, and the interpretation of relevant vocabulary. Bilson and Berger highlighted that the conflict had broader implications beyond the political science department and that their primary focus was on improving the learning and working environment, particularly for women. They aimed to find ways for the department to move forward.⁵⁶¹

⁵⁶⁰ Beth Bilson quoted in “Students, Faculty, Staff, Invited to Comment on Harassment Dispute,” *Times Colonist*, 23 October 1993.

⁵⁶¹ Robie Liscomb, “External Review Committee to Review Political Science Situation,” *The Ring*, Vol.19. No 15, The University of Victoria, 3 September 1993.

In 1999, the University of Saskatchewan made a significant development when it appointed one of its own, Saskatchewan law Professor Beth Bilson, to serve as the dean of the College of Law for a five-year term that commenced on July 1. Bilson, who received three degrees from the University of Saskatchewan, marked a historical milestone as the first-ever female dean of the college. The decision by the University of Saskatchewan's board of governors to appoint Beth Bilson, guided by a 10-member search committee, was a historical step that acknowledged her qualifications and experience. It is unclear how many male candidates were in the running for the position. As Bilson took on the role of dean, her commitment to engaging with student representatives and addressing challenges related to funding sources reflected the historical progress of the College of Law.⁵⁶²

Reflecting on her tenure as a dean, Bilson did not perceive herself as a pioneer in the field, viewing the opportunities before her as interesting challenges rather than ground breaking feats. Despite her commitment to inclusiveness and diversity, she downplayed her role at the forefront of change. In hindsight, she acknowledges the pivotal relationships with her male colleagues, emphasizing their commitment to hiring women, a crucial factor that facilitated her entry into law schools. While she maintained positive connections with many male colleagues, Bilson recognized an underlying gender issue during her tenure as dean, noting a subtle but discernible bias. For example, she observed that her proposals often faced more scrutiny than those of her male counterparts and her leadership decisions were sometimes second-guessed in ways that seemed linked to her gender. The gender dynamics became more evident when comparing her success as an interim dean to her official tenure,

⁵⁶² Holly Wiberg, "First-ever Woman Dean for U of S College of Law," *The Star Phoenix*, 30 April 1999.

suggesting that her temporary status alleviated some pressure. For instance, during her time as interim dean, Bilson found that her suggestions for curriculum reform were more readily accepted than when she was officially appointed dean.

Additionally, she noticed that her decisions regarding faculty appointments and promotions faced less resistance when she held the interim position, possibly because her temporary status was seen as less threatening to the established hierarchy. Bilson also recalled how she was more frequently invited to informal meetings and discussions as interim dean, where her input was valued without the underlying tension she later experienced in her official role. Bilson grappled with the disappointment of feeling judged in a way that male counterparts might not have been, speculating on the complex factors at play, including the presence of another internal candidate. As she considered the intricate web of perceptions and credibility, she concluded that a gender aspect played a role in shaping her experience.⁵⁶³

University of Calgary Faculty of Law

The University of Calgary Faculty of Law was established in 1976, and the faculty has played a pivotal role in shaping legal scholarship and practice in the Western region. As previously mentioned, the appointment of Margaret Hughes as the Dean of Law in 1984 marked a historic moment, making the University of Calgary Faculty of Law the first common law school in Canada to have a female dean. This milestone not only symbolized a significant step towards gender inclusivity in legal academia but also reflected the faculty's progressive approach to leadership. The first appointments at the law school included Constance Hunt, who became the first female law professor in 1976 and later served as dean, and Gail L. Starr, who was appointed as the inaugural law librarian. In 1978, E. Diane Pask

⁵⁶³ Beth Bilson Interview with Taylor Starr, 11 January 2024.

and M. Anne Stalker joined the faculty, followed by Kathleen Mahoney in 1979. By the 1979-80 academic year, the faculty included 20 full-time members, with women representing 20% of the faculty, including one librarian.⁵⁶⁴ This period was significant as it marked the integration of women into the faculty, though they were still navigating a male-dominated environment where discrimination and sexism were not uncommon.

Women played a crucial role in promoting feminism and combating discrimination and sexism from within Calgary's faculty. Scholars like E. Diane Pask were instrumental in these efforts, using their academic positions to bring attention to gender issues and to advocate for systemic change. Pask, one of the inaugural female faculty members at the University of Calgary Faculty of Law, co-edited the collection *Women, the Law and the Economy* [1984] with Kathleen Mahoney and Catherine Brown. This collection, which included a foreword by U.S. feminist icon Gloria Steinem, is a significant example of how women in academia used their platforms to address the intersection of gender, law, and economic issues.⁵⁶⁵

The book brought together a diverse group of women, including both academic and practicing lawyers, to discuss critical topics such as women in the workplace, employment benefits, income supplementation, consumer transactions, the economics of divorce, tax reform, and the implications of the Canadian Charter of Rights and Freedoms. The range of topics covered demonstrates the breadth of issues women were tackling, from practical legal provisions to more theoretical critiques.

For example, Kathleen Lahey's contribution to the tax debate within the volume offered a

⁵⁶⁴ The University of Calgary Faculty of Law Calendar 1979-1980, 1979-1980, (CU111235487), by Faculty of Law, courtesy of University Archives Collection, Libraries and Cultural Resources Digital Collections, *University of Calgary*.

⁵⁶⁵ E. Diane Pask, Kathleen E. Mahoney, and Catherine A. Brown, eds., *Women, the Law and the Economy* (Toronto: Butterworths, 1985).

feminist critique of the underlying assumptions of personal income taxation regimes, providing insights that went beyond the Canadian context and contributed to the global discourse on gender and taxation. This work exemplifies how female scholars not only identified and critiqued gender biases in existing legal frameworks but also offered new perspectives that could lead to more equitable policies.

The work of Pask, Mahoney, and their colleagues highlights the dual role of women as both participants in and critics of the institutions they served. Through the publication and promotion of feminist legal scholarship, they actively challenged the male-dominated culture of legal academia and sought to advance diversity and inclusivity. Despite these contributions, women continued to navigate invisible barriers linked to their underrepresentation in the profession. These barriers included facing skepticism about their competence, contending with gendered expectations in the classroom, managing disproportionate teaching and service loads, and overcoming the lack of mentorship opportunities more readily available to their male counterparts. Their efforts were instrumental in laying the groundwork for subsequent generations of women scholars and lawyers to pursue greater equality in the legal profession. This engagement with feminist issues and the promotion of gender equity contributed to a gradual shift in institutional culture toward greater inclusivity and the representation of diverse perspectives.

The appointment of Margaret Hughes as Dean of Law in 1984 coincided with a broader shift in the legal academy, driven by the work of women scholars who were actively challenging the status quo. The same year saw the publication of *Women, the Law, and the Economy*, from figures like E. Diane Pask and Kathleen Mahoney, whose work in feminist legal scholarship accentuated the growing momentum for gender equity within legal

institutions. While Hughes' appointment was influenced by the progressive ideologies prevalent on the Canadian prairies, it also reflected the cumulative impact of ongoing efforts by women within the legal field to address gender disparities. This simultaneous push for leadership roles and scholarly contributions marked a pivotal moment in the evolution of a more inclusive and diverse institutional culture within legal education.

Margaret Hughes's appointment as the Dean of Law at the University of Calgary in 1984 can be attributed, in part, to the inclusive rhetoric that had evolved on the Canadian prairies because of the influences of socialism and populism. The progressive ideologies embedded in socialist movements on the prairies during the early to mid-twentieth century fostered an environment emphasizing social justice and equality. As these movements gained traction, the commitment to inclusivity extended beyond political circles to various aspects of prairie society, including educational institutions. Populism, responding to the perceived neglect of the working class and rural communities, also played a role in shaping attitudes toward diversity and gender roles. This inclusive rhetoric likely contributed to the university's openness to appointing a woman as dean, aligning with the broader societal shift towards recognizing and valuing diverse perspectives.

The decision to appoint Hughes was not an isolated event but rather part of a broader strategy that remained evident in subsequent appointments, including the notable selection of Constance Hunt, who became the institution's first female law professor from its inception in 1976. Sheilah Martin's subsequent decanal appointment in 1992 added another layer of significance, emphasizing the institution's ongoing efforts to integrate women into leadership roles. While the University of Calgary Faculty of Law successfully fostered a gender-inclusive environment, other law schools in Canada attempted to follow the same trend but

often failed abysmally in the 1980s. The androcentric traditions deeply entrenched in the foundations of these institutions proved challenging to overcome, highlighting the pioneering nature of the University of Calgary's commitment to breaking gender barriers in legal academia.

While the appointments of Margaret Hughes, Sheilah Martin, and Constance Hunt at the University of Calgary Faculty of Law represented significant strides towards gender inclusivity in Canadian legal academia, they also underscored the tokenistic nature prevalent in many institutions during that era. These appointments, while ground-breaking, often operated within a framework that showcased a limited number of women in prominent roles without addressing the broader systemic issues of gender inequality. It is possible that these appointments were exceptions rather than indicators of a comprehensive commitment to dismantling androcentric traditions. Despite the symbolic progress made by these appointments, it is essential to critically examine the institutional structures and cultural shifts necessary for genuine inclusivity. The possibly-tokenistic nature of such appointments raises questions about whether these women faced unique challenges in navigating a male-dominated environment and the extent to which their experiences were reflective of broader trends within Canadian legal academia during that period.

Patricia Hughes' return to the position of Dean of the Faculty of Law, after a brief hiatus following the appointment of a man in 1996, raises intriguing questions about the continuity and evolution of gender dynamics within the academic leadership of the University of Calgary.⁵⁶⁶ The reappointment of a female dean following a period of male leadership

⁵⁶⁶ The first Dean of the Faculty of Law, John McLaren (U of C honorary degree recipient, 1997), started his five-year appointment in July 1975. In September 1975, Professor Gail Starr was appointed as the Faculty's first librarian. John McLaren 1975 – 1984, Margaret Hughes

suggests a potential acknowledgment of the importance of maintaining gender diversity at the helm of academic institutions. It prompts a reconsideration of the factors that led to this decision, such as the recognition of the unique perspectives and contributions women bring to leadership roles within the legal academy. This move may signify a commitment to fostering an inclusive environment that values diverse leadership experiences. Additionally, it invites reflection on whether or not this decision was a response to broader societal shifts in attitudes toward gender equality in the late twentieth century. Analyzing Patricia Hughes' return in this context provides valuable insights into the idea of gender representation in academic leadership positions and the University of Calgary's dedication to breaking traditional norms within its law faculty.

Although her experiences as Dean, beginning in 2001, went beyond the chronology of this dissertation, Patricia Hughes offered some insight regarding the place of women deans in the legal academy. Facing challenges regarding the decanal appointment at the University of New Brunswick (discussed in Chapter 5), Hughes reflected on the difficulties associated with being a woman in the role of dean. While acknowledging that other women had preceded her in similar positions, Hughes notes that dissatisfaction often marred their experiences. Her own experience at the helm of the institution was characterized by a lack of positive reception, particularly from some members of the school, not necessarily based on gender. Despite these challenges, Hughes recognizes the presence of strong and accomplished feminist scholars within the faculty, whom she found valuable collaborators. The dynamics were complex, with

1984 – 1989, Constance Hunt 1989 – 1992, Sheilah Martin 1992 – 1996, Michael Wylie 1996 – 2001, Patricia Hughes 2001 – 2006.

both supportive elements represented by these scholars and a less receptive environment in general.⁵⁶⁷

Hughes asserted that her appointment as dean was not driven by tokenism or simply to fulfill a quota based on gender. She clarified that her gender did not define her role within the institution, although she acknowledged a discernible pattern in expectations. Hughes suggested that adhering to certain anticipated norms was important for success, and any deviation from these norms could lead to challenges. Her hiring, facilitated in part by the administration to achieve specific objectives, encountered resistance from some senior faculty members who were not receptive to her proposed changes to the law school.⁵⁶⁸

Conclusion

The distinctive development of law faculties and the inclusion of women in leadership positions cannot be fully understood without considering the unique influences of early prairie developments such as homesteading, socialism, and feminism in shaping the historical narrative. This excursion through two centuries reveals the diverse and interconnected factors that have shaped women's roles in higher education within this unique geographical and historical context. The appointment of Margaret Hughes as the first Dean of Law in 1984 marked a significant milestone, not only for the University of Calgary Faculty of Law but for university faculties across Canada. As the only woman in a leadership role within a relatively new law faculty, Hughes embodied the successes of feminist voices, challenging longstanding norms in the Canadian legal profession. This historic moment coincided with broader societal shifts, as evidenced by the appointment of the Honourable Justice Bertha Wilson to the

⁵⁶⁷ Interview with Patricia Hughes and Taylor Starr, 1 November 2023.

⁵⁶⁸ Ibid.

Supreme Court of Canada two years prior.

The historical context of the prairies, spanning three provinces and four law faculties from 1961 to 1994, is vital in helping us better understand the role of women in the legal profession. Delving into the influence of historical notions surrounding homesteading on women's experiential paths toward leadership roles in Prairie law faculties provides a compelling perspective. The development of law faculties at the University of Alberta, University of Calgary, University of Manitoba, and University of Saskatchewan becomes a lens through which the legacy of Canadian prairie homesteading is seen. The appointment of the first female law dean in the Prairies symbolizes a significant milestone, challenging societal norms that viewed women as unsuitable for law professorships.

Despite the shift represented by the appointment of a female dean, it exposes the nuanced complexities of tokenistic representation within these institutions. This highlights a parallel struggle against covert sexism nationwide, emphasizing how women, against societal norms, asserted their presence and expertise both on the farm and in the academic realm. The historical connection between homesteading in the Canadian prairies and the development of higher education is a fascinating history.

As we acknowledge the complexities and challenges faced by women in the Canadian prairies, it is important to recognize the facade of inclusion that often masked deeper systemic issues. Testimonies from women who worked within faculty roles reveal the complexities of their experiences, highlighting the existence of subtle yet pervasive forms of gender bias. Despite the outward appearance of progress, the testimony underscores the need for a commitment to understanding the historical complexities of these issues. The paradoxical relationship between appointing women into gilded leadership positions and the legacies of

women in shaping the trajectory of university legal education are closely explored and examined in chapter 5.

Chapter 5

The Woman Tradition: The Paradox within University Legal Education in New Brunswick and Nova Scotia

Scholars specializing in Canadian legal history emphasize the role played by the introduction of university-based legal education in Halifax during the late 1880s because this development marked a shift in the way legal professionals were trained in Canada. Prior to the establishment of university-based legal education, legal training was often acquired through apprenticeships or through non-formal channels, which lacked a structured curriculum and academic rigor. This innovative approach, considered progressive at the time, has had a lasting impact on legal education in Canada. As aptly articulated by John Willis, “What was in its inception no more than a daring experiment with a new way of training students for the public profession of the law in Canada has become in the last twenty years the orthodox method, accepted right across the country.”⁵⁶⁹ While each law school had unique beginnings, the character of university legal education which began in the Maritime provinces is an important way in which to differentiate this region from the others.

This chapter explores legal education within the Maritime provinces, with a particular emphasis on the provinces of New Brunswick and Nova Scotia, and the historical development of the law schools at Dalhousie University, the University of New Brunswick [UNB], and Université de Moncton. The inception of these institutions, and their respective faculties of law between 1961 and 1994, highlights the enduring challenges women confronted in accessing professional spaces, showcasing a lengthy history of struggles with systemic discrimination in the region. In addition, the historical divisions between French and English-speaking

⁵⁶⁹ John Willis, *A History of Dalhousie Law School*, (Toronto: University of Toronto Press, 1979) 3.

region highlight an inherent contradiction in how events unfolded. The establishment of a new French common law faculty in the years beyond 1960 did not necessarily signify further opportunities for women at the time.

The influence of what came to be known as the “Weldon Tradition” unfolded in the aftermath of the Second World War, during a period marked by a whirlwind of changes within the university writ large, as well as language tensions between French and English-speaking populations. Named after Dalhousie law school’s first dean, Richard Chapman Weldon, the tradition introduced a curriculum that combined intellectual and practical training within a university context.⁵⁷⁰ In 1883, Osgoode Hall Law School approached legal education as a mere technical craft under the auspices of the Law Society of Upper Canada but Weldon dared to perceive the study of law as a comprehensive, full-time, liberal education with a commitment to public service. From its beginnings, the contours of legal education in Canada have oscillated between an emphasis on academic pursuits and practice-oriented curricula. However, the “Weldon Tradition’s” legacy is paradoxical, as it marked a pioneering step in university legal education while simultaneously perpetuating the exclusion of women from the legal profession. The tradition’s foundations excluded women, positioning them on the periphery of the progressive endeavours.

The founding of the Canadian Bar Association in 1914 enriched the character of legal education throughout Canada.⁵⁷¹ Preceding this development, legal training in regions beyond

⁵⁷⁰ Willis, *A History of Dalhousie Law School*, (University of Toronto Press, 1979) 3.

⁵⁷¹ John P.S. McLaren, “The History of Legal Education in Common Law Canada,” *Legal Education in Canada: Reports and Background Papers of a National Conference on Legal Education, Manitoba 23-26 October 1985*, (Federation of the Law Societies of Canada/Fédération des professions juridiques du Canada, 1987) 111.

the Maritimes and Québec adhered to the apprenticeship model rooted in the English tradition. Within this framework, senior members of the Bar made sporadic and rudimentary attempts to provide structure and context to legal learning, often through the delivery of lectures and moot exercises. Beyond these endeavours and the provision of reading lists for legal texts, aspiring legal professionals were largely left to their own in preparing for the bar examinations, which was a required step in entering the legal profession.

In New Brunswick, a nascent academic tradition in legal education can be traced back to the 1890s when a law school was founded in Saint John under the auspices of King's College in Windsor, Nova Scotia. In the early 1920s, following the merger of King's College with Dalhousie University, a decision was made to incorporate the law school into the University of New Brunswick. It continued to operate in Saint John, with a faculty primarily composed of practicing lawyers and judges.⁵⁷² In pursuing their legal education simultaneously with articling experiences, students followed a model more akin to Osgoode Hall rather than the approach taken by their counterparts at Dalhousie in Halifax.⁵⁷³

The partnership between the Saint John Law School and the University of New Brunswick in Fredericton was created in 1912. Under this collaboration, undergraduate students in the arts program at UNB gained the opportunity to undertake first-year law courses in Fredericton. However, an unfortunate fire in Windsor on 3 February 1920, cast doubt on the future of King's College. In 1922, the Carnegie Foundation extended an offer to fund the relocation of King's College from Windsor to Halifax, adjacent to Dalhousie University. This

⁵⁷² W.F. Ryan, "The University of New Brunswick Faculty of Law," *University of Toronto Law Journal*, Vol 16, (1965-66): 172.

⁵⁷³ John P.S. McLaren, "The History of Legal Education in Common Law Canada," *Legal Education in Canada*, 123.

relocation prompted the renaming of King's College to the University of King's College. Subsequently, discussions revolved around the fate of the orphaned King's College Law School, still situated in Saint John. One proposal was for the law school to continue its operations in New Brunswick, either independently or as part of the proposed University of King's College. The latter option proved challenging because of the existence of the Dalhousie University Faculty of Law and the planned integration of the University of King's College with Dalhousie.⁵⁷⁴ The emphasis, however, was on the development of a law school that would provide a university legal education which demonstrates how the Weldon tradition began to extend beyond Dalhousie.

In the late nineteenth century, educational institutions in Canada initiated a nationwide trend by admitting women to their programs. In this era, women entering professional spheres navigated immense challenges related to social expectations of gender roles. For example, Egerton Ryerson, a prominent educator whose influence extended beyond Upper Canada supported "sentimentalized education" for women.⁵⁷⁵ In the nineteenth century, sentimentalized education for women was particularly prominent. It was based on the prevailing societal expectations of women's roles as nurturers and moral guardians. The curriculum often revolved around literature, emphasizing sentimental novels and moral tales that were thought to instill proper values and virtues in women. This approach aimed to cultivate qualities such as empathy, compassion, and moral sensitivity in women, preparing them for their roles as wives and mothers. The sentimentalized education for women often focused on domestic skills, etiquette, and the cultivation of a gentle and nurturing demeanor.

⁵⁷⁴ D.G. Bell, *Legal Education in New Brunswick: A History*, (Fredericton: University of New Brunswick, 1992) 88; See also Constance Backhouse, *Petticoats and Prejudice*, 34.

⁵⁷⁵ Margaret Gillet, *We Walked Very Warily*, 11.

Ryerson's control on the education system was not confined to Upper Canada; it also left a lasting impression on education in the Maritime provinces, shaping policies and perspectives that affected the development of educational institutions. He emphasized qualities such as grace and polish, which contrasted sharply with the expectations of assertiveness, competitiveness, leadership, and stoicism placed on lawyers in the nineteenth century.⁵⁷⁶ Ryerson was just one example of the more general attitudes toward women's education at the time.

Augmenting these notions about women's roles in education was the opposition to co-education. Educators and policymakers of the time argued against it, believing that separate education for men and women was necessary to preserve gender distinctions. This separation highlighted the conflict between traditional gender norms and evolving ideas about women's education.

The initial cohort of women to attain degrees from universities across Canada attended Maritime institutions, which aligns with the fact that these institutions were among the first universities to introduce social science into the curriculum.⁵⁷⁷ An excellent illustration of this is Grace Annie Lockhart's graduation from Mount Allison University in Sackville, New Brunswick, in 1875, where she earned a Bachelor of Science degree (B.Sc.). Harriet Starr Stewart was the first woman in the British Empire to receive a Bachelor of Arts granted to her in 1882 at Mount Allison. Starr Stewart pursued further study and received her Master of Arts in 1885 and was also a charter member of the Women's Christian Temperance Union (WCTU) in New Brunswick. These ground-breaking accomplishments challenged the existing norms of the

⁵⁷⁶ Taylor D. Starr et al., "Appendix D: Life and Legacy of Egerton Ryerson," *Standing Strong Task Force Report and Recommendations*, 21 August 2021.

⁵⁷⁷ Marlene Shore, *The Science of Social Redemption*, 74-75; See also, Rosalind Rosenberg, *Beyond Separate Spheres: Intellectual Roots of Modern Feminism*, (New Haven and London: Yale University Press, 1982) xiv-xv.

time and served as a catalyst for shifting attitudes toward women's education. Furthermore, the second woman in the British Empire to study law at university and the first enrol in the Saint John Law School in 1893 was Edith Leavitt Hanington.⁵⁷⁸

The woman tradition, exemplified by pioneers like Lockhart, Starr Stewart, and Hanington, who pursued education at Maritime institutions, contributed to the restructuring of education. Lockhart even famously asserted: "Higher education of women – what is it? It is the higher education of women to fit them for the higher spheres of action, whether they be political, professional, or social – the same education that men need under the same circumstances."⁵⁷⁹ Ultimately, their contributions paved the way for future generations of women seeking higher education and professional careers, contributing to the ongoing march toward gender equality. This was not by any means an easy fight – the path to higher education was intertwined with the struggle for women's enfranchisement in the region.

Catherine Cleverdon stressed that the woman's suffrage movement in Atlantic Canada was conservative in nature. She asserted: "Nowhere has the traditional conservatism of the Maritime Provinces been more apparent than in securing political rights for women."⁵⁸⁰ Yet, in her study of the effect of confederation on the Maritime suffrage movement, Heidi MacDonald notes that Maritime women never bothered to form a regional suffrage association or attempted to keep in contact with neighbouring suffrage groups because they focused on overcoming the local opposition that separated them from the provincial franchise.⁵⁸¹ These changing ideas

⁵⁷⁸ D.G. Bell, *Legal Education in New Brunswick: A History*, (Fredericton: University of New Brunswick, 1992) 88; Backhouse, *Petticoats and Prejudice*, 337.

⁵⁷⁹ Annie Grace Lockhart, "The New Woman Has Come to Stay," *The Halifax Herald*, 2 July 1896. Mount Allison University Archives.

⁵⁸⁰ Catherine Cleverdon, *The Woman Suffrage Movement in Canada*, (Toronto: University of Toronto Press, 1950) 156.

