

# **CANTERBURY WOMEN'S LEGAL ASSOCIATION**

## **30<sup>TH</sup> ANNIVERSARY SPEECH**

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**Hon Justice Rachel Dunningham**

**2 December 2020**

I am delighted to be able to speak to you tonight to celebrate the 30<sup>th</sup> anniversary of the Canterbury Women's Legal Association.

An anniversary is always a good opportunity to take stock of ourselves. So often in life's journey, we are looking down at our feet and making sure we don't trip on the next obstacle, or, looking up at the horizon and wondering why the mountain top never seems to get any closer. An anniversary is an opportunity to sit down on our uphill journey, to enjoy the view, and to see how far we have come. And that is the theme of my speech. It is not to focus on the fact we are not there yet, but to look back and say "look how far we have come". And to do that, I thought I would invite you on a short journey of the history of women in the law in Canterbury. It had, as you will hear, a faltering start, but is gathering momentum and we can be proud of what has happened in the last 30 years.

On 10 August 1881 the prospect of women lawyers was raised in the House of Representatives when the Law Practitioners' Bill was introduced. The Bill provided: "every person ... who pass required examinations would be entitled to be admitted as a barrister and solicitor". William Downie-Stewart, the MP for Otago, stated, presumably with alarm, "as the bill was drafted it would appear that, under it, women would be entitled to be admitted to the bar". He supposed this would cause the profession to become "deluged with young and old lady practitioners" and proposed amending the bill to limit the profession to male persons.

Alerted to this concern, the Canterbury District Law Society, along with their counterparts in Auckland and Wellington, held an urgent meeting. The Law Societies, regrettably including Canterbury District, were "unanimous in their disapproval" of the bill.

Of course, no-one can become a lawyer without first having studied law. Opening the gates to that opportunity has been tough. You may be surprised to learn that the first women to study law at the then, Canterbury College, and the third woman in New Zealand to enrol in an LLB, did so in the late nineteenth century. Stella May Henderson passed her final examination in 1898, only one year after New Zealand's first female law graduate, Ethel Benjamin, from the University of Otago, completed her law degree in 1897. However, it appears Ms Henderson never formally graduated and was never admitted. During her studies, Stella Henderson worked as a law clerk for the Canterbury lawyer William Izard. He encouraged her and arranged for the introduction of the Law Practitioners' Amendment Act 1896, a bill passed to allow women admission to the bar. A Christchurch MP, G W Russell, introduced the bill. Thus, the entrance of women into the legal profession was facilitated by Cantabrians.

Dorothy Raymond was the first female law graduate from Canterbury College in 1931. She struggled to find employment because in those days a woman could not get a job in a law firm unless she could do shorthand and typing. She enrolled in a typing and shorthand course and started as a shorthand typist in her uncle's law firm in 1934. She was only able to begin legal work seven years later.

Dorothy Raymond was followed by six more female law graduates over the next few years. Winifred Mountfort in 1935, Margaret Kennedy in 1937, Alison Kerry and Isobel Matson in 1938 and Audrey Gale and Dorothy Simes (later Thompson) in 1939. Four of these seven sought admission. Dorothy Thompson deserves special mention as every year her family awards a scholarship to the top female IPLS graduate in her honour, and the Canterbury Women's Legal Association has regularly organised the function where this scholarship is presented.

It is hard for us to understand the prejudice and obstacles that women like Dorothy Thompson faced. For example, although Dorothy Thompson qualified for admission as a solicitor some years before she was admitted, she had been unable to progress her admission because the fees amounted to four months pay at her low salary. She was paid 15 shillings a week when she first started, when most males in her position were getting paid twice as much. She was eventually admitted in 1939. That must have required considerable fortitude on her part when she was surrounded by lawyers who disapproved of any prospect of women practitioners. On one occasion when she went to the Supreme Court library to do research for her employer Alan Brassington, she was ordered out of the library by

a leading local practitioner, Charlie Thomas, who was “literally shouting with rage at the sight of a female in the library”. Her employer’s response was to recommend she return to her task when Charlie Thomas was not there.

Kenneth Gresson, who was a dominant figure in the University’s law department, frequently expressed strong views as to the unsuitability of women for legal practice and is recorded as being incensed that Mr Brassington would send a female to represent his firm at a settlement.

Unfortunately, at this time, it was not only men who were unconvinced of the suitability of woman for the profession of law. In 1942, one of New Zealand’s few woman lawyers (who fortunately remains nameless in the research I have done), was asked why there were no women judges. Her reply was:

As for women being Judges, I don’t think we are particularly suited to it. Law is after all a machine, and one that I don’t think a woman is geared to. Being a Judge is largely a matter of seeing that the workings of the machine are correctly applied. I can’t help feeling that in giving judgment the average woman would tend to go by her intuition rather than the evidence, and intuition, as yet, has no place in a Court of law.

Yet another impediment to women studying the law was the belief they should not be exposed to the unclean topics which were so often the subject of criminal law, and male lecturers teaching at universities around the country either excluded women students from lectures that touched on sex related laws or omitted those parts of the lectures. Dorothy Raymond recalls the point in a criminal law lecture at Canterbury University College in the late 1920’s when the students came to the chapter headed “rape”. The lecturer took one look at her and said “now we will turn to page so and so” and they never went back to the chapter on rape.

Likewise, in the early sixties, Cecile Fleming (later Cecile Rushton and a District Court Judge) was excluded from law lectures on the Crimes Act. The lecturer simply announced he would be pleased if the ladies in the class would refrain from attending. As she was the only female law student this was, of course, directed at her. She noted that it was ironic that the subject matter considered most unfit for women law students; rape, incest, sexual assault and divorce concerned events in which women played central parts and laws which had the most fundamental impacts on women's lives. The distinction was, however, justified on the basis that, unlike the women law students, the women who would be involved in these events were presumed not to be ladies.

Although the door quietly opened in the sixties and seventies, there were still practical impediments to the women practicing in law. In 1961, Justice MacArthur agreed to allow The Christchurch Press to photograph him with the two newly admitted female barristers, provided they were "properly dressed in accordance with the rules of the profession". This apparently caused quite a stir as "no-one in Christchurch was sure how a women barrister should be dressed". After some research, rules from a committee of Canadian Judges and barristers were uncovered and published in the New Zealand Law Journal. These required women to entirely cover and conceal their hair with the ordinary barrister's wig, to wear the barrister's gown and bands, and to wear under the gown a plain black or dark dress "high to the neck with long sleeves, and not shorter than the gown".

Robing rooms were another practical impediment. As Christine Grice recalls (now, Justice Grice and a graduate of the University of Canterbury), the issue was not just what to wear but, where to get changed