⁵⁸¹ Heidi MacDonald, "Women's Suffrage and Confederation," *Acadiensis*, 46.1 (2017): 176.

prompted extensive re-evaluation of voter eligibility, initially showing preference for landowners.⁵⁸² Arguments supporting women's suffrage invariably spoke to women's stake in society – so, too, did these ideas characterize their access to a legal education. A feature of the initial wave of women entering higher education and law schools in the Maritimes was their close association with influential men within the respective professions. This trend mirrored a characteristic of the broader first-wave women's movement across Canada.⁵⁸³

For example, Grace Annie Lockhart (originally from a wealthy family) was married to John Leard Dawson in 1881. While Lockhart accomplished much on her own as an active social reformer and member of the WCTU, her life was conventional within the confines of being a minister's wife. Although the “wave” metaphor has been criticized by historians for often centering on the activism of middle-class white women and potentially diminishing the efforts of minority women, it holds particular relevance in the context of women's access to the legal profession because of the demographic profile of women who initially entered higher education. Thus, Joan Sangster's conceptual framework, described as “radio-waves” in her work *Demanding Equality*, provides a more precise representation of the periods of heightened activity involved in women gaining access to male-dominated spaces. During the twentieth century in higher education, feminism was multifaceted, with various frequencies and channels overlapping. Feminists not only inherited the historical legacies of earlier generations but also

⁵⁸² See for example Carol Lee Bacchi, *Liberation Deferred: The Ideas of the English Canadian Suffragists, 1877-1918*, (Toronto: University of Toronto Press, 1983); Ernest Forbes, “The Ideas of Carol Bacchi and the Suffragists of Halifax: A Review Essay on Liberation Deferred? The Ideas of the English Canadian Suffragists 1877-1918, (Fredericton: University of New Brunswick, 1985).

⁵⁸³ Sangster, *Demanding Equality: One Hundred Years of Canadian Feminism*, (Vancouver: University of British Columbia Press, 2021) 7-8; See also Nancy Hewitt, “Feminist Frequencies: Regenerating the Wave Metaphor,” *Feminist Studies*, 38.3, (Fall 2012): 658-680.

experienced distinct shifts, breakthroughs, and innovations specific to their own times. Professions that carried prestige— such as law, as Carol Lee Bacchi puts it – proved difficult to infiltrate. The women who tried to demolish the sex bar to these occupations faced immense opposition. This direct confrontation with sexual discrimination turned many women into suffragists and strengthened their energies to support their own cause.⁵⁸⁴

According to D.G. Bell, in the 1860s, women were rarely featured in local news stories, except when involved in criminal proceedings in New Brunswick. But within a single generation, newspapers in Atlantic Canada became fixated on social issues related to women and family life. Most of this simply brought to light the longstanding religious and philanthropic roles in which women had been quietly involved.⁵⁸⁵ Divorce and the suffrage issue were concerns that generated negative press coverage. While much of the coverage remained unfavourable until the end of the century, it succeeded in bringing previously private matters concerning women into the daily news of the community. By the 1890s, all four major newspapers in Saint John were advocating for female enfranchisement and offering sympathetic coverage to organizations such as the local Council of Women, the Women's Enfranchisement Association, the King's Daughters, and similar groups. Bell asserts that one of the newspapers, the *Globe*, published a ground-breaking editorial that commenced with the assertion:

We believe that all laws which discriminate against women should be repealed; that women should have the same rights in the country as men; that they should have the same privileges in educational and other institutions; and that, all distinctions by which they are not regarded as having the same rights in the state as men should be removed.⁵⁸⁶

⁵⁸⁴ Carol Lee Bacchi, *Liberation Deferred?* (Toronto: University of Toronto Press, 1983) 15.

⁵⁸⁵ D.G. Bell, *Legal Education in New Brunswick* (1992) 88.

⁵⁸⁶ *Globe*, 20 January 1881, cited in D.G. Bell, *Legal Education in New Brunswick*, 96.

When the Saint John Law School opened its doors in 1892, Clara Brett Martin's pioneering efforts to gain admission to the Law Society of Upper Canada were widely recognized. It was evident that a similar issue would arise in New Brunswick. Hanington took it upon herself to enroll in the school and qualify for it by passing the student examinations of the Barristers' Society. To this end, she petitioned the Society for permission to take the examinations.

Hanington's year in law school was marked by uncomfortable experiences, ultimately leading to her withdrawal from the field in 1894. Several other women enrolled in the early days of the Saint John law school, including Isabel Mowatt (admitted in 1896), M. Muriel Corkery (in 1921), Margaret H. Teed (in 1924), Evangeline E.M. Watts (in 1922), and the first woman to graduate from the school and become a lawyer in New Brunswick, Mabel P. French (in 1905). Much has been documented about French's struggles to gain admission to the bar in both New Brunswick and British Columbia. Like all women who attended the Saint John Law School during the King's era, she gained admission based on the Barristers' Society's student examinations.

King's College decided to admit women in 1891. While the record does not indicate if French had positive experiences in law school, her presence was met with discrimination in the Barristers' Society.⁵⁸⁷ In 1905, a court in New Brunswick reviewed French's admission to legal practice. When her application was presented to the court, the judges denied it unanimously, stating there were no precedents for the admissibility of women lawyers. The court revoked their decision and voted to make their recommendation contingent on the opinion of the Supreme Court regarding the admissibility of women to the legal profession, with this qualification being upheld by a full meeting of the Society. The Supreme Court unanimously

⁵⁸⁷ Bell, 100; Mossman, *Quiet Rebels*, 43-44.

declared that she “was not a person” within the meaning of the relevant legislation.⁵⁸⁸ However, in the next year, changes were based on the enactment of a legislative amendment based on “An Act to Remove the Disability of Women, So Far as Relates to the Study and Practice of the Law,” and French was admitted.⁵⁸⁹

Negative ideas regarding women’s roles in society continued into the latter half of the twentieth century. It was not until the 1970s and 1980s that gender relations began to change the nature of Canadian law schools, at least on the surface. With the public resurgence of the women’s movement, large numbers of women finally began to enter law schools and the profession. In the late 1970s, the Université de Moncton made a lasting mark on common law legal education. The university became the only institution in Canada to provide a comprehensive common law education entirely conducted *en français*. This step, although commendable, inevitably highlights another avenue where progress was met with opposition. While the francophone law schools in Québec appointed women in greater numbers faster than the rest of Canada, women were absent from the founding faculty of the law school at Université de Moncton. This omission underscores the complex dynamics of gender within the legal profession and legal education, prompting us to examine the continuing impact of structures and traditions that historically excluded women from these influential roles.

Women remained in their new roles as isolated others, experiencing invisible constraints on their career opportunities in law faculties. While the Maritimes region emerged as a pioneering hub for creating a distinctive legal tradition that would eventually establish its

⁵⁸⁸ Bell, 100.

⁵⁸⁹ New Brunswick: *An Act to Remove the Disability of Women, So Far as Relates to the Study and Practice of the Law*, SNB 1906, c 5; See also: Mary Jane Mossman, “Feminism and Legal Method: The Difference it Makes, 150; Lois K. Yorke, “Mabel Panery French (1881-1955): A Life Recreated,” *University of New Brunswick Law Journal* Vol 42, (1993): 2-49.

dominance across Canada.⁵⁹⁰

Dalhousie University School of Law

Dalhousie's law curriculum, amidst numerous challenges, maintained continuity and consistency over several decades. Despite enduring periods of turmoil, such as the crisis of 1944 to 1945, to be discussed shortly, the school managed to persevere and adapt under the leadership of figures such as Dean Vincent MacDonald. By the late 1960s, inspired by developments in Ontario, the curriculum underwent substantial revisions, reflecting broader trends in legal education across Canada. However, it was not until 1965 that women arrived on the faculty, marking a notable turning point in the school's history. Despite this, courses specifically focused on women and the law did not appear until 1975, accentuating the gradual change towards greater gender inclusion and recognition of women's important role in academia. The influx of new faculty and students, as well as advancements in teaching methodologies, contributed to a period of accelerated change and growth. Much of the success of the first institution to employ a university based legal education in common law institutions was owed to Weldon, as previously mentioned [See Appendix A, p. 347].

Weldon held the position of the sole full-time professor at the law school throughout his thirty-one-year deanship (1888-1914). He had a collaborative relationship with his colleague, Benjamin Russell, who covered what they considered the essential curriculum and relied on the Halifax bar to supplement the rest. Scholars have acknowledged Weldon's contributions as nothing short of heroic, teaching subjects such as crimes, torts, laws pertaining to shipping, and

⁵⁹⁰ Margaret Little, "'Half-Serious Movement' Sparks Controversy," *The Dalhousie Gazette*, 11 December 1980.

his distinctive “signature courses.”⁵⁹¹ However, Weldon’s deanship was not without its shortcomings. It remains uncertain whether Weldon actively discouraged women from pursuing legal studies, but he did not actively promote their involvement. He did not advocate for the Nova Scotia Barristers’ Society to reconsider its longstanding exclusion of women from the legal profession. Weldon did not play a role in integrating women into the esteemed halls of Dalhousie Law School. While Dalhousie admitted its first female student in 1915, only two Black students graduated during Weldon’s tenure.⁵⁹² Yet, special student status permitted the broadening of educational access because it allowed women who were regular college graduates in Nova Scotia to study law. The first Dalhousie woman to take a law course appears to have been Margaret Moody, a thirty-year-old arts student, who enrolled for the year 1899 to 1900.⁵⁹³ As well, Willis has asserted that the reason why women were not in the law courses was because they would not be admitted to the bar, so for women, the degree was worthless.⁵⁹⁴ However, Weldon’s legacy, as reflected in his ideas about legal education at the university level, eventually paved the way for women to gain representation in later years.

In her article, “Gender and Inequality at Dalhousie,” Judith Fingard addressed an important theme – the issue of access to universities and the influence of the first two generations of female students at Dalhousie University on the rest of the nation.⁵⁹⁵ Women’s enrollment at

⁵⁹¹ Philip Girard, “Richard Chapman Weldon,” *Dictionary of Canadian Biography*, Vol 15. (University of Toronto/Université Laval, 2005).

http://www.biographi.ca/en/bio/weldon_richard_chapman_15E.html

⁵⁹² Ibid.

⁵⁹³ D.G. Bell, “Slamming the Door on Brains: Two Early Twentieth Century Law Schools and the Narrowing of Educational Opportunity,” in Backhouse and Pue, *Promise and Perils of Law: Lawyers in Canadian History*, (Toronto: Irwin Law, 2009) 36.

⁵⁹⁴ Willis, *A History of Dalhousie Law School*, 234.

⁵⁹⁵ Judith Fingard, “Gender and Inequality at Dalhousie: Faculty Women Before 1950,” *Dalhousie Review*, (1985): 688.

Dalhousie began in 1881, and over the subsequent two decades, they constituted a substantial 23 percent of the student body. The majority hailed from Halifax, with a notable minority coming from other parts of Nova Scotia. These pioneering female students tended to come from middle-class backgrounds, with fathers primarily engaged in occupations related to business and the clergy.

The proportion of women students and faculty at Dalhousie remained low, with only a minuscule seven percent of the faculty being women in 1949. Although this disparity was not unique to Dalhousie, it was characteristic of the predominant male orientation of the institution's organization and programs. Unlike universities such as Mount Allison, McGill, and Western Ontario, Dalhousie lacked a women's college, which typically provided more opportunities for the employment of female faculty. Additionally, the absence of academic wardens or deans of women's residences further limited the support and community available to female students. Despite these challenges, among the first-generation students, some older individuals with prior teaching experience had a higher likelihood of graduating. However, approximately seventy-five per cent of all female students did not complete their degrees, often because of economic constraints or different intentions regarding graduation. Subsequently, their career paths diverged, encompassing employment, marriage (rarely both), or residing as unmarried adults in family environments. Conversely, the second generation of female students, spanning the initial two decades of the twentieth century, exhibited more varied backgrounds and a broader range of employment opportunities within the accepted women's sphere upon graduation. Dalhousie's historical development thus mirrors the broader trend of expanding university enrolments fueled by economic and social shifts while also revealing the unique experiences of female students

influenced by gender considerations.⁵⁹⁶

Willis asserted that the most obvious change in the full-time faculty at Dalhousie from 1969 to 1974 was that of size. From a professorial cohort of eight or nine it had grown to thirty-six. Willis noted that the most notable change that resulted was the surge of women in the 1970s. In the fall of 1971, women had been enrolling regularly and in such numbers that by 1975-1976 one in every four students was a woman.⁵⁹⁷ He notes “there will now be found among the students three kinds of people who would almost never have been found there ten years ago: two or three blacks; a handful of mature men and women who have already been out in life and have decided to go back to school to become lawyers (for example, an ex-oil driller, an ex-professional librarian, an ex-helicopter pilot); and more than a handful of unmotivated refugees from other disciplines.”⁵⁹⁸

Eunice Beeson was law librarian and Associate Professor of Law from 1959 to 1966. The newly appointed law librarian made substantial contributions to the field of law librarianship. These contributions were recognized by Diana Priestly, after Beeson’s untimely death in 1966.⁵⁹⁹ In the 1965 to 1966 academic year, two women were on faculty: Patricia Hyndman was appointed to the faculty of law in 1965, followed by Claire Beckton in 1975, and Faye Woodman in 1978.⁶⁰⁰

Faye Woodman recounted her educational and professional experiences, beginning with

⁵⁹⁶ Judith Fingard, “Gender and Inequality at Dalhousie: Faculty Women Before 1950,” *Dalhousie Review*, (1985): 688.

⁵⁹⁷ Willis, *A History of Dalhousie Law School*, 234.

⁵⁹⁸ Willis, 234.

⁵⁹⁹ Diana M. Priestly, “Canadian Association of Law Libraries,” *International Journal of Law Libraries*, (1973): 15.

⁶⁰⁰ In the 1965 *Dalhousie Calendar*, Patricia Hyndman is listed as Patricia Walker.

her graduation from Queen's Faculty of Law.⁶⁰¹ Interestingly, during her first job out of law school in the federal justice department, she was hired by a Black male lawyer. The justice department was actively trying to increase the representation of women in their department, which is why they hired her. During her time there, she encountered relatively few obstacles, aside from certain assumptions. Woodman worked with Bill Hopson in tax litigation and civil litigation, alongside colleagues like George Ainsley and others with expertise in tax matters. Her interest in tax issues was well-received, and she felt respected and supported in her role.

However, towards the end of her tenure at the justice department, when the idea of rehiring was considered, Woodman sensed that they had not thought about bringing her back, despite verbal assurances. She was not sure of the reasons for this, whether it was related to her competence or other factors, but her overall experience there was positive, with the exception of this aspect.

Subsequently, Woodman moved from the justice department to the Department of Finance Tax Policy Branch. At this juncture, she found herself in a similar position of being the only woman, especially within the field of tax policy. There was one other female lawyer within the Department of Finance, but she did not stay for long. Woodman's time in this role spanned from 1973 to 1978. During this period, she delved into work related to taxation, particularly concerning the ability of partnerships to deduct salaries and individual taxation of salaries and wages. In discussions, Woodman also touched upon the peculiar tax treatment of women who worked for their husbands. Although she worked on many projects concerning women's issues, she primarily dealt with personal taxation.

Woodman found it crucial in her career to focus on issues related to women's economic

⁶⁰¹ Faye Woodman Interview with Taylor Starr, 31 October 2022.

independence within the family for tax purposes. Her work often had broader economic implications. She then moved to the University of Ottawa, where she spent a year engaged in research. During this period, she authored an article focused on the unit of taxation, which marked her foray into more feminist-oriented tax policy discussions. This article examined how spouses should be taxed independently, contrary to the prevailing academic sentiment at the time. While conventional tax policy recommended taxing the family or spouses as a unit, Woodman's article challenged this notion and presented an alternative perspective, making it one of the first of its kind in Canada's policy discourse.⁶⁰²

In 1978, Faye Woodman was hired at Dalhousie where she took on teaching courses in tax law. Woodman reflected on her identification with feminism during that period, acknowledging that she and other early women may not have been as attuned to the issues as they should have been. Despite these nuances, Woodman pointed out that nobody explicitly labeled her as a feminist or described her writing as feminist.

Woodman disclosed during her interview that her focus on class issues throughout her career, to some extent, set her apart and potentially made her less popular among certain colleagues, particularly among women. She admitted to being preoccupied with tax matters, which related to finances, showing more interest in class and less in women's issues. However, Woodman's research (along with Claire Young) made a lasting impression on the courts and tax policy where women's issues were concerned. One important example was her article "A Childcare Expenses Deduction, Tax Reform and the *Charter*," which was cited by Justice Iacobucci in *Symes v. Canada* [1993].⁶⁰³

⁶⁰² Faye Woodman, "The *Charter* and the Taxation of Women," *Ottawa Law Review*, Vol. 22, (1990): 625-690.

⁶⁰³ Faye Woodman, "A Childcare Expenses Deduction, Tax Reform and the *Charter*: Some

The *Symes* case provides valuable context for Woodman's testimony by highlighting the convergence of various feminist perspectives within the litigation.⁶⁰⁴ The case has been generally hailed as a critical moment in Canadian feminist confrontations with the law.⁶⁰⁵ Mary Elizabeth Symes, the lawyer who brought the complaint forward, represented the perspective of self-employed professional women, emphasizing the challenges they faced in utilizing organized daycare because of their unique work schedules. However, diverse viewpoints emerged among those interested in the case. This included self-employed women with children earning low wages, for whom a tax deduction offered minimal benefits. Employed women with children shared similar childcare issues with Symes but could not deduct their work-related expenses. Stay-at-home mothers felt their caregiving contributions were undervalued, while professional men might have perceived increased job competition from women unburdened by childcare responsibilities. Social conservatives were concerned about the symbolic impact on traditional gender relations in society and the family. Social activists worried about the potential privatization of childcare through demand-side subsidies and the risk of losing support for universal and accessible daycare if high-income, self-employed women were granted unlimited tax deductions for childcare expenses.⁶⁰⁶

Letters to the Editor John Brown in the *Edmonton Journal*, reveal the various perspectives on the *Symes* case at the time each offering distinct viewpoints and critiques. One

Modest Proposals," *Canadian Journal of Family Law*, Vol 8 (1990).

⁶⁰⁴ Rebecca Johnson, *Taxing Choices: The Intersection of Class, Gender, Parenthood, and the Law*, (Vancouver: UBC Press, 2002) x.

⁶⁰⁵ Lorna Turnbull, "Taxing Choices: A Conversation About the Demands of Motherwork on Tax Policy," *Canadian Tax Journal*, 51.5 (2003): 1953.

⁶⁰⁶ Rebecca Johnson, *Taxing Choices*, x. Policy Forum: Comments on *Taxing Choices: The Intersection of Class, Gender, Parenthood, and the Law*, by Rebecca Johnson, *Canadian Tax Journal*, Vol 51.5 (2003) 1918.

side strongly supported Elizabeth Symes, advocating fair treatment under the law and emphasizing the significance of recognizing childcare expenses within professional contexts. Conversely, some voices urged caution regarding Symes' approach, citing concerns about potential exploitation of gender for personal gain and underscoring the importance of fiscal responsibility. Furthermore, broader criticism of tax laws and funding allocation exposed systemic biases within the socio-legal framework. This discourse transcended mere legal debates, prompting deeper reflection on the intricacies of gender equity and fiscal policy.⁶⁰⁷ While the Symes case commanded significant attention in women's interactions with the law during the 1990s, Woodman's recounting of her own experiences at Dalhousie University, particularly as a single woman, underscored a sense of isolation, though without assigning blame for this solitude.

Woodman recalled her role as an advisor and being a part of an important committee at Dalhousie for about 25 years, during which time she was the only woman. Woodman and Claire Beckton shared a close friendship, though Beckton noted that there were few female faculty members at Dalhousie during her time, leading to feelings of loneliness and difficulty in that context.⁶⁰⁸ However, Woodman did not associate this with any discrimination and mentioned reading Sheila McIntyre's memo, which detailed shocking experiences that differed from her own at Dalhousie. Woodman said that during the teaching of one of her courses, she had not observed that students formed such groups as the Men and the Law Society [MALS].⁶⁰⁹ She contemplated whether her experience differed because of regional or generational factors and

⁶⁰⁷ Income Tax and Mothers: Letters to the Editor John Brown from Jayanti Negi, Cecilia Forsyth, and David W.H. Ellis, *Edmonton Journal*, 31 December 1993.

⁶⁰⁸ Faye Woodman Interview with Taylor Starr, 31 October 2022.

⁶⁰⁹ Margaret Little, "Half Serious Movement Sparks Controversy," *The Dalhousie Gazette*, 11 December 1980.

considered the challenges faced by young women in an environment where most colleagues were married.⁶¹⁰

During Woodman's tenure on the hiring committee, affirmative action was a prominent issue, and she noted that at the time, it was generally regarded as a positive step. The hiring committee worked to establish criteria to increase the representation of women to the point where they no longer needed affirmative action at Dalhousie, as women eventually constituted over 50% of the faculty. She emphasized her personal significance as a woman chairing the hiring committee.

Woodman pointed out that, perhaps unintentionally, the committee primarily sought women and not necessarily feminist women. The individuals they hired were often feminist, or at least sensitive to women's issues. Regarding her own experience, Woodman recalled that when she went up for promotion early in her academic career, her work was reviewed by Warren Grover and Justice Frank Iacobucci, who labeled it as feminist and expressed a positive view. This review earned her the label of a feminist, a recognition she appreciated, even if she was not certain if the faculty at the time viewed it positively or negatively. The review itself was regarded as favourable, coming from prominent academics. Christine Boyle's testimony aligns with Woodman's, except that Boyle's work at the faculty coincided with the wave of feminist activism outside the law school in the 1980s. There were widely publicized issues related to Boyle – and she had a distinguished effect on the future generation of feminist women, Hester Lessard included.

Christine Boyle, reflecting on her early academic career, acknowledged that at the outset,

⁶¹⁰ Faye Woodman Interview with Taylor Starr, 31 October 2022.

she wouldn't have characterized herself as a feminist. She recalled her time at Queen's University in Belfast during the era of civil rights marches and focused efforts on achieving equality. Although her involvement primarily centered on issues related to general equality rather than gender-based equality, she did make an attempt to include sex equality in the Northern Irish constitution during that period, albeit without success.



Figure 5.1 – Christine Boyle, *Dalhousie University Archives*, 2 May 1986.

Her identification as a feminist came later, mainly in the late 1970s. An incident during her tenure as a visiting professor at Queen's Belfast further solidified her feminist perspective. She was married at the time, and the tax authorities refused to communicate directly with married women, opting to send tax-related letters to their husbands instead. This legal discrimination marked a vital moment for Boyle, where she recognized and confronted the sexism inherent in the law.

This personal experience, recognized as privileged by Boyle, opened her eyes to the injustices of gender-based discrimination. She began to incorporate issues of domestic violence and violence against wives into her academic work, as evidenced by an article she wrote for the *Northern Ireland Legal Quarterly*. By the time she joined Dalhousie, her commitment to

feminist legal analysis and activism was firmly established. At Dalhousie, Boyle became part of an enthusiastic community of women, and she played a role in developing the university's first institutional sexual harassment policy, marking a pivotal period in her growth as both a scholar and an activist.

Boyle related an anecdote from the 1980s when Dalhousie's law faculty was seeking a new dean – a position to which she applied. The appointment ultimately went to a highly esteemed male candidate, whom Boyle admired. Despite not securing the position, she remained undeterred. She contemplated pursuing the role of Associate Dean as a stepping stone to her goal. However, her application for this position also met with a negative outcome, and this recurrent theme troubled her. Boyle saw it as an issue and an unfortunate pattern, which started to take shape in the 1980s.

In an interview with R. St. J. MacDonald, Boyle was asked about her thoughts on affirmative action policies.⁶¹¹ She noted that there was an absence of affirmative action but there was a Presidential Advisory Committee working on a proposal. Clare Beckton, who was then a member of the faculty, was part of this committee. The committee made a proposal on affirmative action and the Dalhousie Faculty Association took up that proposal and tried to implement it into the collective agreement. It stated that in faculties with a gender imbalance, a woman should be hired unless a male candidate was significantly more qualified.

The new appointments of women to implement affirmative action began to make her question whether women were considered suitable for deanship roles at all. She observed that women who aspired to be involved in academic administration were often overlooked. Boyle

⁶¹¹ Christine Boyle Interview with R. St. J. MacDonald, *Dalhousie Law School: An Oral History, 1965-1990*, (Halifax: Dalhousie University Press, 1992) 190.

recounted the incident regarding Mary Jane Mossman whom she held in high regard, finding her to be a remarkable, intelligent, and diligent individual. Knowing her qualifications and capabilities, Boyle wondered why the perception persisted that women were somehow not suitable for decanal positions. Over time, the situation changed, but during the period to which Boyle referred, she found it a disheartening reality for women aspiring to leadership roles in academia.⁶¹²

Christine Boyle's, article "Teaching Law As If Women Really Mattered, or, What About the Washrooms," highlighted the educational literature on sexual inequality and how it was taught in law faculties by 1986. She provided information about the specific initiatives Dalhousie included within the curriculum. Boyle's assertion that law professors were complicit in perpetuating inequality prompted many to recognize their role in reinforcing gender imbalances rooted in the historical construct of law faculties as male-dominated institutions.⁶¹³ Boyle's article was significant and even influenced women in other law faculties. For example, Hester Lessard reflected on Boyle's influential scholarship and leadership on her own work.

Hester Lessard's career in law began when she earned her LLB at Dalhousie in 1985. Commencing her legal studies in 1982, Hester was categorized as a mature student, as the admissions criteria at that time included such a category. Despite facing what she considers a relatively standard experience for the era, an important element of her LLB studies was her association with Professor Christine Boyle.

In response to the question regarding her introduction to feminism, Lessard recalled that during her years in law school from 1982 to 1985, the Canadian Charter of Rights and Freedoms

⁶¹² Christine Boyle Interview with Taylor Starr, 1 June 2022.

⁶¹³ Christine Boyle, "Teaching Law as if Women Really Mattered, or, What About the Washrooms?" *Canadian Journal of Women and the Law* 2, no.1 (1986): 112.

came into effect in 1982, and the equality provisions of the Charter were implemented in 1985. Lessard found herself among the first wave of law students to receive instruction on this groundbreaking aspect of the Charter. During her final year, she participated in a seminar on equality provisions, led by Wayne McKay and Christine Boyle. This seminar was influential for her feminist thinking because it led her to write a paper on private spheres, which was subsequently published.⁶¹⁴

Without consciously planning to follow a feminist path, it became the natural progression for Lessard. She attributed this shift in perspective to her exposure to Christine Boyle's provocative questions, grounded in an overtly feminist viewpoint. Boyle's approach served as a considerable source of inspiration for Lessard. After completing her LLB in 1985, Lessard embarked on a clerkship for Bertha Wilson at the Supreme Court of Canada the following year before she arrived in her position at the University of Victoria, as noted in Chapter 3. This experience was not only interesting from a legal standpoint but was also a unique opportunity to witness a woman, Bertha Wilson, serving as the sole female justice on the court. Observing how Justice Wilson navigated her role and the challenges it entailed was a formative experience for Lessard.

Newspaper articles from the 1980s shed light on how Lessard might have been associated with Boyle during the peak of the feminist movement and amidst heated debates on women's rights. An article in *The Gazette* highlighted Boyle's role in feminist discourse when she released her important work, "A Feminist Review of Criminal Law," in 1986.⁶¹⁵ This 210-page document

⁶¹⁴ Hester Lessard, "The Idea of the 'Private': A Discussion of State Action Doctrine and Separate Sphere Ideology," *Dalhousie Law Journal*, Vol 10.2, (1986): 107-137.

⁶¹⁵ Christine Boyle et al., "Feminist Review of Criminal Law," (Ottawa: Status of Women Canada, 1985).

garnered national media attention, primarily because of two key recommendations it contained: the repeal of abortion laws and the non-punishment of individuals compelled to commit petty theft out of sheer necessity.

The Status of Women Canada commissioned this report because the federal Department of Justice and the Law Reform Commission were in the midst of a comprehensive review of criminal law. In the article, Boyle emphasized the importance of women's freedom to voice their criticisms of judicial decisions. She drew an analogy, suggesting that if women were responsible for making and adjudicating all laws, individuals might feel the need to express their concerns when they found a law unfair to men.

Boyle's primary concern revolved around the oversimplified concept of equality upheld by certain judges who had acknowledged gender-specific offenses, like the law prohibiting relations between a man and a girl under 14, unconstitutional. Boyle's study argued that specific laws were necessary because female children could face distinct physical harm. Furthermore, she emphasized that the central issue regarding abortion within her report was not its moral right or wrong but rather the question of control—whether the state, medical professionals, or women themselves should have the final say. Boyle recalled receiving a mix of positive and negative feedback on her report at the time. While her colleagues generally supported her, she faced criticism from external sources, particularly those outside the faculty of law. Beyond this contentious time in the late 1980s, Dalhousie made another important appointment to its faculty.

Esmeralda Thornhill's tenure at Dalhousie serves as a compelling illustration of the paradoxical nature of faculty appointments. The ways in which racialized women had differential experiences in the law school context are evidence of the continuity of historical patterns of exclusion in law schools. Thornhill's contributions during her time as the inaugural James

Robinson Johnston Chair in Black Canadian Studies, commencing in 1996, are both noteworthy and emblematic of the legacy of this complex paradox.⁶¹⁶ In addition to her many contributions to the institution during her tenure as chair, Thornhill enriched the law school curriculum as she established a few courses in Black Canadian Studies from 1998 to 2001: Critical Race & Legal Theory I, Human Rights and Protection in Canada, and Critical Race and Legal Theory: Race, Racism, and Law in Canada.⁶¹⁷

Thornhill emerges as a remarkable figure, distinguished by a diverse array of skills and a profound commitment to causes within intersectionality, both in the realm of legal education and beyond. Her establishment as the first African Canadian woman to achieve a Tenured Full Professorship of Law in Canada signified a milestone that defied historical gender and racial biases.⁶¹⁸ In this context, Thornhill's achievements represent progress, embodying the evolving narrative of women's contributions to higher education in Canada. As a pioneer and advocate of social justice, Thornhill's legacy is also intertwined with her role as a founding member of the Congress of Black Women of Canada. Moreover, she etched her name in history by introducing the first university-accredited course on Black Women's Studies in Canada at Concordia in 1983. Thornhill was honoured for this work at Concordia in 1997.⁶¹⁹

Thornhill's years at Dalhousie were also marked by her work in bringing the faculty's attention to a legal battle involving systemic racism. Constance Backhouse charts the legal

⁶¹⁶ "Human Rights Educator Named to Black Studies Chair," *Dalhousie News*, 31 January 1996. Dalhousie University Archives. MS-1, Box 101, Folder 1.

⁶¹⁷ Curriculum Development, *James Robinson Johnston Chair in Black Canadian Studies Archive*, 22 April 2002. http://ethornhill.ca/jrj/holder_currdev.html

⁶¹⁸ Annie MacDonald Langstaff Series with Professor Esmeralda Thornhill, McGill Centre for Human Rights and Legal Pluralism, 3 February 2022, https://www.youtube.com/watch?v=P1KVPBb_C14.

⁶¹⁹ "Concordia Honours Thornhill," *Dalhousie News*, 12 February 1997.

complications of systemic racism in *Reckoning with Racism: Police, Judges, and the RDS Case*, and the effect it had on the university legal community.⁶²⁰ In fact, Thornhill recently noted that there was resistance to a motion to commend the RDS Lawyer at the time of the trial.⁶²¹ The Law School Faculty Council meeting on 26 September 1997 took place on the same day the Supreme Court of Canada rendered its judgement in *RDS*. In her capacity as the Chair in Black Canadian Studies, Thornhill put forward a motion of commendation to recognize and formally record both the success of the *RDS* undertaking and the considerable investment and valuable assistance of Dalhousie's Faculty of Law and its Legal Aid Clinic. Burnley Rocky Jones graduated from Dalhousie in 1974. While there, he helped to establish the Indigenous, Black, and Mi'kmaq initiative to bring Nova Scotia Blacks and Indigenous People to the profession. In 1992 at the age of fifty-one, he became one of its first graduates.⁶²² The motion put forward by Thornhill underscored the outstanding contribution of the *RDS* lawyer Dalhousie alumnus and product of the Indigenous, Black, and Mi'kmaq initiative.⁶²³ The motion read:

In light of today's Supreme Court of Canada's judgement in the landmark *RDS* case, we, the Faculty Council, acknowledge and affirm the contributions made and the role played by Dalhousie Law School Graduates, Faculty members, students, and staff in this case development. We are particularly proud of the achievement of Burnley Rocky Jones, not only for his successful representation at trial right up to the Supreme Court of Canada, but more importantly, for the proficiency in which his litigation clarified for the Court the factor of "Race" and helped to move law forward.⁶²⁴

⁶²⁰ Backhouse, *Reckoning with Racism: Police, Judges, and the RDS Case*, (Vancouver: University of British Columbia Press for the Osgoode Society, 2022) 32, 186.

⁶²¹ Esmeralda Thornhill, "Re-thinking and Re-framing *RDS*: A Black Woman's Perspective," *Unsettling the Great White North: Black Canadian History*, (Toronto: University of Toronto Press, 2022) 560.

⁶²² Backhouse, *Reckoning with Racism*, 32.

⁶²³ Thornhill, "Re-thinking and Re-Framing *RDS*" (2022) 561.

⁶²⁴ Original motion presented to Faculty Council, formally recorded in the Law Faculty Council Meeting Minutes, on file with Esmeralda Thornhill, *Ibid*.

Thornhill observes that the motion had an unexpectedly disruptive impact. When the motion was presented to the Faculty Council and read aloud, it triggered an extensive discussion. During this discussion, a number of her Law Faculty colleagues raised objections and opposition, primarily focusing on the latter part of the motion, which specifically commended the *RDS* lawyer, Rocky Jones. This resistance appeared suddenly, with numerous individuals repeatedly voicing their objections to the proposed motion. Some faculty members argued for the inclusion of additional names, such as that of Dianne Pothier. During the discussion, Pothier made it clear that it “was not necessary” for her name to be specifically mentioned in the motion alongside Jones.⁶²⁵

Thornhill found it both ironic and perplexing that her colleagues seemed so fixated on suppressing and silencing the aspect of race by employing procedural obstacles to minimize and exclude. After carefully listening to the opinions expressed by the Council members, Thornhill, as the originator of the motion, exercised her right to call for a vote. To the surprise of many, this motion of commendation, which had clearly unsettled numerous individuals, was ultimately passed unanimously, without a single objection.

It is worth noting that Dianne L. Pothier joined the faculty on 1 July 1986 specializing in Labour Law, Constitutional Law, Public Law, and Disability Law.⁶²⁶ When questioned by Macdonald about affirmative action within the law school, Pothier pointed out that the law school had demonstrated a greater openness to affirmative action policies compared to other parts of the university because of affirmative action’s legal origins. Referring to the university’s

⁶²⁵ Original motion presented to Faculty Council, formally recorded in the Law Faculty Council Meeting Minutes, on file with Esmeralda Thornhill.

⁶²⁶ Dianne L. Pothier Interview with R. St. J. MacDonald, *Dalhousie Law School: An Oral History, 1965-1990*, (Halifax: Dalhousie University Press, 1992) 261.

collective agreement of 1990, Pothier explained that this policy was to remain in effect within a unit until a 50-50 gender balance was achieved, although it was undergoing reform. The policy, which had been approved by the Board of Governors and the University Senate, was in the process of being integrated into the collective agreement at that time. Over time, this policy was expanded to encompass not only women but also various other minority groups, including individuals with disabilities.

Regarding the issue of pay equity at the faculty, Pothier mentioned the ad hoc study conducted in 1989, which examined the university-wide community and segmented it into different units. In this evaluation, the law school was found to have the least significant pay equity disparity. However, in the sciences, the pay gap was considerable, contrasting with the relatively minor discrepancy observed in the law school.⁶²⁷ By 1997, Pothier became involved in the *RDS* case.

An article from 11 March 1997 highlights the complexities of the case and the involvement of Dalhousie Law School's Dianne Pothier. Rocky Jones stated outside the Supreme Court of Canada that: "For the Crown to argue that a judge is racially biased... it's unheard of. The only reason it happened is because she is a black woman... The entire appeal, as framed by the Crown, is rooted in the fact that this is a black woman who made a judgment involving a black kid. She dared to address the issue of race and sided with the kid over the police officer. Pretty clearly, the Crown's argument is inherently biased." Jones was one of several lawyers advocating for the preservation of Judge Corrine Sparks' December 1994 decision to acquit the teenager of assault charges. In delivering her verdict, Sparks, Canada's first Black Female judge, remarked that police officers sometimes overreact, "particularly when they're dealing with

⁶²⁷ Pothier Interview with Macdonald, 276.

nonwhite groups.”⁶²⁸

Both the Nova Scotia Supreme Court and the province’s Court of Appeal had ordered a new trial on the grounds of an appearance of bias by Sparks against the police, even though the issue of race was not raised during the trial. The Supreme Court reserved its decision, with one of the issues for the nine-member court being whether racism should be considered a factor in cases involving different racial backgrounds. During his arguments, Jones highlighted that black individuals have long contended they are treated unfairly by the court system. “The courts have turned a deaf ear to these claims,” he noted, emphasizing the significance of a black judge raising the issue of race, which has suddenly drawn attention to claims of bias in the judiciary.

Several lawyers representing women and black groups asserted that racism was an underlying concern, even if it was not explicitly mentioned during the trial. Pothier, who represented the teenager, stated, “What is unfortunate is the fact that the acquittal was overturned because the trial judge openly addressed what everyone could see.”⁶²⁹

Yet, Dalhousie’s Faculty of Law initiated progressive commitments to remedying systemic discrimination, epitomized by more appointments of women scholars. The appointments of Carol Aylward, Mary Ellen Turpel-Lafond, Patricia Monture, Dawn Russell, Anne La Forest, Moira McConnell, Lorene Clark, Audrey Macklin, and Teresa Scassa further enriched Dalhousie’s faculty, exemplifying the institution’s commitment to affirmative action and gender diversity. For example, Aylward was hired in 1991, granted tenure in 1999, and became a professor of law and the director of the Law Programme for Indigenous Blacks and Mi’kmaq Students at Dalhousie Law School. In her work, she applied new ideas on the

⁶²⁸ “Crown Biased: Lawyer,” *The Leader Post*, 11 March 1997.

⁶²⁹ “Crown Biased: Lawyer,” *The Leader Post*, 11 March 1997; See also Constance Backhouse, *Reckoning with Racism*.

principles of Critical Race Theory [CRT], a framework rooted in public-interest and civil rights law, which was gaining traction at the time to address Canadian racial problems and issues and continues to influence legal and social discourse today. Her contributions include her treatment of litigation, which successfully integrated the insights of CRT with the practical challenges faced by lawyers working for racial justice.⁶³⁰ This approach not only advanced Canadian legal thought but also challenged U.S. counterparts to reconsider their neglect of *praxis*. Despite her achievements, Aylward used her position to highlight feelings of ostracism within Dalhousie's law faculty, a testament to the complex and intersecting experiences with discrimination of women in academia.⁶³¹

Mary Ellen Turpel-Lafond was hired in 1989 and left to take up a position as Aboriginal Scholar at the university of Saskatchewan in 1996.⁶³² In the late 1980s, Turpel-Lafond made important contributions to Dalhousie's Faculty of Law, where she was a pioneering figure. As one of the first Indigenous women to earn a law degree in Canada, Turpel-Lafond brought a unique perspective to the institution, emphasizing the importance of Indigenous legal traditions and perspectives in the curriculum. Her work at Dalhousie included advocating for the integration of Indigenous legal principles into mainstream legal education, which helped pave the way for future reforms. Additionally, she played a central role in mentoring and supporting Indigenous law students, fostering a more inclusive and diverse academic environment. Turpel-Lafond's influence extended beyond the classroom as she engaged in public discourse on Indigenous rights and justice, contributing to the broader movement for recognition and respect

⁶³⁰ Carol A. Aylward, *Canadian Critical Race Theory: Racism and the Law*, Halifax: Fernwood Publishing, 1999.

⁶³¹ Kirk Makin, "How Teacher of Equality Ended Up in Racial Fight," *The Globe and Mail*, 2 April 2001.

⁶³² Discussed in Chapter 4; Erin Legg, "Mary Ellen Turpel-Lafond," *University of Regina and Canadian Plains Research Center*, 2007.

of Indigenous peoples within the Canadian legal system.

During her career, Turpel-Lafond was awarded 11 honorary degrees from various Canadian universities, recognizing her contributions to the legal field and advocacy for Indigenous rights. However, following the recent controversy surrounding her ancestry claims, all honorary degrees have either been rescinded by the relevant universities or voluntarily relinquished.⁶³³ For instance, the University of Regina rescinded her honorary degree awarded in 2003, while Thompson Rivers University and Brock University saw Turpel-Lafond voluntarily relinquish her honors from 2009 and 2010, respectively. This controversy also extended to her appointment as an Officer to the Order of Canada in December 2021; in September 2023, after doubts about her Indigenous ancestry surfaced, she was removed from the Order at her request. Her actions alone did not prompt responses from law faculties. Prominent Indigenous women, such as Patricia A. Monture, also played pivotal roles in advancing Indigenous representation in Canadian legal education and leadership.⁶³⁴

⁶³³ Geoff Leo, “Rescind Turpel-Lafond’s Honorary Degrees or We’ll Return Ours, Say High-Profile Indigenous Women,” *CBC News*, 14 December 2022.

⁶³⁴ Jeannette Corbiere-Lavell, Letter of Sympathy for the family and friends of Patricia Monture, *Native Women’s Association of Canada*, 17 November 2010; Cynthia Gray, “A Question of Sovereignty: Patricia Monture vs. the Queen,” *Canadian Woman Studies/ Le Cahiers de la femme* 10.2 (1987); Patricia Monture-Angus, *Thunder in my Soul: A Mohawk Woman Speaks*

Bringing attention to the various appointments of women faculty members at Dalhousie in the late 1990s reveals the complexities and contradictions of the “woman tradition” paradox. While progress had been made in advancing gender and racial diversity within the faculty, challenges persisted. Women often felt isolated and not fully integrated, even after affirmative action policies and increased representation. Years later, representation alone did not eradicate structural issues related to women’s intersectional access to the Canadian legal academy. These contradictions were also evident during the early years of women in the law faculty at the University of New Brunswick.

University of New Brunswick Faculty of Law

Lord Beaverbrook, born William Maxwell Aitken, was a prominent Canadian-British businessman, politician, and newspaper magnate during the early twentieth century. Known for his influential role in the media and politics, Lord Beaverbrook played a fundamental part in the development of the University of New Brunswick Faculty of Law, contributing to its growth and prominence through his philanthropic endeavours and support.

Beaverbrook had a close relationship to Mary Louise Lynch, but it did not prompt him to set precedent and begin discussions about the law faculty composition during times of change.⁶³⁵ It took fifty-three years for the law faculty to see a woman among its ranks. In 1976, the law faculty brought on its first female assistant professor, Anne McLellan. As discussed in Chapter 4, by 1980, McLellan had moved to the University of Alberta Faculty of Law, where she specialized in teaching constitutional law, civil liberties, and human rights. During her tenure at

(Halifax: Fernwood Publishing, 1995), 52; Patricia Monture-Angus, “The Lived Experience of Discrimination: Aboriginal Women who are Federally Sentenced” (Canadian Association of Elizabeth Fry Societies, 2002); Patricia Monture-Angus, “Ka-Nin-Geh-Heh-Gah-E-Sa-Nonh-Yah-Gah,” in *Breaking Anonymity*, 1995.

⁶³⁵ Nicole O’Byrne, Mary Louise Lynch, *Early Women*, Anna Lund and Virginia Torrie, eds. Forthcoming.

Alberta, she took on various administrative responsibilities, including as Acting Dean in 1991-1992.⁶³⁶ Yet, women had played important roles in major changes and developments of the law school that have gone far too long without historical recognition.

In 1948, Beaverbrook, newly appointed as the Chancellor of the University of New Brunswick, was shocked by the conditions of the instructional spaces used by the law school in Saint John's Provincial Building. Beaverbrook took action by purchasing two buildings on Germain Street for the school and also acquired the late F.P. Starr's residence on Coburg Street, intending to create a shared reception center for the law school and the Saint John City Council.

Marie Louise Lynch received her Bachelor of Civil Law from the University of New Brunswick in 1933. Lynch had practiced law with the Saint John law firm of Gilbert, McGloan and Gillis and was the first woman to argue a case in the New Brunswick Court of Appeal.⁶³⁷ Before 1950, the UNB Faculty of Law in Saint John had only one law professor, with the majority of instruction provided by members of the Court of Queen's Bench of New Brunswick and practicing barristers. In 1950, the faculty appointed two professors of law, expanding its academic resources. In 1953, the law school relocated from the Provincial Building to Beaverbrook House, simultaneously establishing its dedicated law library. This year also marked the appointment of the first full-time dean of law. In 1956, an additional law professor was added to the faculty.

In 1959, the law school moved from Saint John to Fredericton, initially settling in Summerville House. Summerville House had previously served as Lord Beaverbrook's residence in Fredericton before being donated to UNB in the late 1950s. The UNB Faculty of Law

⁶³⁶ Stephen Azzi, "Anne McLellan" *The Canadian Encyclopedia*, 10 October 2006.

⁶³⁷ Kay Alsop, "She Calculates the Risk," *The Province*, 2 October 1975.

remained at Summerville House until the inauguration of the new law building in October 1968. Lynch became involved in university affairs, but she was not an appointed member of the law faculty. In 1968, Lynch's expertise was required by the UNB President Colin B. Mackay for a consultation of the name of the new faculty building – comprising all men.⁶³⁸ The new building was named Ludlow Hall (after George Ludlow, built with the support of Beaverbrook. Beyond her mere suggestions on building naming, Lynch's legacy has made a lasting impression on the institution with the creation of a chair in women and the law designated in her honour, to be discussed shortly.⁶³⁹ Her important contributions to the development of the law school were acknowledged in the 1990s.

The 1960s witnessed a period of reform in post-secondary education across New Brunswick, leading to changes in the provincial education system. Saint John lost various programs as a policy of centralization resulted in the relocation of the Teachers College, the nursing school, and all engineering and architecture classes to Fredericton. Additionally, St. Thomas University, a Catholic liberal arts institution in the town of Chatham, was moved to Fredericton during the same period under Mackay. While the 1960s were important for fostering numerous university reforms, the law faculty still lagged in appointing women to its faculty compared with other parts of the university.

Following McLellan, Sandra K. McCallum served as professor from 1977 to 1979 before making her move to the University of Victoria in 1980.⁶⁴⁰ Mary Elizabeth Hatherly became a

⁶³⁸ Personal Letter from UNB President Colin B. Mackay to M.L. Lynch, 8 April 1968. *University of New Brunswick Archives*. UA RG 136 President's Papers, Series 9, Subseries 2, unprocessed box of Colin B. Mackay papers in file [marked "M.L. Lynch."](#)

⁶³⁹ Nicole O'Byrne is working on an article on the impact of Mary Louise Lynch on the UNB Faculty, forthcoming.

⁶⁴⁰ Canadian Association of Law Teachers Directory, 1980-1981, 87.

part of the faculty in 1979, taking on the role of assistant professor with a wide array of subjects in her teaching portfolio, including jurisprudence, constitutional law, family law, writing, and contracts.⁶⁴¹ However, in the academic year 1980 to 1981, a shift occurred. Hatherly found herself as the sole woman among the full-time faculty comprising eighteen professors, and she subsequently went on leave. This period marked a temporary absence of female representation in leadership roles within the school.

The development of the law school at UNB has been categorized into three distinct phases. The first phase, spanning from its inception in 1892 until the 1950s, saw the school operating as a professional training institution, primarily run by the Saint John bar and bench on a volunteer basis. The second phase, from the early 1950s to the 1970s, was marked by dedicated efforts to transform the faculty into a fully integrated part of the University, expanding its scope and operations. The third phase, from the early 1970s to 1992, centered around the challenges of enhancing the Law Library, building a strong faculty, attracting students, and solidifying the school's academic and pedagogical standing.⁶⁴² By 1992, these collective efforts had yielded results in establishing UNB's Law Faculty as a prominent player in Canadian legal education. The school witnessed a record number of applications for its first-year class, with over 1,400 applicants, a substantial increase from 1,250 in 1991 and 900 in 1989. Furthermore, the Faculty welcomed its nineteenth faculty member, nearing its established goal of twenty for a robust faculty complement.⁶⁴³

Patricia Hughes was hired as the inaugural Mary Louise Lynch Chair in 1992 after a non-

⁶⁴¹ Ibid, 56.

⁶⁴² Bell, 23.

⁶⁴³ H. Wade MacLauchlan, "The Law School at 100," *The University of New Brunswick Law Journal*, Vol 41 (1992): 2.

linear career in academia and law. With a PhD in Political Theory, Hughes entered law school with a different approach than her colleagues. Hughes was always conscious of feminism – since the age of 12, she recalled moments where she would discuss the differences between men and women with her friends. While her career trajectory was considered untraditional at the time, Hughes made a lasting impression on the law school at UNB.

Hughes recalled that she was initially preparing to pursue a different opportunity when she received a call from Wade MacLauchlan, who was the dean of the law faculty at the time. Hughes had no prior knowledge of the purpose of the call and initially suspected it might be related to writing an article, given MacLauchlan's involvement with law journals. At the time of Hughes' interview, the university was grappling with issues concerning anti-women behaviour among students. To her, it seemed as though the university administration was seeking someone to address these challenges, although they had not set out clear expectations for her role.⁶⁴⁴

Hughes recalled that her role involved teaching courses, conducting feminist workshops, and legal workshops, which she interpreted as an opportunity to explore the broader spectrum of feminism and how the law affected women in various contexts. Her personal passion lay in the community aspect of the work, although it wasn't explicitly part of the job description. Hughes enjoyed the freedom to engage with individuals outside the law school, collaborating with people from diverse backgrounds. The campus boasted a substantial number of women dedicated to women's issues in their respective fields, providing Hughes with a chance to have discussions with women from various disciplines. Additionally, there was a centre dedicated to addressing violence against women, and Hughes and her team were actively involved in projects there.

The environment fostered interdisciplinary collaboration, with figures like Myron

⁶⁴⁴ Patricia Hughes Interview with Taylor Starr, 3 November 2023.

Gochnauer championing women's issues and feminism long before Hughes' arrival. While there were conservative voices within the faculty who had accepted the decision to create the chair, there were also concerns about how it would function and succeed. However, Hughes' Inaugural Lecture of the Mary Louise Lynch Chair in Women and Law delivered 7 October 1992 addressed the growth of women's presence in the law school, the legal profession, and in the political and economic social life of the nation at large. She also mentioned that the Chair represented more than the physical presence of women at the faculty – it was an opportunity to implement the values that feminists brought to the enterprise, values which contained the promise of transforming the structure of legal education.⁶⁴⁵ She further noted that when members of the Faculty of Law decided to establish the Chair they knew that they had taken a major step in acknowledging the need to enhance women's place in the law school. Hughes saw herself as the beginning of the process – she decided that there was a long way to go which involved a fundamental restructuring of the curriculum, and how it was taught.

Hughes noted that when women were initially granted entry into the legal profession, their inclusion resulted in minimal change; progress was slow, and the numbers were limited. At that time, there was little to no scrutiny of the law's principles, methodologies, applications, or exclusionary tendencies. However, the contemporary feminist challenge had expanded beyond superficial changes to question the fundamental underpinnings of the legal system. The imperative was a comprehensive restructuring that aimed to address historical exclusionary practices, striving to achieve equity for all marginalized communities. From an ethical and political standpoint, she perceived this transformation as crucial.

⁶⁴⁵ Patricia Hughes, Inaugural Lecture of the Mary Louise Lynch Chair in Women and Law, 7 October 1992 in "Feminism and Legal Education: Quandaries of Inclusion and Exclusion," *The University of New Brunswick Law Journal*, Vol 42, (1993): 157.

Hughes asserted that understanding gender and other diversity issues was indispensable for competent legal practice. These issues were not external to the field of law but integral to it. She emphasized how the role of law educators could shape future lawyers by imparting knowledge about how the legal system interacted with and must adapt to the varied needs of communities, encompassing women and men from diverse backgrounds and identities.⁶⁴⁶

Hughes' lecture in her capacity as chair holds historical significance, marking a transformative shift in the role of women in the legal field. Her statement reflects the evolution of women's participation in law, highlighting a transition from initially receiving permission to enter the legal profession to questioning its fundamental principles and biases. This transformation emphasizes the woman tradition paradox, as women, while gaining access, faced entrenched legal precepts and methodologies that often excluded their perspectives. Furthermore, Hughes' advocacy called for a comprehensive re-evaluation of the legal system, emphasizing that equity can only be achieved through a major restructuring that addresses the marginalized communities affected by exclusionary practices. She presents this as both an ethical and political imperative, emphasizing that understanding gender and diversity issues is essential to being a competent lawyer.

When asked about the existence of a "Chilly Climate" at the UNB faculty, Hughes thought that in the relatively smaller environment where her position as Chair of Women and Law carried a certain influence, people paid heed to her views and recommendations. This experience of being heard and respected, or sometimes not, transcended the specific role of the

⁶⁴⁶ Hughes, Inaugural Lecture of the Mary Louise Lynch Chair in Women and Law, 7 October 1992, 160.

chair. Hughes recalled her time as the executive director of the law commission, where she had a positive working relationship with one of the chairs. However, there were instances during meetings where he would express his opinions and, as the executive director, she needed to interject. In some cases, he would casually dismiss her input, likely because of his comfort with their working dynamic, as Hughes let the frequent dismissals pass. She did not feel the same sense of disregard in the law faculty context.⁶⁴⁷ Prior to her tenure at the law commission, Patricia Hughes served as the Dean of the University of Calgary Faculty of Law from 2001 to 2006, having not been chosen for the position at the University of New Brunswick in 1996. The institution, however, saw the importance of appointing a woman to the decanal position. Anne Warner La Forest, who graduated with an LLB in 1984, achieved a historic milestone when she assumed the role of Dean of Law in 1996. She was the first and remains the only woman to have held this prestigious position during the faculty's 114-year history. Her service as Dean continued until 2004.

Université de Moncton Faculté de Droit

La création de l'Université de Moncton constitue une étape importante dans l'histoire de ce que l'on a appelé la renaissance acadienne.

– Gérard Leblanc, 31 August 1984, *Archives de Radio-Canada*.

C'est la veille d'une ère nouvelle. Des avocats pratiquant en français dans un système propre à la culture anglo-saxonne. N'eut été la loi sur les langues officielles, la chose n'aurait probablement jamais été imaginée.

– Benoit Duguay, 8 June 1980, *Archives de Radio-Canada*.

In June 1963, the New Brunswick legislature acted upon the recommendations of the Report of The Royal Commission on Higher Education in New Brunswick [1962] and established Université de Moncton.⁶⁴⁸ This institution's roots can be traced back to the

⁶⁴⁷ Patricia Hughes Interview with Taylor Starr, 3 November 2023.

⁶⁴⁸ John J. Deutsch, Report of the Royal Commission on Higher Education in New Brunswick, (Fredericton: The Commission, 1962).

amalgamation of three colleges that willingly suspended their charters to become affiliated: Saint-Joseph (founded in 1864), Sacré-Coeur (established in 1899), and Saint-Louis (founded in 1946). Following a charter amendment in 1977, the university was granted the authority to establish campuses in each of New Brunswick's three francophone regions, specifically in Moncton, Edmundston, and Shippagan. The effort to establish a common law faculty for the francophone population mirrors the challenges confronted by the feminist movement and women within the legal profession during the same period. The university's evolution during this era serves as a poignant illustration of the woman tradition paradox, where progress is achieved yet encounters limitations. Just as the institution endeavoured to provide legal education entirely in French, the struggles faced by women aspiring to contribute to the legal field underscore the complex and paradoxical nature of these advancements in Canadian society at large.

In contrast to the other long-standing faculties in the Maritimes with deep roots dating back to the nineteenth century, the University of Moncton's brief history into legal education in the twentieth century stands as a unique testament to the complexities of the woman tradition. The establishment and evolution of the University of Moncton, particularly its Faculty of Law, occurred against the backdrop of both linguistic inclusion and gender diversification. The Faculty of Law, as a pioneer in French-language common law education, played a vital role in preserving the Francophone identity operating in the common law system. The University of Moncton in the late twentieth century serves as a microcosm reflecting the intersection of linguistic, gender, and academic considerations.

The 1968 student activism at Université de Moncton is important to consider in the history of language tensions in Canada. Predominantly French-speaking students rallied against Anglophone dominance in the education system, demanding greater recognition and respect for

French language and culture within the institution by occupying campus buildings.⁶⁴⁹ This movement was part of a broader wave of activism across the country, highlighting the struggles of Francophone communities to preserve their linguistic heritage amidst increasing Anglicization. Greater social awareness and subsequent reforms aimed to address linguistic disparities, thereby reinforcing the university's commitment to supporting and promoting French language and culture. Despite the seeming interest of government in responding with reforms and the creation of a common law faculty in French in 1978, a glaring issue remained. The newly established faculty did not think it was important to hire a woman at the outset, reflecting ongoing gender disparities in the legal academy even amidst progressive changes.

However, the university's Faculty of Law (initially the École de droit) was a pioneering one in the realm of French-language common law education in Canada. The concurrent tensions surrounding bilingualism, where French communities were struggling to maintain legitimacy in the years beyond the Quiet Revolution, played a crucial role at the Faculty of Law at the University of Moncton because the new law school was meant to foster legal education and practice in the French language. The faculty's dedication to offering a comprehensive legal education in both official languages ensured that students were well-equipped to navigate the intricacies of the Canadian legal system while promoting and preserving the Francophone legal tradition. An advertisement in *The Ottawa Citizen* and *The Toronto Star*, from 20 Jan 1979 called on interested candidates to apply to the unique common law program.⁶⁵⁰

The mission was to attract students from across Canada who might be interested in

⁶⁴⁹ National Film Board of Canada. *Acadia, Acadia?!?* Directed by Michel Brault and Pierre Perrault. Montreal: National Film Board of Canada, 1971.

https://www.nfb.ca/film/acadia_acadia/.

⁶⁵⁰ *The Ottawa Citizen*, 20 January 1979.

pursuing a common law legal education in French. An article in *The North Bay Nugget* notes that Pierre Patenaude, dean of the faculty of law at the University of Moncton at the time, was on a nation-wide recruiting campaign which brought him to address the Richelieu Club of Sturgeon Falls in 1979. “The University of Moncton’s faculty of law has its mission, the preparation of jurists who will be able to offer legal services to francophones outside of Québec, and to their governments.”⁶⁵¹ In the spring of 1978, the faculty’s first teachers were hired, and the first 31 law students were accepted in the fall of that year. Once fully implemented, the faculty counted about 20 professors. Patenaude also mentioned that The Donner Foundation provided \$117,500 for the translation of essential documents and the establishment of a terminology bank, and the Canadian Council on judicial documentation allocated \$20,000 for the translation of documents essential to the common law student. Sixty per cent of the library manuals were in English, and more than 40 per cent of mandatory manuals were also in English.

The process of gender diversification within the faculty of the Université de Moncton during the late twentieth century evolved gradually. In the inaugural decade of the faculty’s existence, spanning from 1978 to 1988, the appointment of women to faculty positions remained limited, with only four women being selected. This figure appears rather modest when juxtaposed with the total of 12 faculty positions available during that period. The initial appointment within this cohort occurred in 1981 when Yvette Michaud joined the faculty. It is noteworthy that Michaud entered the faculty without a master’s degree in law and concluded her service after a four-year tenure, departing at the close of the academic year 1984-1985.⁶⁵²

⁶⁵¹ Pierre Patenaude address to Richelieu Club, in Ron St. Louis, “Unique Francophone Law School Explained at Richelieu Meeting,” *North Bay Nugget* 24 October 1979.

⁶⁵² Jacques Vanderlinden, *Genèse et jeunesse d’une institution : L’École de droit de l’Université de Moncton*, (Moncton : Université de Moncton, 1998) 89.

In subsequent years, the gender diversification of the faculty continued to evolve. In 1982, Andr  a Boudreau Ouellet became a member of the faculty and has since remained a contributor to its academic community. Likewise, Odette Snow, a graduate of the school's inaugural class, assumed her teaching role and remained with the faculty until 1990. In that year, she took up prominent positions in the local private sector, despite having obtained permanent status at the University.

Martha Jackman, despite her brief two-year tenure at the faculty of law before transitioning to the French common law section at the University of Ottawa in 1988 and later serving as Co-Chair of the National Association of Women and the Law, remains a significant figure in the faculty's formative years. Jackman's work contributed to furthering early understandings of new legal approaches to the areas of socio-economic rights, equality, and the *Charter*. Following this early phase, a subsequent wave of faculty members arrived in the second decade, commencing with the recruitment of Marie-France Albert in 1988, and followed by Mich  le Caron in 1990. Chantal H  bert and Hayat Rushdy-Hanna held temporary positions, while on the cusp of the 1998-1999 academic year, Louise Aucoin embarked on the path to securing a permanent position within the faculty.

It is essential to emphasize that over the course of two decades only three women managed to establish continuing positions within the faculty because the others took up jobs elsewhere. Consequently, by the year 1998, women constituted merely a quarter of the faculty's permanent staff. This representation fell short of reflecting the increasing numbers of women entering the legal profession in recent years, as they embarked on their employment within the faculty.

Furthermore, the faculty's administrative landscape reveals striking patterns. Throughout

its existence, the faculty witnessed the appointment of seven deans. Among the individuals who held the positions of vice-deans or deans, a mere one, namely Marie-France Albert, assumed the role of vice-dean, briefly shouldering the responsibilities of interim dean during Fernand Landry's departure from the vice-rectorate of the University. This configuration prompts critical consideration of potential underlying gender biases at the national level. Additionally, it may cause a certain hesitancy among women when contemplating their prospects for leadership roles, particularly the deanship.⁶⁵³

In retrospect, the establishment and evolution of the Université de Moncton, particularly its Faculty of Law, offers a nuanced perspective on the intersectionality of linguistic inclusion and gender diversification. Formed in 1963, the university's roots intertwined with the struggles faced by women in the legal profession and the feminist movement during the late twentieth century. This emphasis on linguistic diversity, as seen in an advertisement from 1979, reflected the university's dedication to fostering a comprehensive legal education in both official languages. The gender expansion within the faculty unfolded gradually, with notable women such as Yvette Michaud, Andr  a Boudreau Ouellet, and Odette Snow contributing to its academic community. However, the representation of women within the faculty remained modest, constituting merely a quarter of the permanent staff by 1998.

Phyllis E. LeBlanc, a History professor at the Universit   de Moncton, reflected on the state of teaching women's history at her institution, acknowledging the challenges and successes. LeBlanc attributes the gaps in teaching women's history to the university's isolation and conservative mindset influenced by the Catholic clergy. The institution's slow adaptation to

⁶⁵³ Jacques Vanderlinden, *Gen  se et jeunesse d'une institution : L'  cole de droit de l'Universit   de Moncton*, (Moncton : Universit   de Moncton, 1998) 89.

modernization and resistance to multidisciplinary approaches further hindered the development of women's studies and that translated into a slow acceptance of women in law faculties. Despite institutional barriers, individual efforts by scholars like LeBlanc and her colleagues have led to positive changes.

LeBlanc also drew parallels between the struggles in teaching women's history and the challenges faced by women in law faculties. Both fields encountered resistance and skepticism, with students perceiving women's issues as outdated or beyond the necessary requirements of a formal legal education. This sentiment echoes broader societal attitudes, reflecting a reluctance to acknowledge the ongoing relevance of women's experiences. LeBlanc emphasized the need for continued efforts to integrate women's history into mainstream education, underscoring that the struggles faced in academia mirror the broader challenges in recognizing and valuing the contributions of women across various disciplines. She explained her innovative approach of embedding women's history within broader themes, illustrating its relevance and encouraging critical understanding. LeBlanc concluded by questioning whether the progress made is sufficient and emphasized the ongoing responsibility of educators to advocate for the inclusion of women's experiences in academic curricula, recognizing the interconnected struggles faced by women in both historical studies and law faculties.⁶⁵⁴

Conclusion

The exploration of legal education in the Maritime provinces, with a focal point on New

⁶⁵⁴ Phyllis LeBlanc, "The Origins of Women's History at Université de Moncton" *Acadiensis*, Vol 33.2 (2004); See also, Monique Hébert, Nathalie Kermoal and Phyllis LeBlanc, eds., *Entre le quotidien et le politique: facettes de l'histoire des femmes francophones en milieu minoritaire*, Gloucester, RNAÉF, 1997; M. Basque, I. McKee-Allain, L. Cardinal, P.E. LeBlanc and J. L. Pallister, eds., *L'Acadie au féminin. Un regard multidisciplinaire sur les Acadiennes et les Cadiennes*, Chaire d'études acadiennes, Université de Moncton, 2000.

Brunswick and Nova Scotia, reveals an important factor to consider in efforts to understand the inclusion of women within Canadian legal history. The introduction of university-based legal education in the late 1880s marked a transformative period which eventually became characteristic across Canada. Hiring practices and women's experiences within Dalhousie Law School, the University of New Brunswick, and Université de Moncton during the period of 1961 to 1994 not only reflects the profound influence of the "Weldon Tradition" but also revealed a paradoxical legacy.

The paradoxical traditions ingrained in the legal academy perpetuated exclusionary practices that marginalized women from every aspect of the legal profession. This exclusion persisted despite women gaining entry into law faculties in the late twentieth century, where they encountered entrenched sexism and implicit issues regarding assumptions about feminism and feminist ideas. Although women were nominally present in these institutions during the nineteenth century, societal beliefs about their true place in domestic realms persisted. The nuanced history of legal education in the Maritimes reveals a complex relationship between apparent progress and inherent contradictions, prompting a closer examination and contemplation of the evolving role of women in this historical narrative. Women's experiences in Maritime law faculties in the late twentieth century exemplify outward representation but reveal underlying attitudes that perpetuated gender biases in androcentric spheres. It echoes the familiar narrative of women's history: progress marked by two steps forward, followed by setbacks equivalent to one step back.

Conclusion: Navigating Historical Undercurrents

Throughout the twentieth century, the inclusion of women in the Canadian legal academy was a simmering, often understated issue. Despite incremental progress, the appointment of women law professors in Canada did not dismantle patriarchal norms within the legal academy. Instead, these pioneering women encountered subtle yet formidable barriers in their roles, affecting their research, scholarship, teaching practices, and retention. Constance Backhouse's astute observation below identified the challenges faced by women entering predominantly male environments by 1990 and emphasized the need for comprehensive support and mentorship to assist them in navigating those obstacles at the time:

One caveat must be attached to these suggestions. Women hired as a result of these strategies must not be sent in to teach in these faculties and departments alone. They will be entering an almost completely male environment, peopled with individuals who are totally unaccustomed to dealing with women as equals and colleagues. Resentments will no doubt abound. Women who represent the initial appointees in an affirmative action program need all the assistance they can get to surmount the inevitable hurdles and establish themselves securely.⁶⁵⁵

While the feminist movement of the 1960s precipitated a major shift in the wider public arena about women's roles in professional spaces, in the legal profession, there was a continued reluctance to draw explicit attention to gender dynamics.⁶⁵⁶ The Quiet Revolution in Québec, while responsible for changing ideas about women in the professions in Québec, did not necessarily permeate the walls of law faculties and internal faculty relationships. Thus, early women in Canadian law faculties faced barriers in accessing a professional education and navigating the intricate relationship between the legal profession and feminist politics. Women's engagement in Canadian law faculties in the 1970s was indeed buoyed by the wider momentum

⁶⁵⁵ Constance Backhouse, "An Historical Perspective: Reflections on the Western Employment Equity Award," *Canadian Journal of Women and the Law*, 4 (1990): 36-65.

⁶⁵⁶ Backhouse, "Justice Bertha Wilson and the Politics of Feminism," 35.

of the feminist movement and key institutional developments such as the Royal Commission on the Status of Women. Women entered law faculties in significant numbers as students, helping to foster intellectual progress on feminism and feminist legal analysis. However, this era was also characterized by skepticism and opposition towards social change, with feminist organizations often viewed with suspicion and labelled as subversive. This contentious environment influenced the approach taken by women within law faculties across the country, with some adopting a neutral stance regarding gender issues as a way to navigate the complexities of institutional dynamics and societal pressures. Despite these historical undercurrents, notable figures such as Justices Bertha Wilson and Claire L'Heureux-Dubé, while avoiding overt identification with feminism, demonstrated through their judicial decisions a nuanced engagement with gender-related issues, thereby subtly reshaping legal understandings about women and the law. Moreover, the pioneering women lawyers, committed to advancing the integration of women in law, often adopted a discreet approach, choosing to avoid drawing attention to gender-related matters.

Women advocating for changes aligned with the feminist agenda from within law faculties challenged the status quo and tirelessly advocated for women's rights within the legal profession. However, this dissertation has demonstrated that most women professors maintained a seemingly neutral stance on feminist issues. According to Susan Boyd and Elizabeth Sheehy, even when engaging with feminist perspectives on law, these women often left their positions unstated, implicitly aligning with the liberal human rights paradigm.⁶⁵⁷ Those who used their advocacy to advance feminist legal principles (like affirmative action) were labelled as feminists

⁶⁵⁷ Susan Boyd and Elizabeth Sheehy, "Canadian Feminist Perspectives on Law," *Journal of Law and Society*, Vol 13, (1986): 283.

and treated as outcasts. Thus, the tactical avoidance of one's involvement with gender-related issues might have been a deliberate choice to navigate the androcentric terrain of legal academia.

By the 1980s, Canadian law faculties were marked by intense debates over the validity of feminist research and political principles, as highlighted by Bruce Feldthusen.⁶⁵⁸ These discussions permeated every aspect of academic life, from faculty recruitment and hiring to teaching methodologies and curriculum design. Across Canada, tensions surrounding gender issues were palpable within law schools, leading Feldthusen to use the term "gender wars" to encapsulate law faculty environments during this time. This era was characterized by a significant clash of ideologies, as traditional structures grappled with the emergence of feminist thought and activism within legal academia.

The early 1990s saw a change in internal law faculty politics with active recruitment based on new affirmative action policies. However, institutional commitments to gender policies did not affect how internal faculty affairs were conducted. Women still recalled feelings of isolation.

This dissertation reveals previously unknown experiences of many individuals. It has traced a subject which has largely been neglected in historical scholarship by examining the intersection of feminist legal thought and the reception of women seeking leadership roles in Canadian law faculties. Drawing upon archival records from each respective law faculty, provincial archives, newspaper databases, teaching directories, course calendars, and oral histories, this dissertation offers a multi-layered analysis of the socio-cultural factors influencing women's experiences and professional pathways that may have inhibited their full inclusion within the legal academy.

⁶⁵⁸ Bruce Feldthusen, "The Gender Wars: Where the Boys Are," *Breaking Anonymity*.

In examining gendered problems within Canada's law faculties, this dissertation situates the challenges and advancements of female faculty within the broader historical context of higher education in Canada. During the period under examination here, universities underwent significant transformations, driven by societal changes, policy reforms, and shifting attitudes toward gender equality. Despite many advancements in these areas, female law professors faced numerous impediments from overt discrimination to subtler forms of bias and exclusion.

Women's limited participation in the development of higher education in the late nineteenth and early twentieth centuries provided the context in which women entered university law faculties by the 1960s. For much of the early twentieth century, universities were bastions of male privilege, with women only gradually gaining access to these institutions. However, as was the case in most other disciplines, women in law faculties often found themselves on the periphery, struggling to gain tenure, equal treatment in faculty meetings, and recognition for their work.

There were notable advancements throughout the 1970s and 1980s: more women entered law faculties, courses focusing on women and the law began to be offered, and there was a growing awareness of gender issues. Despite these gains, female law professors continued to encounter significant barriers. Institutional cultures often remained resistant to change, and women had to navigate an environment that challenged and undervalued their contributions. The 1990s were marked by both significant achievements and ongoing struggles. While some women attained representation in decanal positions, which were traditionally designated to men, lack of mentorship, and maintenance of work-life balance posed continuing problems. The historical context of higher education, along with the integration of law faculties into universities during this period, provides a crucial backdrop for understanding these issues.

It highlights how broader societal changes both advanced and impeded the progress of women in the Canadian legal academy.

Comparing the experiences of Canadian women in legal academia to those in other countries, there are both shared challenges and distinct regional differences.⁶⁵⁹ In the United States, for instance, women in law faculties experienced similar battles against entrenched patriarchy and systemic barriers. However, the feminist movement in the U.S., which gained substantial traction in the 1970s, pushed legal academia toward a more overt engagement with gender issues. Women in American law faculties were often more openly aligned with feminist ideologies, leading to the establishment of feminist legal scholarship as a recognized field. Yet, like their Canadian counterparts, they faced resistance, and the progress they made was often slow and hard-won. In the United Kingdom, women in legal academia faced a more rigid class system intertwined with gender discrimination. The tradition-bound nature of British institutions made the integration of women into law faculties a gradual process. Similar to Canada, the 1970s and 1980s saw more women entering law faculties, but they were often confined to junior positions with limited opportunities for advancement. The feminist movement in the UK had a more subdued impact on legal academia compared to North America, with changes occurring much later.

In Australia, the experiences of women in legal academia mirrored those in Canada and the United States, with feminist legal scholarship gaining momentum in the 1980s. Australian women law professors faced a legal culture steeped in conservatism, and their progress within

⁶⁵⁹ Ulrike Schultz provides a comparative analysis of female law professors' experiences in over 31 international jurisdictions, offering a global perspective. Ulrike Schultz et al., "Introduction: Gender and Careers in the Legal Academy: Overview and Synthesis" *Gender and Careers in the Legal Academy*, 2021, 1-36.

academia was often met with institutional resistance. However, the feminist movement in Australia, much like in Canada, led to a growing body of feminist legal scholarship and a more concerted effort to address gender inequalities within the legal academy.

Thus, the experiences of women in Canadian law faculties, while unique in their historical and regional context, reflect broader global patterns of gender discrimination, institutional resistance, and the gradual but uneven progress toward gender equality in legal academia. This dissertation contributes to the understanding of these dynamics by providing a detailed examination of the Canadian experience, situating it within both a national and international context.

Furthermore, the dissertation analyzes how regional forces within Canada—specifically in Québec, Ontario, British Columbia, the Prairies, and the Maritimes—have shaped the experiences of female law professors. Each region's unique cultural, political, and economic context influenced the integration and acceptance of women in the legal academy. In Québec, the Quiet Revolution created a transformative backdrop that facilitated a more receptive environment for women, allowing for more covert feminist strategies to develop under the surface. In contrast, Ontario's law faculties, marked by overt feminist activism, faced environments rife with structural sexism, necessitating a confrontational approach to address gender inequalities. In British Columbia, despite formal commitments to inclusion, women encountered unique challenges in achieving true equality, leading them to organize in unconventional settings and create alternative spaces for feminist activism within the academy. The socio-economic contexts linked to agricultural relationships in the Prairies influenced the gender dynamics within law faculties, affecting the experiences and leadership opportunities for women. Meanwhile, in the Maritimes, traditional

educational and legal frameworks shaped the professional trajectories and inclusion of women, illustrating how entrenched norms influenced their academic and professional experiences.

The experiences of these women were also profoundly shaped by the institutional cultures within which they worked. Initially, hiring decisions were often influenced by the perspectives of deans, reflecting broader institutional and societal biases against women. Over time, as hiring processes became more democratic and collegial through increased unionization and reforms, the influence of individual biases diminished. However, concerns about how predominantly male students would receive female professors often influenced hiring decisions, reflecting deeper institutional apprehensions about the presence of women in the academy. The intense debates over feminist research and political principles, described as “gender wars” during the 1980s, further illustrate the significant impact of institutional culture on the acceptance and advancement of female law professors.

Deans played a critical role in shaping faculty composition, particularly in the early years when hiring processes were less formalized. Their influence, whether positive or negative, often determined the opportunities available to women faculty members. Wilbur Bowker, for example, exemplified the power of individual leadership in either reinforcing or challenging institutional barriers. While individual deans’ perspectives carried significant weight, broader societal changes—such as unionization—gradually shifted hiring practices toward greater transparency and equity.

The dissertation suggests that student reception of women law professors may have played a crucial role in faculty hiring decisions, a factor that has only been alluded to in previous scholarship. When faculties were making hiring decisions, there may have been underlying concerns that women in general—or a particular woman candidate—might not be well received in the classroom, especially when male students predominated in the mid to late 1960s.

This bias, whether conscious or unconscious, could have served as a way to mask deeper apprehensions about the presence of women colleagues within the faculty throughout the period.

This concern about student reception is closely connected to the critical role of deans in hiring decisions during the 1960s and the significance of the representation of women in these positions in the later period. While faculty appointment committees existed, it was often the dean's perspective on women in legal academia that was decisive, shaping the composition and direction of faculties.

While individual efforts were crucial in confronting discrimination and sexism, the broader regional and institutional contexts played central roles in shaping women's experiences and strategies. This dissertation's wide-ranging analysis of the socio-cultural factors influencing women's experiences and professional pathways not only enriches our understanding of past struggles but also informs ongoing efforts towards gender equality in academia. Through detailed archival research and personal narratives, this dissertation highlights how broader societal changes both facilitated and hindered the progress made by women in the Canadian legal academy, offering valuable insights into the complexities of personal agency and structural factors.

In examining the distinctions between Chapter 1 and Chapter 2 within the context of covert and overt feminism, noteworthy differences emerge in how women navigated and influenced legal academia. In Chapter 1, focusing on Québec's law faculties during the Quiet Revolution and beyond, women's strategies for carving out space within the faculty were often more covert in nature. Here, women may have worked within existing structures, employing subtle tactics to challenge gender biases and secure teaching positions. The societal changes of the Quiet Revolution in Québec facilitated a more receptive environment for women faculty members by the 1970s, contributing to their seemingly

accelerated integration into legal academia. Yet, they still faced gendered discrimination in their new role as legal educators. Conversely, in Chapter 2, which investigates Ontario's law faculties and the tensions between early women and early feminists within the faculty suggest a more overt manifestation of feminist activism. Women in Ontario may have been more vocal in advocating for gender equality, challenging patriarchal norms, managing conflicting opinions among other women faculty members, and demanding institutional change. The atmosphere of Ontario's law faculties, described as rife with structural sexism, likely necessitated a more overt approach to confront and dismantle discriminatory practices.

In contrast to the distinct approaches of feminist women observed in Québec and Ontario, Chapter 3 inspects British Columbia's role in advancing women's representation in legal academia. Despite formal commitments to inclusion, the chapter reveals how substantive progress often fell short of expectations for women. While women made strides in British Columbia, both formal and informal barriers persisted, casting shadows over their careers and the promise of true equality within law faculties. Within this context, Chapter 3 illuminates the concept of space for women within British Columbia's legal education system. The chapter investigates how feminism, often relegated to the margins within academia at large, found alternative spaces for expression and activism within British Columbia's law faculties. Having to work in unconventional spaces, such as trailers, caused women to organize, strategize, theorize, and advocate for gender equality and institutional change in the 1990s. By shedding light on these developments, Chapter 3 offers a nuanced understanding of the challenges and opportunities women encountered in their quest for equality within British Columbia's legal academy. It underscores the complexities of navigating institutional landscapes and highlights the resilience and resourcefulness of women in confronting systemic barriers to their

advancement. While British Columbia celebrated the appointments of two feminist women deans during this time period, Chapter 4 reveals the ways in which leadership roles gained by women in Prairie law faculties were linked to historically to agricultural relationships and the early recognition of the value of women's labour in the prairie region. Chapter 5 discusses the "Weldon Tradition," which revolutionized legal education by combining practical and intellectual training within a university setting, yet paradoxically excluded women from the profession despite its progressive strides.

The dissertation also highlights the gaps in the historical records of institutional development and prosopography. Many law faculties still need to fully document their histories, or they remain outdated, leading to an incomplete understanding of their evolution and the roles played by women in their development. Furthermore, there is a noticeable lack of research on civil law faculties, particularly in francophone institutions in Québec, regarding women's employment in the legal profession. While this dissertation touches on the pace at which women entered these faculties and the different experiences of some women faculty members at the time, a dedicated analysis of civil law faculties and the specific challenges faced by women in these institutions is necessary.

This study analyzes the integration of women into legal academia in Canada. Through detailed analyses of historical developments, societal shifts, and institutional dynamics across the different regions of Canada, this dissertation provides insights into the challenges and opportunities women have encountered in pursuing careers in law faculties. By studying the experiences of individuals across diverse contexts in Québec, Ontario, British Columbia, the Prairies, and the Maritime provinces, this study sheds light on how entrenched patriarchal norms within the civil and common law legal professions exerted significant influence over women's

perspectives, often overshadowing their own agency and ideas. Hence, institutional structures entrenched by the conventional practice of legal education predetermined the employment experiences and career trajectories of women in legal academia. Furthermore, the individual narratives woven into this study offer a fresh lens through which to examine how women in the late twentieth century navigated their professional lives within academic circles. Accordingly, this dissertation deepens our understanding of how women in Canada confronted institutional structures shaped by exclusionary historical traditions. Through this lens, we can glean the lingering invisible barriers that have hindered women's progress over time.

Bibliography

Primary Sources

Fonds:

Archives l'Université Laval

Fonds Association des étudiants en droit de l'Université Laval

P102 - Fonds Hubert Reid

P321 - Fonds Gabrielle Vallée

P449 - Fonds Mirelle Castelli

U539/10/5 – Fonds Faculté de droit / Évaluation des cours

Calendriers de la faculté de droit

Syndicat des professeurs et professeures de l'Université Laval, Ann Robinson, quatrième présidente du SPUL – 1982 à 1984, <https://vimeo.com/378519216>.

Archives of the University of Ottawa/ Archives and Special Collections University of Ottawa Library

Fonds 22 - Fonds Section de droit civil de l'Université d'Ottawa [1957-1994]

Shirley E. Greenberg fonds [1975-1982]

Elizabeth Sheehy fonds

Records related to specific issues [1986-1990]

National Association of Women and the Law fonds

Nellie Langford Rowell Library Collection

York University - Osgoode Hall [1985-1987]

Canadian Women's Movement Archives collection

University of Western Ontario Student Publications [1980-1981]

Centre d'études acadiennes Anselme-Chiasson de l'Université de Moncton

Student Newspapers [1965-1994]

Hebdo Campus fonds [1965-1994]

Bibliothèque et Archives nationales du Québec

Le Quartier latin [1950-1967]

Le devoir [1970-1994]

Dalhousie University Archives

Faculty of Law fonds [1965-1994]

Dalhousie Gazette [1965-1994]

CKDU Radio fonds [1975-1986]

Ron and Bryan Garnett-Doucette fonds [1986]

Joan Elizabeth Cumming fonds [1979]

Dalhousie University Reference Collection [Esmeralda Thornhill – 1994-1997]

Law Society of Upper Canada Archives

Christopher Moore Collection [1980-1996]

John David Honsberger Fonds [1995]

Women's Law Association of Ontario Fonds [1996-1998]

- List of Women [1980]
Library and Archives Canada
Canadian Association of Law Teachers fonds [1946-1991]
- McGill Archival Collections
Margaret A. Sommerville Fonds [1965-1994]
Faculty of Law fonds [1960-2000]
Annie MacDonald Langstaff Workshop Series [2022]
Faculty of Law Calendars [1961-1994]
- Mount Allison University Archives
Annie Grace Lockhart – *The Halifax Herald* [1890s]
- Queen's University Archives
Faculty of Law fonds [1958-1987]
Beverley Baines fonds [1974-1991]
- University of Alberta Libraries
Faculty of Law fonds [1922-1986]
- University of British Columbia Archives
Faculty of Law fonds [1970-1994]
Centre for Feminist Legal Studies Archive [1970-2019]
- University of Calgary Archives
Gazette Newspaper [1968-1994]
Road to Autonomy [1908-1966]
Faculty of Law fonds
- University of Manitoba Archives and Special Collections
Faculty of Law fonds [1965-1994]
Marion Meadmore fonds
- University of New Brunswick Archives
Letters to Mary Louise Lynch [1960--]
- University of Saskatchewan Archives and Special Collections
Women and the Law Collection [1974-1990]
Margaret H. Pattilo fonds [1955-1981]
- University of Toronto Archives and Records
Martin Lawrence Friedland fonds [1965-1994]
Faculty of Law Yearbooks – Class Action [1980-1994]
University of Toronto Calendars [1965-1992]
Ad Hoc Committee on the Status of Women [1986-1990]
Presidents Reports [1965-1994]

Arts and Science Student's Union fonds [1974-1995]
David Rayside fonds
 Ad Hoc Committee on the Status of Women [1985-1986]
OISE – Committee on Employment Conditions for Full Time Women Faculty
 A1977-0051

University of Victoria Archives and Special Collections
 Faculty of Law fonds [1974-1998]
 Faculty Women's Caucus fonds [1985-1996]
 Oral History Collection
 Hester Lessard
 Margot Young
 Jennifer Waelti-Walters
 Maggie Mayfield
 Judith Terry
 Monika Langer
 University Tenure and Promotions files
 Diana Priestly [1974-1987]

University of Western Ontario Archives and Research Collections
 Western's Caucus on Women's Issues fonds [1975-2003]

Université du Québec à Montréal
 Centre de documentation féministe de Montréal - Collection de publications de groupes de gauche et de groupes populaires [1974-1980]

York University Clara Thomas Archives and Special Collections
 Marilou McPhedran fonds [1987-1991]
 Harry Arthurs fonds [1965-1994]
 Osgoode Hall Law School fonds [1962-1994]

Online Archival Databases:

Archives de l'Institut Notre-Dame du Bon-Conseil de Montréal
 Marie Lacoste-Gérin Lajoie

Allard School of Law History Project
 Susan Boyd [1992]
 Lynn Smith

CBC Archives
 La fondation de l'Université de Moncton, <https://ici.radio-canada.ca/nouvelle/1988642/moncton-universite-acadie-archives>

Dictionary of Canadian Biography
 Philip Girard, "Richard Chapman Weldon," *Dictionary of Canadian Biography*,

Vol 15. (University of Toronto/Université Laval, 2005).
http://www.biographi.ca/en/bio/weldon_richard_chapman_15E.html

Library and Archives Canada Online

Abella, Rosalie, S., Report of the Royal Commission on Equality in Employment,
Ottawa: 1984

Bird, Florence, et al., Royal Commission on the Status of Women in Canada,
Ottawa: 1970.

Employment Equity Act, S.C. 1995 c. 44.

The Constitution Act, 1982, Schedule B to the Canada Act 1982 (UK), 1982, c 11.

Indian Act, RSC 1985, c I-5.

National Post

Greenspan, Edward. "Judges Have No Right to be Bullies", [1999].

Newspapers.com

Feminism [1900-1994]

Women [1900-1994]

Osgoode Society for Canadian Legal History

Oral History Archives

ProQuest: Women's Magazine Archive

Chatelaine [1929 -1994]

Maclean's Magazine [1965-1994]

Toronto Public Library

Toronto Star [1965-1994]

Thornhill, Esmeralda. Personal Website and Archive.

<https://ethornhill.ca>

University of British Columbia Archives

The Daily Ubysey [1945-1994]

University of Manitoba Law Journal

The Report of the Curriculum Review Committee on a New Curriculum, July
1983.

Women's Magazine Archive

Chatelaine [1900-1994]

Oral History Interview Participants with Consent to Waive Anonymity
[October 2021-January 2024]

Backhouse, Constance
Bilson, Beth
Boyd, Susan
Boyle, Christine
Carasco, Emily
Dranoff, Linda Silver
Dumont, Hélène
Gavigan, Shelley A.M.
Holland, Winnifred
Hughes, Patricia
Lessard, Hester
Maloney, Maureen
Majury, Diana
McIntyre, Sheila
Mossman, Mary Jane
Phillips, Jim
Risk, Richard
Rodgers, Sanda
Woodman, Faye
Young, Claire

Email Correspondence

Baines, Beverley
Lahey, Kathleen
Lindberg, Tracey

Osgoode Society Oral History

Kathy Swinton
Hilda McKinley
Mary Eberts
Margaret Banks

Published Oral History Transcripts in Books

MacDonald, R. St., J., *Dalhousie Law School: An Oral History, 1965-1990*, Halifax, Nova Scotia: Dalhousie University, 1996.

University of Victoria Oral History

Hester Lessard, 1991
Margot Young, 1991

Cases:

Franklin v. University of Toronto [2001].

Mary Lou Fassel et al v York University, President Harry Arthurs, and Osgoode Hall Law School, Complainants' statement pursuant to the *Ontario Human Rights Code*, 1987. Here is the Chicago-style footnote for the *McLaren v. Schwalbe* case:

McLaren v. Schwalbe, [1994] A.J. No. 58, 1994 CanLII 8908 (Alta. Q.B.).

Racine v. Woods, [1983] 2 SCR 173.

Symes v. Canada, [1993] 4 SCR 695.

Le cas Renee Joyal-Poupart, 13 July 1977.

Other Primary Source Material:

Abella, Rosalie, S., 'Introduction,' *Women in Canadian Life: Law*, Toronto: Fitzhenry & Whiteside, 1977: 4-5.

Bankier, Jennifer, "Women and the Law School: Problems and Potential," *Chittys Law Journal*, Vol 22, No 5, 171-

Boyle, Christine, et al., "Feminist Review of Criminal Law," (Ottawa: Status of Women Canada, 1985).

Canadian Bar Association, *Touchstones for Change: Equality, Diversity, and Accountability. The Report on Gender Equality in the Legal Profession*, Ottawa: Canadian Bar Association, (1993).

Canadian Association of Law Teachers/Association Canadienne des Professeurs de Droit, *Directory of Law Teachers/Annuaire des Proesseurs de Droit* [1961-1994].

Deutsch, John J., *Report of the Royal Commission on Higher Education in New Brunswick*, (Fredericton: The Commission, 1962).

Gender Equality Committee, "The Report of the Gender Equality Committee," Osgoode Hall Law School, 1990.

Hughes, Patricia, Inaugural Lecture Mary Louise Lynch Chair on Women and Law, 7 October 1992, in "Feminism and Legal Education," *The University of New Brunswick Law Journal*, Vol 42, (1993) 158-171.

James Curry MacPherson, *Curriculum Vitae*, 1987, in Cheryl Kristajanson, *Male Bias in the Prevalent Concepts of Leadership*, M.Ed. Thesis, University of Manitoba, (1989).

Interview with The Honourable Madame Justice Ellen Picard and Ken Tingley, *Legal Archives Society of Alberta: Edmonton Bench and Bar Oral History Project*, 2 December 2003, AC2004016, 6.

Irvine, Marion, 'Women at Osgoode: Problems and Perceptions of the growing minority,' Toronto: Osgoode Hall Law School, 1974.

Letters to Harry Arthurs from Eric Tucker, Graham Parker, April 1987, in Cheryl Kristajanson, *Male Bias in the Prevalent Concepts of Leadership*, M.Ed. Thesis, University of Manitoba, (1989).

Letters to Search Committee from Harry Arthurs, November 1986, in Cheryl Kristajanson, *Male Bias in the Prevalent Concepts of Leadership*, M.Ed. Thesis, University of Manitoba, (1989).

Lessard, Hester, "The Idea of the 'Private': A Discussion of State Action Doctrine and Separate Sphere Ideology," *Dalhousie Law Journal*, Vol 10.2, (1986): 107-137.

Mary Jane Mossman, *Curriculum Vitae*, 1987, in Cheryl Kristajanson, *Male Bias in the Prevalent Concepts of Leadership*, M.Ed. Thesis, University of Manitoba, (1989).

McLachlin, Beverley, *Truth Be Told: My Journey Through Life and the Law*, Toronto: Simon & Schuster, 2019.

Priestly, Diana, "Canadian Association of Law Libraries," *International Journal of Law Libraries*, (1973).

Silver Dranoff, Linda, 'Women as Lawyers in Toronto,' Osgoode Hall Law Journal, Volume 10, Number 1, August 1972.

Silver Dranoff, Linda, *Women in Canadian Life: Law*, Toronto: Fitzhenry & Whiteside, 1977.

Statutes of British Columbia, 1891. (Victoria: Queen's Printer for British Columbia, 1891)

Wilson, Bertha, "Will Women Judges Really Make a Difference?," Osgoode Hall Special Collections, 28.3, (1990) 507-522.

Western Caucus on Women's Issues, Chilly Climate for Women in Colleges and Universities, 00:00-28:51, 1991.

Yang, Jennifer, Celebrated Indigenous law school dean resigns claiming systemic discrimination, *Toronto Star*, 2016.

Appendix to the Report of the Minister of Education, 1896, The Universities of Canada: Their History and Organization with an Outline British and American University Systems. Toronto: Warwick Bros & Rutter, 1896.

Lynn Smith, "Gender Equality – Professional and Ethical Issues," (Conference of the Canadian Bar Association's Continuing Education Committee and the Task Force on Gender

Equality, 1992).

Vickers, Jill, *But Can You Type? Canadian Universities and the Status of Women*, (Ottawa: Canadian Association of University Teachers – Clarke, Irwin, and Company Ltd., 1977)

Secondary Sources

Articles:

Abel, Richard, L., "The Contradictions of Legal Professionalism," *New Directions in the Study of Justice, Law, and Social Control*, Springer (1988) 17-42.

Anderson, D.T., "The Faculty of Law, University of Manitoba 1964-1989," *Dalhousie Law Journal*, Vol 13.1, (1990): 406.

Allen, Sherri, "One Hundred Years of Solitude – Judicial Resistance to Reform of Married Women's Property Law in the West," *Dalhousie Journal of Legal Studies*, Vol 4, (1995).

Backhouse, Constance, "Bertha Wilson and the Politics of Feminism," *The Supreme Court Law Review: Osgoode's Annual Constitutional Cases Conference*, 41, 2008.

Bailie, Rachel K., "Minority of One: Violet King's Entry to the Legal Profession," *Canadian Journal of Women and the Law*, Vol 24, No 2, (2012): 301-327.

Banks, Lovell Taunya, "Toilets as a Feminist Issue: A True Story," *Berkeley Women's Law Journal*, n.d.

Beaumier, Marie-Laurence B. « Les voix des femmes à la Ligue des droits e l'homme du Québec : Ouvertures, tensions, débats, 1963-1980 » *Recherches féministes*, Vol 30.2 (2017).

Bercuson, David, "Labour Radicalism and the Western Frontier: 1897-1919," *The Canadian Historical Review*, Vol 58.2 (1977) 154-175.

Bilson, Beth, 'Prudence Rather than Valor:' Legal Education in Saskatchewan 1908-1923,' *Saskatchewan Law Review*, Vol 61 (1998).

Bilson, Beth, "Refiner's Fire: The University of Saskatchewan College of Law in Times of Depression and War," *Saskatchewan Law Review*, Vol 80 (2017)

Boyd, Susan, Sheehy, Elizabeth 'Canadian Feminist Perspectives on Law,' *The Peter A. Allard School of Law: Allard Research Commons*, (1986).

Boyd, Susan, "Spaces and Challenges: Feminism in Legal Academia," *University of British Columbia Law Review*, 44.1, (2011).

- Boyle, Christine, "Teaching Law as if Women Really Mattered, or What About the Washrooms?," *Canadian Women and the Law*, vol 2, no. 96, (1986): 96-112.
- Binvance, Emilio, S., "Introduction: The Founding of the Ottawa Law Review," *Ottawa Law Review 40th Anniversary*, (2006): 6-12.
- Brierley, JEC, "Québec Legal Education Since 1945: Cultural Paradoxes and Traditional Ambiguities," *Dalhousie Law Journal*, Vol 10.1, (1986): 6-44.
- Brierley, "Historical Aspects of Law Teaching in Québec," *Legal Education in Canada: Reports and Background Papers of a National Conference on Legal Education*, (Winnipeg: Federation of Law Societies of Canada/Fédération des professions juridiques du Canada, 1985).
- Cavanaugh, Catherine, "No Place for a Woman': Engendering Western Canadian Settlement," *Western Historical Quarterly*, Vol 28.4, (Winter 1997): 494.
- Clark, Donald, "Legal Education in Saskatchewan: The Last Ten Years" *Dalhousie Law Journal*, Vol 7.2 (1983).
- Dassylva, Martial, "L'Université du Québec : université nouvelle, nouvelles universités," *Bulletin d'histoire politique*, Vol 16.2, (2008) : 233-263.
- Davenport, Jessica, Trainer, Ryan, "Interview with Janet Baldwin," *Manitoba Law Journal*, Vol 39, No1, (2016).
- Davis, Angela, "Valiant Servants: Women and Technology on the Canadian Prairies, 1910-1940," *Manitoba History*, 25 (1992).
- Eberts, Mary, "The Fight for Substantive Equality: Women's Activism and Section 15 of the Canadian Charter of Rights and Freedoms," *Atlantis*, 37.2, (2016): 100-111.
- Edwards, Clifford H.C., and Jack R. London. "The University of Manitoba Faculty of Law, 1966-1984." *Dalhousie Law Journal* 9, no. 1 (1985) 166.
- Fingard, Judith, "Gender and Inequality at Dalhousie: Faculty Women Before 1950," *Dalhousie Review*, (1985)
- Forbes, Ernest, "The Ideas of Carol Bacchi and the Suffragists of Halifax: A Review Essay on Liberation Differed? 1877-1918," *Atlantis* 10.2 (Spring 1985).
- Fournier, Marcel. "L'Institutionnalisation des sciences sociales au Québec," *Sociologie et sociétés* 5.1, (1973) : 27-57.
- Fournier, Marcel, Un intellectuel à la rencontre de deux mondes : Jean-Charles Falardeau et le développement de la sociologies universitaire au Québec,' *Recherches*

- sociographiques*, Vol 23.3, (1982) : 361-385.
- Frost, Stanley, "The Early Days of Law Teaching at McGill" *Dalhousie Law Journal*, Vol 9.1, (1984).
- Gauvreau, Michael, "From Rechristianization to Contestation: Catholic Values and Québec Society, 1931-1970," *Church History*, Vol 69.4, (December 2000): 803-833.
- Girard, Philip, "The Legal Professions and Legal Education 1914-1949" forthcoming in *A History of Law in Canada Vol III*. Presented at the Osgoode Society Workshop, 2020.
- Goldsmith, Laura M., "History of the University of Washington Law Librarianship Program," *University of Washington School of Law*, (1990).
- Gordon, R.K. "University Beginnings in Alberta." *Queen's Quarterly* 58 (1951-1952): 487-96.
- Goutor, David, "Constructing the 'Great Menace': Canadian Labour's Opposition to Asian Immigration, 1880-1914, *The Canadian Historical Review*, Vol 88.4 (December 2007) 549-576
- Halevy, Balfour, Rae, Anne, "Diana Mary Priestly: An Appreciation," *Law Library Journal*, 90.2, (1988).
- Hewitt, Nancy, "Feminist Frequencies: Regenerating the Wave Metaphor," *Feminist Studies*, 38.3, (Fall 2012): 658-680.
- Hough, Janet, "Mistaking Liberalism for Feminism," *Journal of Canadian Studies*, Vol. 29 No. 4, (Summer 1994): 147-164.
- Howes, David, "The Origin and Demise of Legal Education in Québec (Or Hercules Bound)" *University of New Brunswick Law Review*, Vol 38, (1989): 127-149.
- Kerr, Donald, "Building the University of Saskatchewan." *Prairie Forum* (1980).
- Krenshaw, Kimberle, "Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine", Feminist Theory, and Antiracist Politics, *University of Chicago Legal Forum*, Volume 1989, Issue 1, Article 8, (1989).
- Landry, Raymond A. "Developments in Legal Education, Faculty of Law, Civil Law Section, University of Ottawa," *Dalhousie Law Journal*, Vol 10.1, (1956): 173-210.
- Laperrière, Marie-Neige, « Qu'est-ce que la doctrine en droit civil? Une déconstruction féministe de discours entourant la capacité juridique des femmes mariées, » *Revue de droit de l'Université de Sherbrooke*, 47 (2017) : 369

- Law, John., Wood, Roderick, "A History of the Law Faculty," *Alberta Law Review*, Vol XXXV, No. 1, (1996), 1-23.
- Lavoie, Jean-Marie, "La Faculté de Droit de l'université de Sherbrooke," *Dalhousie Law Journal*, Vol 9, 3, (1985): 762-787.
- LeBlanc, Phyllis, "The Origins of Women's History at Université de Moncton" *Acadiensis*, Vol 33.2 (2004).
- Lortie, Léon, "The Early Teaching of Law in French Canada," *Dalhousie Law Journal*, Vol 2.2, (1975): 532.
- MacDonald, Heidi. "Women's Suffrage and Confederation," *Acadiensis*, 46.1 (2017).
- MacDonald, Roderick A., "The National Law Programme at McGill: Origins, Establishment, Prospects," *Dalhousie Law Journal*, Vol 13.1, (1990): 211-363.
- Mazer, Brian M., "An Analysis of Gender in Admission to the Canadian Common Law Schools form 1985-86 to 1994-95," *Dalhousie Law Journal*, Vol 20, No 1, (1997) 135.
- McKay, Ian, "The Liberal Order Framework: A Prospectus for a Reconnaissance of Canadian History," Toronto: *The Canadian Historical Review*, Volume 81, Issue 4, (2000): 616-678.
- McLaren, John, P.S, "The History of Legal Education in Common Law Canada," *Legal Education in Canada: Reports and Background Papers of a National Conference on Legal Education, Manitoba 23-26 October 1985*, (Federation of the Law Societies of Canada/Fédération des professions juridiques du Canada, 1987)
- MacLauchlan, Wade H., "The Law School at 100," *The University of New Brunswick Law Journal*, Vol 41 (1992).
- McManus, Sheila. "Gender(ed) Tensions in the Work and Politics of Alberta Farm Women, 1905-1929." In **Telling Tales: Essays in Western Women's History,** 123-146. Vancouver: UBC Press, 2000.
- Maloney, Maureen, "An Analysis of Direct Taxes in India: A Feminist Perspective," *Journal of the Indian Law Institute*, Vol 30.4, (December 1988): 397-314.
- Morgan, Cecilia, "An Embarrassingly and Severely Masculine Atmosphere": Women, Gender, and the Legal Profession at Osgoode Hall, 1920s-1960s, *Canadian Journal of Law and Society*, Vol 11.2, (July 2014): 19-61.
- Mossman, Mary Jane, "'Contextualizing' Bertha Wilson: Wilson as a Woman in Law in Mid-Twentieth Century Canada," *The Supreme Court Law Review*, Vol 41, (2008): 1-31.
- Normand, Sylvio, « Tradition et modernité à la Faculté de droit de l'Université Laval de 1945 à

- 1965, » *Les cahiers de droit*, Vol 33.2, (1992) 141-187.
- Pannekoek, Frits, "The Historiography of the Red River Settlement, 1830-1868," *Prairie Forum*, Vol 6.1 (1981).
- Parker, Graham, "Legal Education in Ontario," *Journal of Legal Education*, Vol 27, No 4, (1976): 576-591.
- Poitras, Daniel "Mettre en scène l'exclusion de l'histoire. Les femmes à l'université et le concours Miss Quartier latin (1950-1963)". *Revue d'histoire de l'Amérique française* 72, no. 3 (2019) : 41–71.
- Podruchny, Carolyn, Thistle, Jesse, Jameson, Elizabeth, "Women on the Margins of Imperial Plots: Farming on Borrowed Land," *Journal of the Canadian Historical Association*, (2018): 158-181.
- Pue, Wesley, "Common Law Legal Education in Canada's Age of Light, Soap, and Water," *Manitoba Law Journal*, 23, (1995) 654.
- Roach, Kent, "Justice Bertha Wilson: A Classically Liberal Judge", *Supreme Court Law Review*, 41, 2 008, 193-223.
- Rudin, Ronald, "The Quiet Revolution and the Creation of Concordia University," *Historical Studies in Education/Revue d'histoire de l'éducation*, Vol 35.1 (2023).
- Ryan, W.F., "The University of New Brunswick Faculty of Law," *University of Toronto Law Journal*, Vol 16, (1965-66).
- Scassa, Teresa, "Violence Against Women in Law Schools," *Alberta Law Review*, Vol XXX, No 3, 1992, 809-828.
- Scott, Joan, W., 'Gender: A useful category of historical analysis,' Oxford University Press, *The American Historical Review*, Vol 91, No. 5, (December 1986): 1053-1075.
- Smillie, Christine. "The Invisible Workforce: Women Workers in Saskatchewan from 1905 to WWII." *Saskatchewan History* 34, no. 2 (Spring 1986): 67-79.
- Sinclair, Peter. "Class Structure and Populist Protest: The Case of Western Canada." *Canadian Journal of Sociology* 1, no. 1 (Spring 1975).
- Sheppard, Colleen N., "Equality, Ideology, and Oppression: Women and the Canadian Charter of Rights and Freedoms," *Dalhousie Law Journal*, 10.2, (1986).
- Strong-Boag, Veronica, "Pulling in Double Harness or Hauling a Double Load: Women, Work and Feminism on the Canadian Prairie, *Journal of Canadian Studies/Revue d'études canadiennes*, Vol 21.3, (Fall 1986).

Thornhill, Esmeralda, "So Seldom for Us, So Often Against Us," *Journal of Black Studies*, Vol 38, No 3, (January 2008): 321-377.

Thisdale, Louise, « Le Centenaire de la Faculte de Droit de l'Université de Montréal, » *Dalhousie Law Journal*, 6.2, (1980-1981)

Turnbull, Amanda., "Reunion: Common Law History at the University of Ottawa, *University of Ottawa Faculty of Law Common Law Section*, (2003).

Turnbull, Lorna, "Taxing Choices: A Conversation About the Demands of Motherwork on Tax Policy," *Canadian Tax Journal*, 51.5 (2003): 1953

Thornton, Margaret, "The Dissolution of the Social in the Legal Academy," *Australian Feminist Law Journal*, 25 (2006).

Vanderlinden, Jacques, *Genèse et jeunesse d'une institution : L'École de droit de l'Université de Moncton*, (Moncton : Université de Moncton, 1998).

Westmoreland-Traoré, Juanita, "Legislating employment equity in Ontario," *Canadian Institute for the Administration of Justice*, (1993).

Whitaker, Reginald, "Introduction to the Carleton Library Edition," William Irvine, *The Farmers in Politics*, Ottawa: McClelland and Stewart, 1920) Ottawa: McClelland and Stewart Ltd., 1976.

Williams, E.K., "Legal Education in Manitoba: 1913-1950," *Canadian Bar Review*, Vol 28, (1950).

Woodman, Faye, "The *Charter* and the Taxation of Women," *Ottawa Law Review/Revue de droit d'Ottawa*, Vol 22.3, (1990): 625-689.

Woodman, Faye, "A Childcare Expenses Deduction, Tax Reform and the *Charter*: Some Modest Proposals," *Canadian Journal of Family Law*, Vol 8, (1990): 371.

Young Claire, Boyd, Susan, "Losing the Feminist Voice? Debates on the Legal Recognition of Same Sex Partnerships in Canada," *Feminist Legal Studies*, 14.2, (2006): 213-240.

Young, Claire, "Tax Policy, Theoretical Explorations, and Social Realities," *Canadian Tax Journal/Revue fiscale Canadienne*, Vol. 51.5 (2003): 1922-1931.

Books:

Alexander, William Hardy. *The University of Alberta: A Retrospect, 1908-1929*. Edmonton: University Printing Press, 1929.

- Anderson, Ellen, *Judging Bertha Wilson: Law as Large as Life*, Toronto: University of Toronto Press, 2001.
- Anderson, Marguerite, eds. *Feminist Journeys/Voies féministes*, Feminist History Society, 2010.
- Anderson, Kay, *Vancouver's Chinatown: Racial Discourse in Canada, 1875-1980* (Toronto: McClelland and Stewart, 1995).
- Archer, John. *Saskatchewan: A History*. Saskatoon: Saskatchewan Press, 1980.
- Arthurs, Harry, *Connecting the Dots: The Life of an Academic Lawyer*, McGill Queen's University Press, 2019.
- Association of Professors Emeriti of the University of Alberta. *Echoes in the Halls: An Unofficial History of the University of Alberta*. Edmonton: University of Alberta Press and Duval House Publishing, 1999.
- Atkinson, Logan, Majury, Diana, *Law, Mystery, and the Humanities*, Toronto: University of Toronto Press, 2002.
- Axelrod, Paul, Reid, John G., *Youth University and Canadian Society: Essays in the Social History of Higher Education*, (Montréal and Kingston: McGill-Queen's University Press, 1989).
- Bacchi, Carol Lee, *Liberation Deferred: The Ideas of the English Canadian Suffragists, 1877-1918*, Toronto: University of Toronto Press, 1983.
- Backhouse, Constance, *Claire L'Heureux-Dubé: A Life*, (Vancouver: University of British Columbia Press, 2017).
- Backhouse, *Petticoats and Prejudice: Women and Law in Nineteenth Century Canada*, (Toronto: University of Toronto Press, 1991).
- Backhouse, Constance, Pue, Wesley, *The Promise and Perils of Law: Lawyers in Canadian History*, Toronto: Irwin Law, 2009.
- Backhouse, Constance. *Reckoning with Racism: Police, Judges, and the RDS Case*, (Vancouver: University of British Columbia Press for the Osgoode Society, 2022).
- Backhouse, Constance, *Two Firsts: Bertha Wilson and Claire L'Heureux-Dubé at the Supreme Court of Canada*, Second Story Press: Library and Archives Canada in Publication, 2019.
- Baillargeon, Denyse, Wilson, Donald, *A Brief History of Women in Québec*, (Waterloo: Wilfrid Laurier University Press, 2013).

- Baker, G. Blaine, Phillips, Jim, *A History of Canadian Legal Thought, R.C.B. Risk*, Toronto: University of Toronto Press, 2006.
- Barman, Jean, *The West beyond the West: A History of British Columbia*, 3rd edition, (Toronto: University of Toronto Press, 2007).
- Behiels, Michael, *Québec Since 1945*, (Toronto: Copp Clark, 1987).
- Behiels, Michael, *Prelude to Québec's Quiet Revolution: Liberalism vs. Neonationalism*, (Montréal and Kingston: McGill Queen's University Press, 1985).
- Bell, D.G., *Legal Education in New Brunswick: A History*, (Fredericton: University of New Brunswick, 1992).
- Berger, Carl, (with a new introduction by Doug Owram), *The Sense of Power: Studies in the Idea of Canadian Imperialism, 1867-1914*, Toronto: University of Toronto Press, 2013.
- Belshaw, John, *Becoming British Columbia: A Population History*, (Vancouver: UBC Press, 2009).
- Bennett, Judith, *History Matters: Patriarchy and the Challenge of Feminism*, Philadelphia: University of Pennsylvania Press, 2006.
- Bilson, Beth, Howe, Leah, Lowenberger, Brea, *Creating a Seat at the Table: Reflections from Women in Law*, (Regina: University of Regina Press, 2023).
- Boudreau, Spencer, "From Confessional to Cultural: Religious Education in the Schools of Québec," *Religion and Education*, Vol 38.3, (September 2011): 212-223.
- Boyd, Susan, Sheehy, Elizabeth, *Canadian Feminist Perspectives on Law: An Annotated Bibliography of Interdisciplinary Writings*, A Special Publication of Resources for Feminist Research, (Toronto: Ontario Institute for Studies in Education, 1989).
- Bradbury, Bettina, *Wife to Widow: Lives, Laws, and Politics in Nineteenth-Century Montréal*, UBC Press, 2011.
- Brant, Gail Cuthbert, et al., *Canadian Women: A History*, Toronto: Harcourt Brace Jovanovich, 1988.
- Brant, Gail Cuthbert, *Through the Mill: Girls and Women in the Québec Cotton Textile Industry 1881-1951*, (Montréal: Baraka Books, 2018).
- Burnet, Jean, *Next Year Country: A Study of Rural Social Organization in Alberta*, (Toronto: 1978).
- Campbell, Duncan. *Those Tumultuous Years: The Goals of the President of the University of*

- Alberta During the Decade of the 1960s*. Edmonton: The University of Alberta Library and the Alumni Association, 1977.
- Carlos, Jean-Philippe, Savard, Stéphane, *Révolution tranquille entre l'ici et l'ailleurs*, Québec : Les éditions des Septentrion, 2024.
- Carter, Sarah. *Imperial Plots: Women, Land, and the Spadework of British Colonialism on the Canadian Prairies*, Winnipeg: University of Manitoba Press, 2016)
- Castonguay, Thérèse, *A Leap in Faith: The Grey Nuns Ministries in Western and Northern Canada*, Edmonton: Grey Nuns in Alberta, 1999.
- Chalmers, John W. *Schools of the Foothills Province: The Story of Public Education in Alberta*. Toronto: University of Toronto Press, 1967.
- Chalmers, John W. *Teachers of the Foothills Province: The Story of the Alberta Teachers' Association*. Toronto: University of Toronto Press, 1968.
- Charland, Jean-Pierre, *La science et le pouvoir au Québec, 1920-1965*, Québec : Éditeur officiel 1978.
- Christie, Nancy, Gauvreau, Michael, *Christian Churches and their Peoples, 1840-1965*, (Toronto: University of Toronto Press, 2010).
- Christie, Nancy, *Engendering the State*,
- Clark, Georgina Binnie, (with a new introduction by Sarah Carter) *Wheat and Woman*, Toronto: University of Toronto Press, 2006, reprint of the 1914 ed., (Toronto: Bell and Cockburn, 1914)
- Cleaverdon, Catherine, *The Woman Suffrage Movement in Canada*, (Toronto: University of Toronto Press, 1950)
- Clement, Dominique, *Equality Deferred: Sex Discrimination and British Columbia's Human Rights State 1953-1984*, University of British Columbia Press, 2014.
- Cleverdon, Catherine, *The Woman Suffrage Movement in Canada: 2nd Edition*, (Toronto: University of Toronto Press, 1974).
- Curtis, Bruce, *Ruling by Schooling in Québec: Conquest to Liberal Governmentality a Historical Sociology*, Toronto: University of Toronto Press, 2012.
- Curtis, Bruce, *Building the Educational State: Canada West 1836-1871*, (London: Althouse Press, 1988).

- Danylewycz, Marta, *Taking the Veil: An Alternative to Marriage, Motherhood, and Spinsterhood in Québec, 1840-1920*, (Toronto: McClelland and Stewart, 1987).
- Demers, Annette, L., *A History of the University of Windsor, Faculty of Law, 1968-2008*, 2010.
- Damer Eric, Rosengarten, Herbert, *UBC: The First 100 Years*, (Vancouver: The University of British Columbia, 2009).
- Dagg, Anne Innis, Thompson, Patricia J., *MisEducation: Women and Canadian Universities*, (Toronto: The Ontario Institute for Studies in Education, 1988).
- Dawson, T Bettel, *Women, Law, and Social Change: Core Readings and Current Issues*, (Toronto: Captus Press, 1990).
- Dawson, Carl, Young, Eva, *Pioneering in the Prairie Provinces: The Social Side of the Settlement Process*, (Toronto: 1940).
- Duchaussois, Father P. Rev., *The Grey Nuns in the Far North*, Toronto: McClelland & Stewart, 1919.
- Dufour, Andrée, *Historie de l'éducation au Québec*, (Montréal : Boréal, 1997).
- Dumont, Micheline, Famy-Eid, Nadia, et al., *Les couventines : l'éducation des filles au Québec dans les congrégations religieuses enseignantes, 1840-1960*, (Montréal : Boréal, 1986).
- Dumont, Hélène, *Femmes et droit 50 ans de vie commune... et tout un avenir, Les journées Maximilien-Caron 1991*, Montréal : Les Éditions Thémis, 1993).
- Dumont, Hélène « l'abolition du crime d'avortement dans la perspective de la réforme du droit criminel », *Revue juridique Thémis*, (1980-81) 149-193, « Un examen féministe du droit criminel, » *Revue juridique La femme et le droit /Canadian Journal of Women and the Law*, (1986) 199-214.
- Dumont, Hélène « Désarmons les Canadiens et armons-nous de tolérance » *Revue canadienne de droit pénal/ Canadian Criminal Law Review* (1997) 2, 43-71.
- Duncan, David M., *The Prairie Provinces: A Short History of Manitoba, Saskatchewan, and Alberta*, (Toronto: W.J. Gage, 1908).
- Eley, Geoff, *A Crooked Line: From Cultural History to the History of Society*, University of Michigan, 2005.
- Fournier, Marcel, *L'Entrée dans la modernité : sciences, culture, et société*. (Montréal : Éditions Albert Saint-Martin, 1986).
- Ford, Anne Rochon, *A Path Not Strewn with Roses: One Hundred Years of Women at the University of Toronto 1884-1984*, Toronto: University of Toronto Press, 1985.

- Friedland, Martin, *The University of Toronto: A History*, Toronto: University of Toronto Press, 2002.
- Friedland, Martin, *Searching for W.P.M. Kennedy: The Biography of an Enigma*, Toronto: University of Toronto Press, 2020.
- Friesan, Gerald, *River Road: Essays on Manitoba and Prairie History*, Winnipeg: University of Manitoba Press, 1996.
- Friesen, Gerald, *The Canadian Prairies: A History*, (Toronto: University of Toronto Press, 1987).
- Frost, Stanley, *McGill University: for the Advancement of Learning*, (Montréal: McGill-Queen's University Press, 1984).
- Gagnon, Alain, et al., *Québec Beyond the Quiet Revolution*, (Scarborough : Nelson, 1990).
- Gaskell, Jane S., McLaren, Arlene Tigar, *Women and Education: Second Edition*, (Alberta: Detselig Enterprises Ltd., 1991).
- Gauvreau, Michael, *The Catholic Origins of Québec's Quiet Revolution, 1931-1970*, (Montréal: McGill-Queen's University Press, 2005).
- Gauvreau, Michael, Hubert Oliver, eds., *The Churches and Social Order in Nineteenth and Twentieth Century Canada*, (Montréal: McGill-Queen's University Press, 2006).
- Gibbins, Roger, *Prairie Politics and Society: Regionalism in Decline*, Toronto: Butterworths, 1980.
- Gillett, Margaret, *We Walked Very Warily: A History of Women at McGill*, Montréal: Eden Press, 1981.
- Girard, Philip, *Bora Laskin: Bringing Law to Life*, (Toronto: University of Toronto Press for the Osgoode Society, 2005).
- Girard, Philip, Phillips, Jim, Brown, Blake, *History of Law in Canada Vol I: Beginnings to 1866*, (Toronto: University of Toronto Press for the Osgoode Society, 2019).
- Gossage, Peter, *An Illustrated History of Québec: Tradition and Modernity*, (Toronto: OUP, 2012).

- Green, Joyce, *Making Space for Indigenous Feminism*, (Winnipeg: Fernwood Publishing, 2007).
- Hamilton, Roberta, *Setting the Agenda: Jean Royce and the Shaping of Queen's University*, Toronto, Buffalo, London: University of Toronto Press, 2002.
- Harris, Robin, S., *A History of Higher Education in Canada 1663-1960*, Toronto: University of Toronto Press, 1976.
- Hardy, Cynthia, *The Politics of Collegiality: Retrenchment Strategies in Canadian Universities*, (Montréal and Kingston: McGill Queen's University Press, 1996).
- Hayden, Michael, *Seeking a Balance: The University of Saskatchewan, 1907-1982*, (Vancouver: University of British Columbia Press, 1983)
- Heap, Ruby, *Gender and Education in Ontario*, Canadian Scholars Press, (1998).
- Hébert, Monique, Kermoal, Nathalie, and LeBlanc, Phyllis, eds., *Entre le quotidien et le politique: facettes de l'histoire des femmes francophones en milieu minoritaire*, Gloucester, RNAÉF, 1997.
- Hewitt, Steve, *Spying 101: The RCMP's Secret Activities at Canadian Universities, 1917-1997*, Toronto: University of Toronto Press, 2002.
- Higgins, Benjamin, *Impact of the Université de Moncton on the Regions of Moncton, Edmundston, and Shippagan* (Moncton: Université de Moncton Canadian Institute for Research and Development, 1988).
- Honsberger, John, D., *Osgoode Hall: An Illustrated History*, 2004.
- Iguarta, José E., *The Other Quiet Revolution*, (Vancouver: University of British Columbia Press, 2006).
- Innis, H.A., *The Fur Trade in Canada: An Introduction to Canadian Economic History*, New Haven: Yale University Press, 1930.
- Jefferson, Renee, K., Johnson, Hannah, B., *Shortlisted: Women in the Shadows of the Supreme Court*, New York: New York University Press, 2020.
- Johns, Walter, *A History of the University of Alberta 1908-1961*, Edmonton: University of Alberta Press, 1981.
- Johnson, Michele, Aladejebi, Funké, *Unsettling the Great White North: Black Canadian History*, (Toronto: University of Toronto Press, 2022).
- Johnson, Rebecca, *Taxing Choices: The Intersection of Class, Gender, Parenthood, and the Law*, Vancouver: University of British Columbia Press, 2003.

- Kerr, Don. *Saskatoon: The First Half Century*. Edmonton: NeWest Publishers, 1982.
- Kinnear, Mary. *A Female Economy: Women's Work in a Prairie Province, 1870-1970*. Montréal and Kingston: McGill-Queen's University Press, 1998.
- Kinsman, Gary, Gentile, Patrizia, *The Canadian War on Queers: National Security as Sexual Regulation*, UBC Press, 2010.
- Kyer, Ian, C., Bickenbach, Jerome, E., *The Fiercest Debate: Cecil A. Wright, the Benchers, and Legal Education in Ontario, 1923-1957* (Toronto: The Osgoode Society, 1987).
- Lai, David Cheuyan, *Chinatowns: Towns within Cities in Canada*, (Vancouver: UBC Press, 1995).
- Langford, Nanci. *Politics, Pitchforks, and Pickle Jars: 75 Years of Organized Farm Women in Alberta*. Calgary: Detselig Enterprises, 1997.
- Laycock, David. *Populism and Democratic Thought on the Prairies, 1910 to 1945*. Toronto: University of Toronto Press, 1990.
- Leiper, Jean McKenzie, *Bar Codes: Women in the Legal Profession*, Vancouver: UBC Press, 2006.
- Lewis, Thomas. *The Liberal Party in Alberta: A History of Politics in the Province of Alberta from 1905-1921*. Toronto: University of Toronto Press, 1959.
- Linteau, Paul Andre, *Québec Since 1930*, (Toronto : Lorimer, 1991).
- Lipset, Seymour Martin. *Agrarian Socialism: The Cooperative Commonwealth Federation in Saskatchewan: A Study in Political Sociology*. Berkeley: University of California Press, 1971.
- Logan, Harry, T., *Tuum Est: A History of the University of British Columbia*, (Vancouver: University of British Columbia, 1958).
- Levine, Marc, *The Reconquest of Montréal: Language Policy and Social Change in a Bilingual City*, (Philadelphia: Temple University Press, 1990).
- Mann, Susan, *The Dream of Nation, Second Edition*, Montréal and Kingston: McGill Queen's University Press, 2002.
- MacLeod, Roderick, Poutanen, Mary Anne, *A Meeting of the People: School Boards and Protestant Education in Québec, 1801-1998*, (Montréal: McGill-Queen's University Press, 2004).

- Macleod, Rod. *All True Things: A History of the University of Alberta, 1908-2008*. Edmonton: The University of Alberta Press, 2008.
- Macdonald, John. *The History of the University of Alberta, 1908-1958*. Toronto: W.J. Gage, 1958.
- Martel, Marcel, Paquet, Martin, *Speaking Up: A History of Language and Politics in Canada and Québec*, Toronto: Between the Lines Press, 2012.
- Marchack, Patricia M., *Racism, Sexism, and the University: The Political Science Affair at the University of British Columbia*, (Montréal & Kingston: McGill-Queen's University Press, 1996).
- McDowall, Duncan, *Queen's University. Volume III, 1961-2004: Testing Tradition*, Montréal & Kingston: McGill-Queen's University Press, 2016.
- McKillop, Brian A., *A Disciplined Intelligence: Critical Inquiry and Canadian Thought in the Victorian Era*, (Montréal: McGill-Queen's University Press, 1980).
- McKillop, Brian, A., *Matters of Mind: The University in Ontario, 1791-1951*, Toronto: University of Toronto Press, 1994.
- McRoberts, Kenneth, *Québec: Social Change and Political Crisis, Third Edition*, Toronto: Oxford University Press, 2000.
- Moore, Christopher, *British Columbia Court of Appeal: The First Hundred Years*, (Vancouver: UBC Press for the Osgoode Society, 2010).
- Mills, Sean, *The Empire Within: Postcolonial Thought and Political Activism in Sixties Montréal*, (Montréal: McGill-Queen's University Press, 2010).
- Morton, Desmond, *A Short History of Canada: 6th ed.*, (Toronto: McClelland and Stewart, 2006).
- Morton, W.L., *One University: A History of the University of Manitoba*, (McClelland and Stewart Ltd., 1957).
- Mossman, Mary Jane, *Quiet Rebels: A History of Ontario Women Lawyers*, (Waterloo: Wilfrid Laurier University Press, 2024).
- Nelles, H.V., *A Little History of Canada*, (Toronto: OUP, 2011).
- Normand, Sylvio, *Le droit comme discipline universitaire : Une histoire de la faculté de droit de l'Université Laval*, (Québec : Les Presses de l'Université de Laval, 2005).
- Owram, Doug, *The Government Generation: Canadian Intellectuals and the State 1900-1945*, Toronto: University of Toronto Press, 1986.

- Palmer, Bryan, *Canada's 1960s: The Ironies of Identity in a Rebellious Era*, Toronto: University of Toronto Press, 2009.
- Paquet, Martin, Savard, Stéphane, *Brève histoire de la Révolution tranquille*, Québec : Les éditions du Boréal, 2021.
- Parr, Joy, *The Gender of Breadwinners: Women, Men, and Change in Two Industrial Towns 1880-1950*, Toronto: University of Toronto Press, 1990.
- Parr, Joy, *Domestic Goods: the Material, the Moral and the Economic in the Postwar Years*, (Toronto: University of Toronto Press, 1999).
- Pelletier-Baillargeon, Marie Gérin-Lajoie : *De mère en fille, la cause des femmes*, (Montréal : Boréal Express, 1985).
- Phillips, Jim, Girard, Philip, Brown, Blake, *History of Law in Canada Vol II: Law for the New Dominion 1867-1914*, (Toronto: University of Toronto Press for the Osgoode Society, 2022).
- Phillips, Paul, *No Power Greater: A Century of Labour in British Columbia* (Vancouver: BC Federation of Labour, 1967).
- Prentice, Alison et al., *Canadian Women: A History*, (Toronto: Harcourt Brace & Company Canada Ltd., 1996)
- Pue, Wesley, *Law School: The Story of Legal Education in British Columbia*, (Vancouver: University of British Columbia Press, 1995).
- Pue, Wesley, *Lawyers Empire: Legal Professions and Cultural Authority, 1780-1950*, (Vancouver: University of British Columbia Press, 2016).
- Palamarek, Michael. *A History of Women and Politics in Alberta, 1900-1988*. Report for Senator Martha Bielish. Edmonton, 1989.
- Purcell, Edward, A., *The Crisis of Democratic Theory: Scientific Naturalism and the Problem of Value*, The Press of the University of Kentucky, 1973.
- Reeve, Phyllis, *The History of the University Women's Club of Vancouver, 1907-1982*, (Vancouver: University Women's Club of Vancouver, 1982)
- Roy, Patricia, *A White Man's Province: British Columbia Politicians and Japanese Immigrants, 1858-1914* (Vancouver: UBC Press 1989).
- Rosenburg, Rosalind, *Beyond Separate Spheres: Intellectual Roots of Modern Feminism*, Yale University Press, 1982.
- Rudin, Ronald, *Making History in twentieth-century Québec: Historians and their Society*, (Toronto: University of Toronto Press, 1997).

- Sager, Eric, *Inequality in Canada: The History and the Politics of an Idea*, (Montréal: McGill Queen's University Press, 2020).
- Sangster, Joan, *Demanding Equality: One Hundred Years of Canadian Feminism*, (Vancouver: University of British Columbia Press, 2021).
- Sangster, Joan, *Through Feminist Eyes: Essays on Canadian Women's History*, Athabasca University Press, 2011.
- Sangster, Joan, *Transforming Labour: Women and Work in Post-War Canada*, Toronto: University of Toronto Press, 2010.
- Sangster, *Dreams of Equality: Women on the Canadian Left, 1920-1950*. Toronto: McClelland Stewart, 1989.
- Saywall, John, *Someone to Teach Them: York and the Great University Explosion 1960-1973*, Toronto: University of Toronto Press, 2008.
- Schultz, Urlike, Shaw, Gisela, Thornton, Margaret, eds. *Gender and Careers in the Legal Academy*, Bloomsbury Press, 2021.
- Sharpe, Robert J., McMahon, Patricia I., *The Persons Case: The Origins of Legacy and the Fight for Legal Personhood*, Toronto: University of Toronto Press, 2007.
- Sheehy, Elizabeth, McIntyre, Sheila, *Calling for Change: Women, Law and the Legal Profession*, Ottawa: University of Ottawa Press, 2006.
- Sheffield, Edward et al., *Systems of Higher Education: Canada*, International Council for Educational Development, 1978, 2nd ed, 1982.
- Shook, Laurence, *Catholic Post Secondary Education in English-Speaking Canada*, Toronto: University of Toronto Press, 1971.
- Shore, Marlene, *The Science of Social Redemption: McGill, The Chicago School and the Origins of Social Research in Canada*, Toronto: University of Toronto Press, 1987.
- Silver Dranoff, Linda, *Fairly Equal: Lawyering the Feminist Revolution*, Toronto: Second Story Press, 2017.
- Smart, Carol, *Feminism and the Power of Law*, London: Routledge, 1989.
- Smith, MacKay, *Memories and Profiles of McGill University: Downtown Campus 1789-2009*, (Montréal: Infinitebooks, 2009).
- Spender, Dale, *Women of Ideas and What Men Have Done to Them*, (London: Routledge & Kegan Paul plc, 1983).

- Spender, Dale, *Invisible Women: The Schooling Scandal*, (London: The Women's Press, 1989).
- Srigley, Katrina, *Breadwinning Daughters: Young Working Women in a Depression Era City, 1929-1939*, Toronto: University of Toronto Press, 2010
- Stephen, Jennifer, *Pick One Intelligent Girl: Employability, Domesticity, and the State*, (Toronto: University of Toronto Press, 2007).
- Stewart, Lee, *It's Up to You: Women at UBC in the Early Years*, (Vancouver: University of British Columbia Press, 1990)
- Swainger, Jonathan, Knafla, Louis, *Laws and Societies in the Canadian Prairie West, 1670-1940*, Vancouver: University of British Columbia Press, 2005.
- The Chilly Collective, *Breaking Anonymity: The Chilly Climate for Women Faculty*, Wilfrid Laurier University Press, (1995).
- Tremblay, Manon, Andrew, Caroline, *Women and Political Representation in Canada*, University of Ottawa Press, 1998.
- Trofimenkoff, Susan Mann. *Twenties in Western Canada: Papers of the Western Canadian Studies Conference*. Ottawa: University of Ottawa Press, March 1972.
- Van Kirk, Sylvia, *Many Tender Ties: Women in Fur Trade Society*, University of Oklahoma Press, 1980.
- Waldron, Mary Anne, *Free to Believe: Rethinking Freedom of Conscience and Religion in Canada*, Toronto: University of Toronto Press, 2013.
- Walter, Johns. *A History of the University of Alberta, 1908-1969*. Edmonton: The University of Alberta Press, 1981.
- Walter, Johns. *A History of the Faculty of Law*. Edmonton: The University of Alberta, 1971.
- Walters, Mark, D., *"Let Right Be Done,": A History of the Faculty of Law at Queen's University*, 2007.
- Watts, Alfred, *History of the Legal Profession in British Columbia*, (Vancouver: Law Society of BC, 1984) 47-67
- Willis, John, *A History of Dalhousie Law School*, (Toronto: University of Toronto Press, 1979).
- Young, Brian, Dickenson, J.A., *A Short History of Québec: Fourth Edition*, (Montréal: McGill Queen's University Press, 2008).

Zubrzycki, Geneviève, *Beheading the Saint: Nationalism, Secularism, and Religion in Québec*, (Chicago: University of Chicago Press, 2016)

Chapters in Books:

Abel, Richard, L., "Education in Upper Canada 1785-1889: The Law Society as Educator," in David H. Flaherty, ed. *Essays in the History of Canadian Law Vol II*, (Toronto: 1983)

Backhouse, Constance, "A Revolution in Numbers': Ontario Feminist Lawyers in the Formative Years 1970s to the 1990s" in Backhouse, Constance, Pue, Wesley, *The Promise and Perils of Law: Lawyers in Canadian History*, (Toronto: Irwin Law, 2009).

Brockman, Joan, "Exclusionary Tactics: The History of Women and Visible Minorities in the Legal Profession in British Columbia" in Hamar Foster and John McLaren, eds., *Essays in the History of Canadian Law, vol. VI: British Columbia and the Yukon* (Toronto: Osgoode Society for Canadian Legal History, 1995).

Constant, Jean-Francois, Ducharme, Michel, "Introduction: A Project of Rule Called Canada" *Liberalism and Hegemony: Debating the Canadian Liberal Revolution*, (Toronto; Buffalo, N.Y.: University of Toronto Press, 2009).

Perry, Adelle, Women, Racialized People, and the Making of the Liberal Order in North America," *Liberalism and Hegemony: Debating the Canadian Liberal Revolution*, (Toronto; Buffalo, N.Y.: University of Toronto Press, 2009).

Roome, Patricia. "Amelia Turner and Calgary Labour Women, 1919-1935." In *Beyond the Vote: Canadian Women and Politics*, edited by Joan Sangster and Linda Kealy, Toronto: University of Toronto Press, 1989.

Shore, Marlene, "Introduction," *The Contested Past: Reading Canada's History*, University of Toronto Press, 2002.

Starr, Taylor, "Internal and External Advocacy for Legal Reform: Genesis of the Ontario Family Law Act [1986], 1964-1986," *Essays in the History of Canadian Law Vol XII: New Perspectives on Gender and the Law*, Toronto: University of Toronto Press for the Osgoode Society, 2023.

Taylor, Georgina. "'The Women... Shall Help Lead the Way': Saskatchewan CCF-NDP Women Candidates in Provincial and Federal Elections, 1934-1965." In *Building the Cooperative Commonwealth: Essays on the Democratic Socialist Tradition in Canada*, edited by J. William Brennan, 141-196. Regina: Great Plains Research Center, 1984.

Theses:

- Bednorski, Mark. "Manitoba Populism and the Farmers' Movement in the Provincial Elections of 1920 and 1922." MA Thesis, University of Manitoba, 1997.
- Conway, John Frederick. "To Seek a Goodly Heritage: The Prairie Populist Resistance to the National Policy in Canada." PhD Thesis, Simon Fraser University, 1978.
- Brunet, Mélanie, "Becoming Lawyers: Gender, Legal Education, and Professional Identity Formation in Canada 1920-1980" (Unpublished PhD Dissertation, University of Toronto, 2005).
- Collin, Johanne. "Évolution des profils de comportements des clientèles féminine et masculine face aux études universitaires : le cas des facultés professionnelles de l'Université de Montréal, 1940-1980," MA Université de Montréal, 1986.
- Crunican, P.E., "The Manitoba School Question and Canadian Federal Politics, 1890-1896: A Study in Church-State Relations," PhD Thesis, Department of History: University of Toronto, 1968.
- Dompierre, Julie, "La formation professionnelle des filles au Québec : l'exemple des business colleges, 1930-1960, » l'Université de Sherbrooke, Thèse (M.A.), 1987.
- Kristajanson, Cheryl, "Male Bias in the Prevalent Concepts of Leadership," Unpublished M.Ed. Thesis, University of Manitoba, 1989.
- Nugent, Amy Elizabeth, "Feminism and Populism on the Canadian Prairies," University of Calgary Department of Political Science, M.A. Thesis, 2002.
- Razak, Sherene H., "Feminism Applied to Law: The Women's Legal Education and Action Fund, PhD Thesis, Department of Education: University of Toronto, 1989
- Szalaszyj, Kathlyn Rose Marie. "The Doukhobor Homestead Crisis, 1898-1907." M.A. Thesis, University of Saskatchewan, 1977.
- Stewart, Lee, "The Experiences of Women at the University of British Columbia, 1916-1956, MA Thesis, University of British Columbia, 1986.
- Van Kirk, Sylvia, "The Role of Women in the Fur Trade Society of the Canadian West," University of London Ph.D. Dissertation, 1975.

Digital Materials and Websites

The Story of the University of British Columbia, *UBC Archives*,
<https://archives.library.ubc.ca/general-history/a-brief-history-of-ubc/>.

Marion Ironquill Meadmore, *The Canadian Encyclopedia*.

Short Interview with Anne McLellan and Erica Gagnon, *Dalhousie University*, 5 October

2016. <https://soundcloud.com/user-968283455/dalhousie-original-anne-mclellan/s-pDnGo>

Don Kerr, "Building the University of Saskatchewan," *University of Saskatchewan Archives*.

National Film Board of Canada. *Acadia, Acadia?!?* Directed by Michel Brault and Pierre Perrault. Montreal: National Film Board of Canada, 1971.
https://www.nfb.ca/film/acadia_acadia/.

Appendix A
Curriculum Timelines

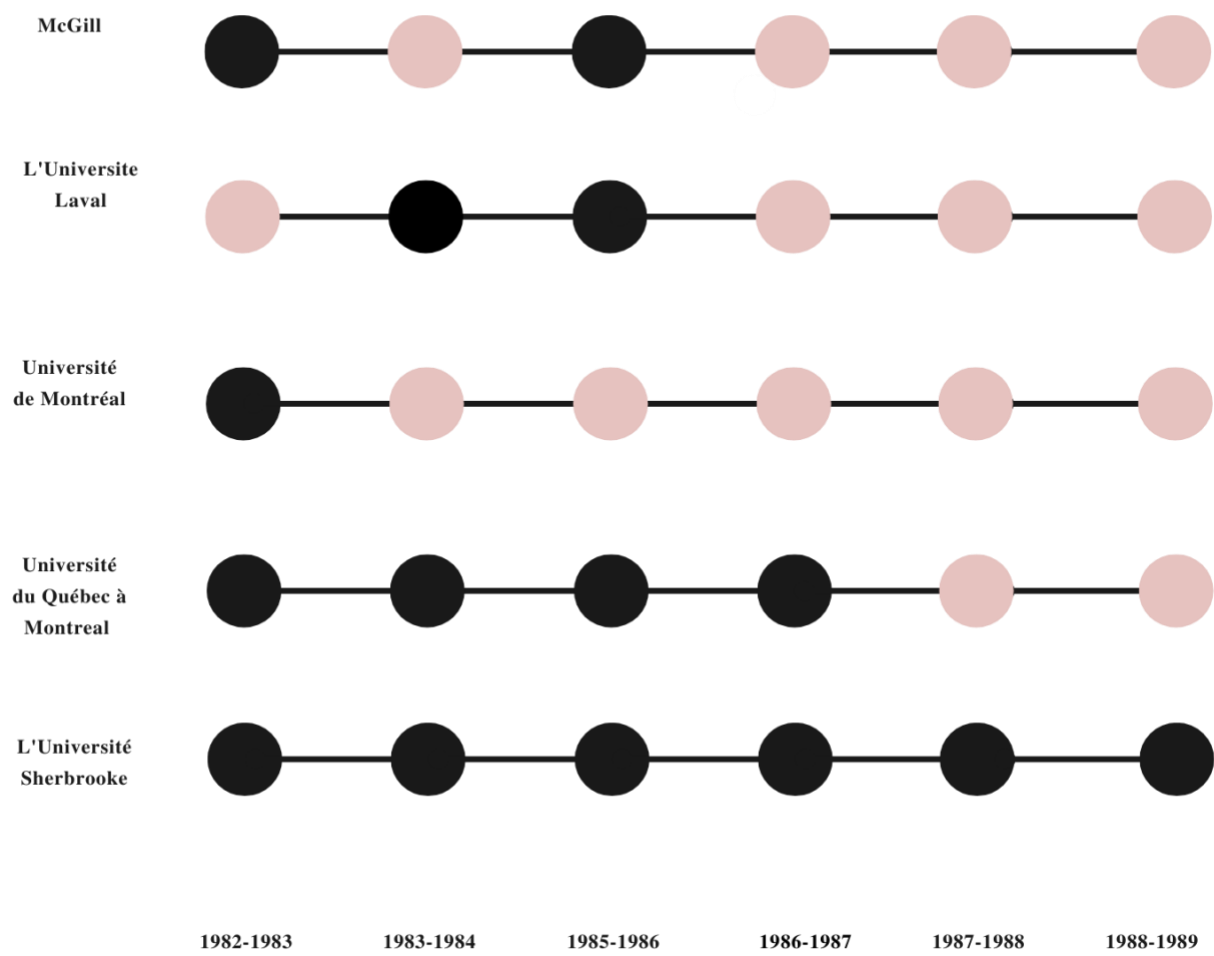
Legends

Curriculum Offerings	Description
 Standard	The civil law curriculum in Canada emphasized core subjects like contracts and torts, alongside specialized areas such as administrative and constitutional law, while incorporating experiential learning like moot court competitions to prepare students for legal practice by the 1960s. Faculty always prioritized refining the matriculation curriculum, recognizing its pivotal role in shaping students' foundational understanding of legal principles and ensuring relevance to evolving legal discourse. This focus underscored civil law programs' commitment to equipping students with both theoretical knowledge and practical skills essential for success in the legal profession.
 Les femmes et le droit	Women and the law courses depended on the hiring of women professors. After 1974, the emergence of Women and the Law curriculum in civil law education marked a significant shift, addressing gender equality and legal rights. These specialized courses covered various topics like gender discrimination, reproductive rights, and women's roles in the legal profession.
 Feminist Legal Theory	Attention to feminist legal theory depended on a handful and availability of courses which began to reflect gender in the 1980s. Some of these courses offered were titled: "Gender, Law, Equity," etc.

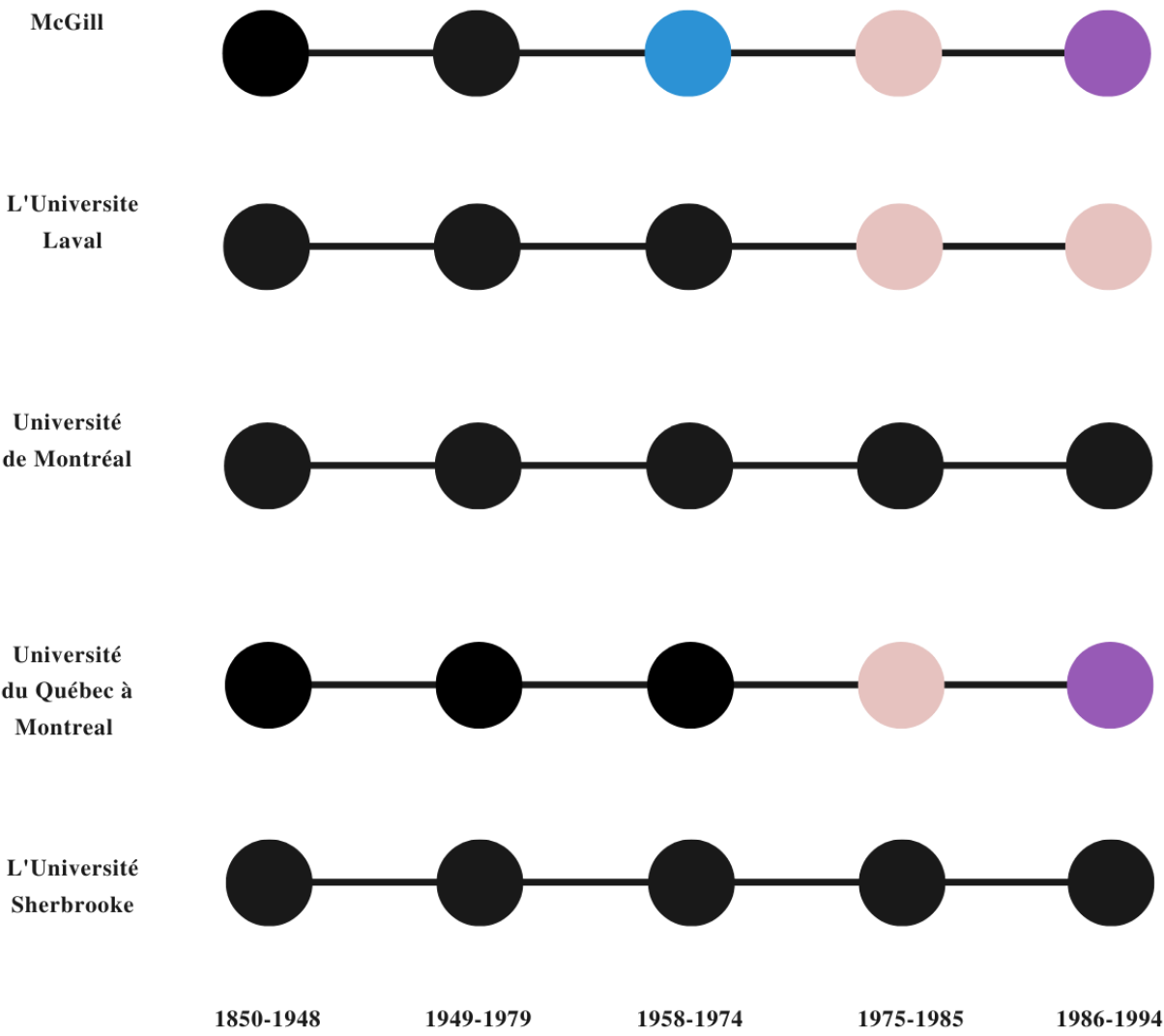
Figure A – Civil Law Curriculum Changes Legend

Curriculum Offerings	Description
 Standard	The common law curriculum in Canada shared similarities with civil law programs but had key distinctions. Like civil law, first-year students studied core subjects such as contracts, torts, criminal law, and legal research. However, common law placed a strong emphasis on case law and judicial reasoning, fostering engagement with appellate court decisions and advocacy skills through moot court competitions. While elective courses were offered, common law education often emphasized traditional subjects like property law and evidence. Overall, common law education prioritized case law, advocacy, and adherence to legal precedent and was strongly influenced by the corresponding Law Societies within the provinces.
 Matriculation	Law faculties demonstrating attention to matriculation means they appeared to be attentive to university trends by offering courses or amending curricula in a broad range of university and academic topics such as Philosophy, Psychology, Political Science, History, and more. However, their focus was not necessarily on being attentive, but rather on aligning with the institutional expectations of offering comprehensive academic courses. It is important to note that ‘matriculation’ refers to the requirements to enter university, not to earn a university degree. A ‘matriculant’ was someone who had finished high school, and for a long time, this was all that was required to enter Osgoode Hall Law School.
 Women and the Law	In 1974, women in common law schools designed the Women and the Law curriculum, addressing gender inequality in legal education. This specialized program, crafted by female legal scholars and practitioners, examined law’s intersection with gender through courses on discrimination, reproductive rights, and women’s roles in the legal profession.
 Feminist Legal Theory	Attention to feminist legal theory depended on a handful and availability of courses which began to reflect gender in the 1980s. Some of these courses offered were titled: “Gender, Law, Equity,” etc.

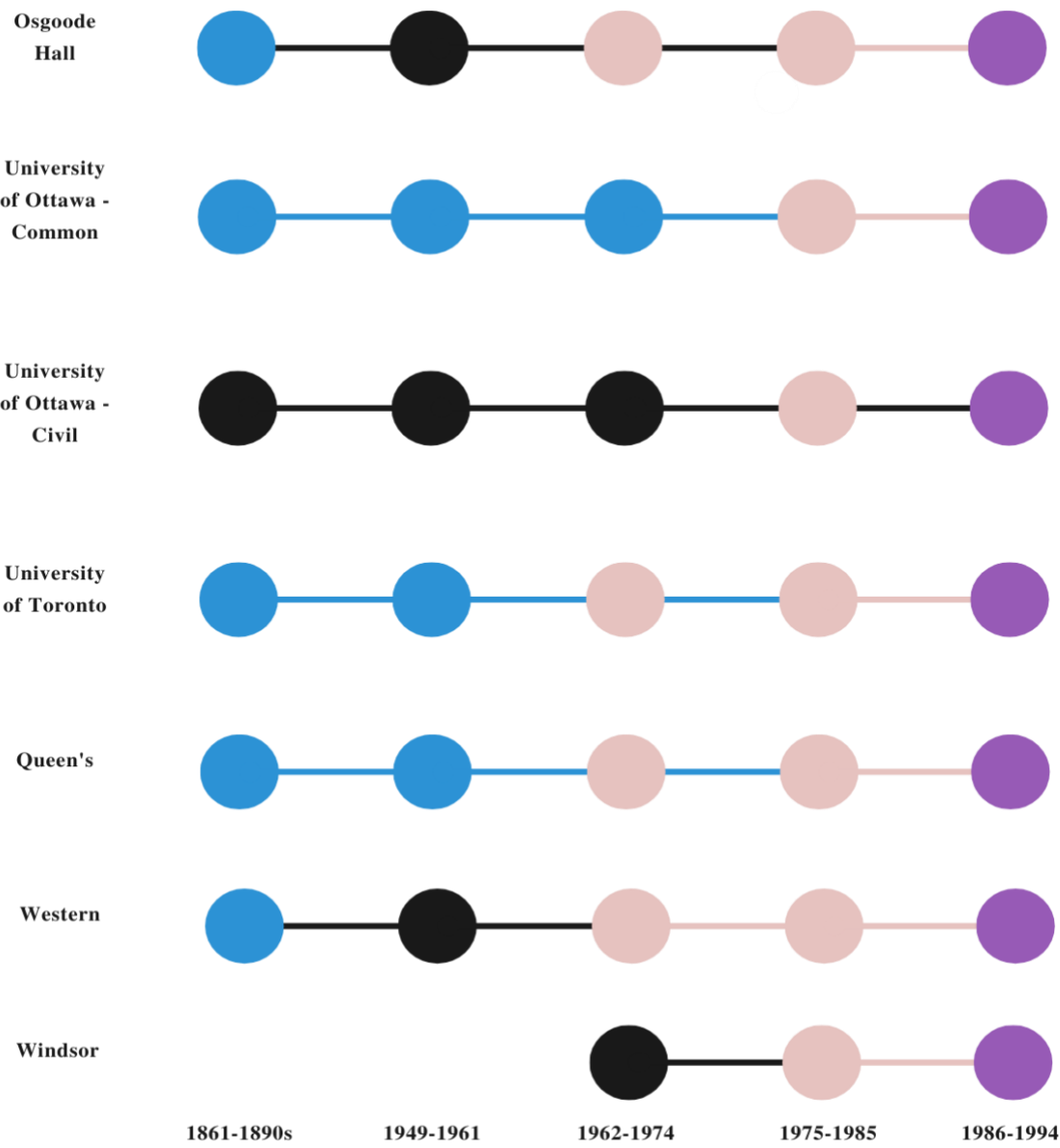
Figure B – Common Law Curriculum Changes Legend



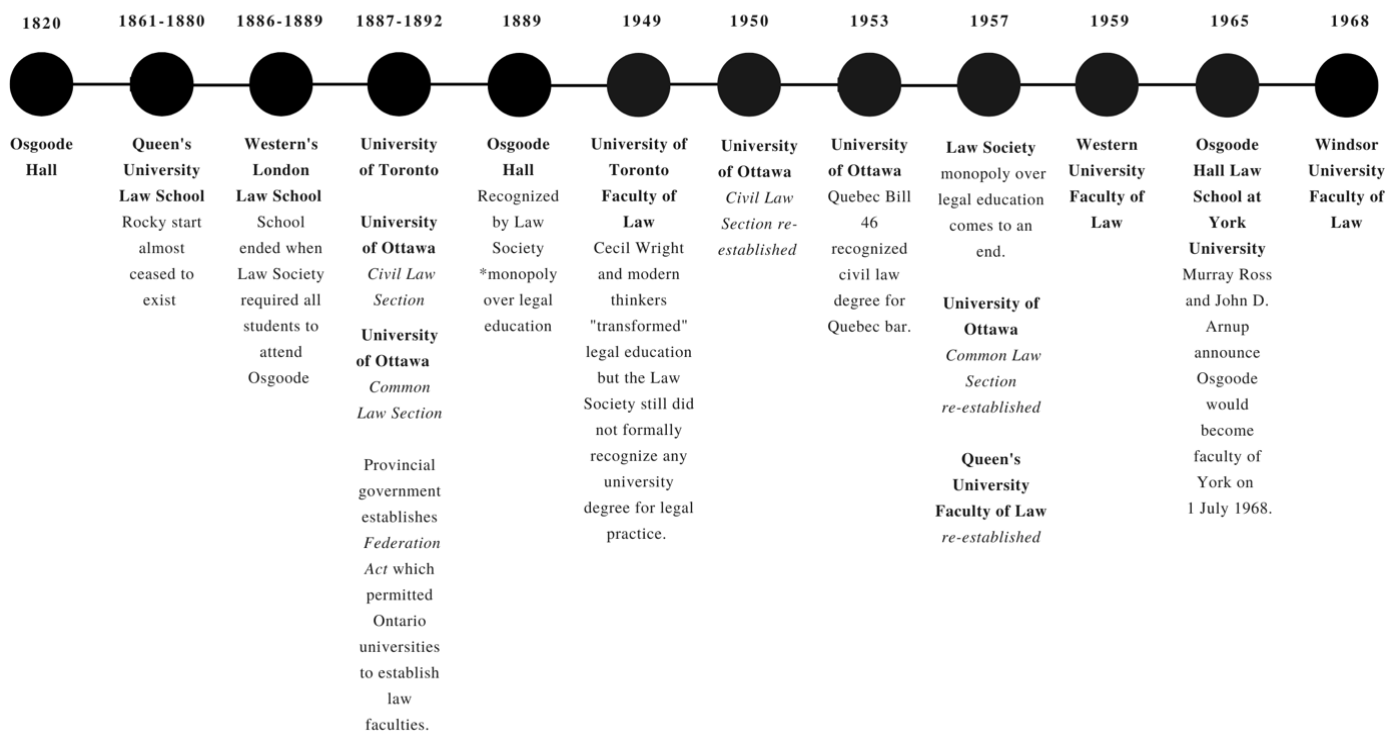
Les femmes et le droit courses in the 1980s, according to law faculty calendars.



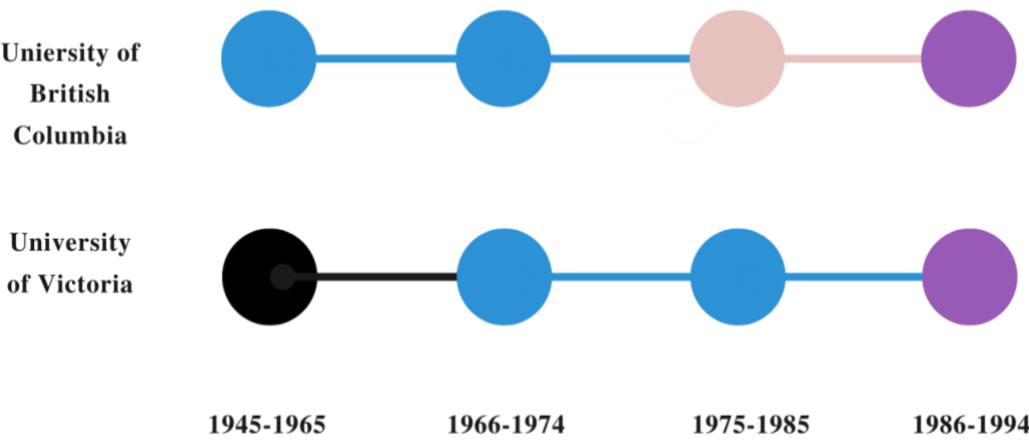
Calendrier des cours du Québec Chronologie du curriculum 1850-1994.



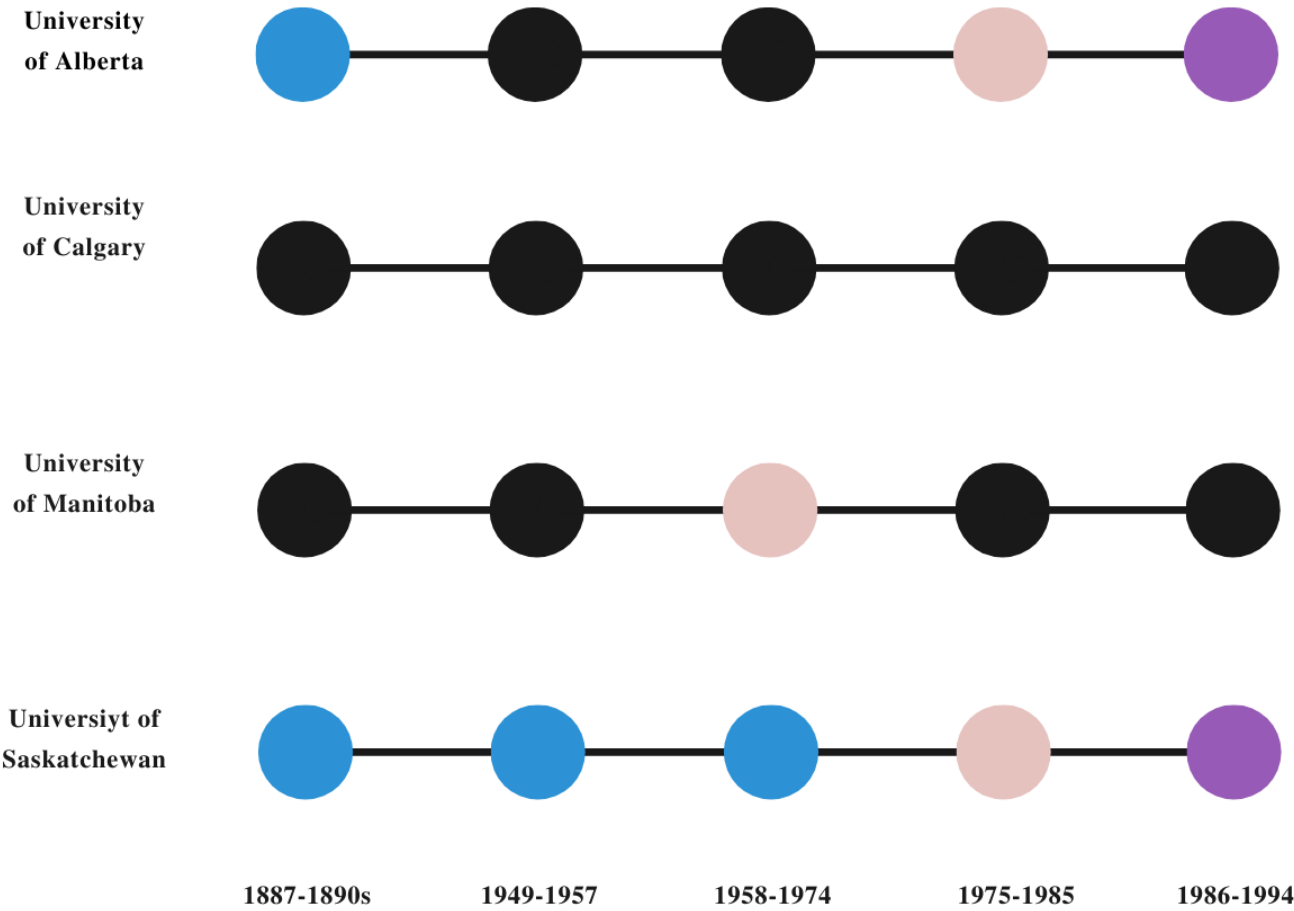
Ontario Law Calendar Curriculum Timeline, 1861-1994.



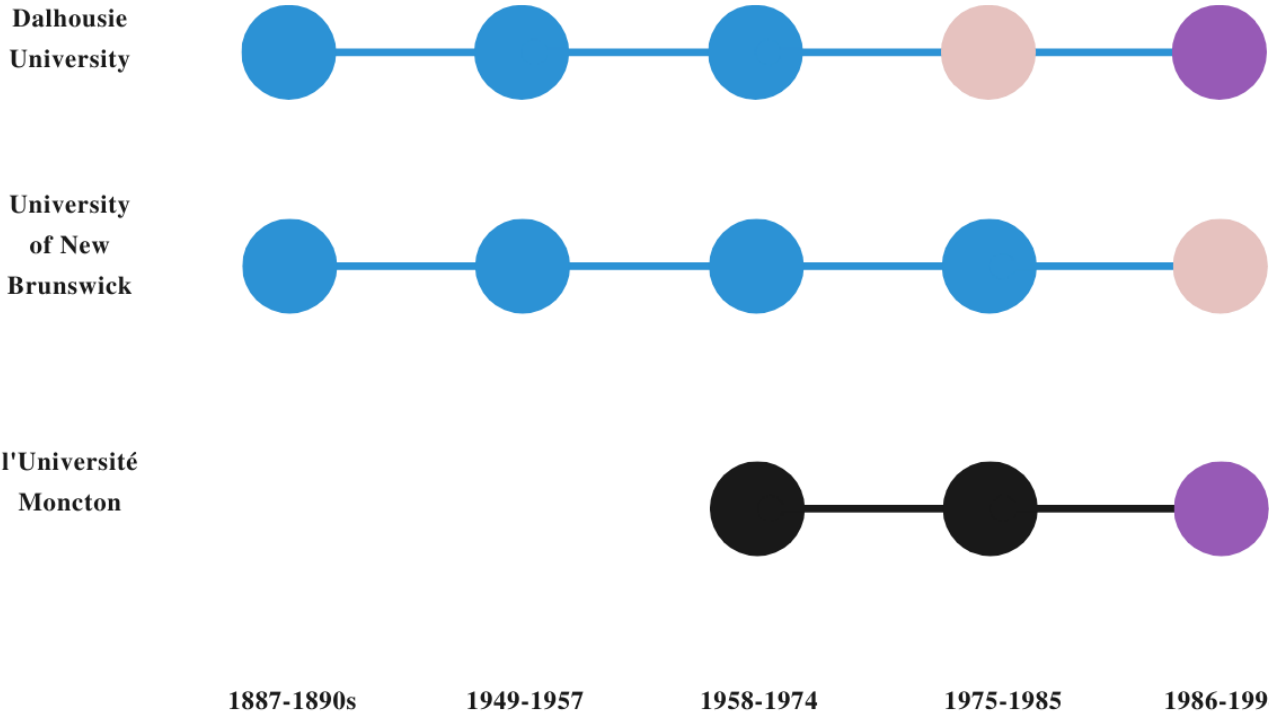
University Legal Education in Ontario Chronology, 1820-1968



BC Law Calendar Curriculum Timeline, 1945-1994.



Prairie Law Faculty Calendar Curriculum Timeline, 1887-1994



Maritime Law Faculty Calendar Curriculum Timeline, 1887-1994



Appendix B

Informed Consent Form

Date:

Participant Name:

Study Name: "Invisible Barriers: Gendered Problems in Canadian Law Faculties, 1961-1994"

Researcher Name:

Taylor D. Starr, PhD Candidate, History
York University
tdstarr@yorku.ca

Purpose of Research:

This study aims to identify how women confronted the problem of implicit sex discrimination in teaching positions in law faculties in late twentieth-century Canada. The project will draw upon relevant scholarly literature, public and law school archival documents, published reports, and interviews with retired and active women in the Canadian legal profession and legal academy. The resulting dissertation will provide a historical examination of how women and feminism were received in law faculties in the late twentieth century. The context of changing societal values around women and feminism that came out of the twentieth century will help to create a more nuanced understanding of implications of the continuity of earlier trends today.

Procedures: The interview will be conducted over Zoom. With your permission, the interviewer will record the interview. You may decline to answer any questions you wish, or discontinue the interview at any point. The interview will take around 1 hour of your time.

Risks and Discomforts: We do not foresee any risks or discomfort from your participation in the research.

Benefits of the Research: By including your professional experience in this study and documenting your story, you will help contribute to a more equitable legal profession, and in turn, society in Canada. The answers to your questions will be compared with other participants who (based on preliminary research) shared similar experiences as you. Understanding the ways that the intellectual, professional and cultural landscape of the legal academy excluded women from its ranks will provide an original contribution to the study of women in Canada. It will have transdisciplinary impact, being relevant to those who study gender relations in other disciplines and professions, as well as advancing our knowledge of the history of legal education in general.

Audio and Recording: This study will use Zoom to collect data, which is an externally hosted cloud-based service. When information is transmitted over the internet privacy cannot be guaranteed. There is always a risk your responses may be intercepted by a third party (e.g., government agencies, hackers). Further, while York University researchers will not collect or use IP addresses or other information which could link your participation to your computer or electronic devices without informing you, there is a small risk with any platform such as this of data that is collected on external servers falling outside the control of the researcher. If you are concerned about this, we would be happy to make alternative arrangements (where possible) for you to participate, perhaps via telephone. Please contact the researcher for further information.

Recordings (audio/video) will be saved in a password protected file to researcher's local computer, not the cloud-based service.

Audio- Recording Consent:

☐ I consent to the audio-recording of my interview(s).

Video- Recording Consent:

☐ I consent to the video-recording of my interview(s).

Photographic- Recording Consent:

☐ I consent to the photographic-recording of my interview(s).

Voluntary Participation and Withdrawal: Your participation in the study is completely voluntary and you may choose to stop participating at any time. Your decision not to volunteer, to stop participating, or to refuse to answer particular questions will not influence the nature of the ongoing relationship you may have with the researchers or study staff, or the nature of your relationship with York University either now, or in the future.

In the event you withdraw from the study, all associated data collected will be immediately destroyed wherever possible. Should you wish to withdraw after the study, you will have the option to also withdraw your data up until the analysis is complete.

Confidentiality:

Unless you choose otherwise, the interviewing and recording will be associated with identifiable information. All information you supply during the research will be held in confidence and unless you specifically indicate your consent, your name will not appear in any report or publication of the research.

The data will be collected by recording on zoom, and then later transcribed into a document. Your data will be safely and securely stored on an encrypted USB key, and only the researcher and supervisor will have access to this information.

Data will be stored until January 2030.

Confidentiality will be provided to the fullest extent possible by law.

Consent to Waive Anonymity

I, _____, consent to the use of my name in the publications arising from this research.

Signature:

Date:

Participant: (name)

Questions About the Research? If you have questions about the research in general or about your role in the study, please feel free to contact me at tdstarr@yorku.ca or my supervisor, Marlene Shore at mshore@yorku.ca. You may also contact the Graduate Program in History at ghisprog@yorku.ca.

This research has received ethics review and approval by the Delegated Ethics Review Committee, which is delegated authority to review research ethics protocols by the Human Participants Review Sub-Committee, York University's Ethics Review Board, and conforms to the standards of the Canadian Tri-Council Research Ethics guidelines. If you have any questions about this process, or about your rights as a participant in the study, please contact the Sr. Manager & Policy Advisor for the Office of Research Ethics, 5th Floor, Kaneff Tower, York University (telephone 416-736-5914 or e-mail ore@yorku.ca).

Legal Rights and Signatures:

I _____ consent to participate in an interview for "Invisible Barriers: Gendered Problems in Canadian Law Faculties, 1961-1994" conducted by Taylor Starr. I have understood the nature of this project and wish to participate. I am not waiving any of my legal rights by signing this form. My signature below indicates my consent.

Signature

Participant

Date

Signature

Principal Investigator

Date
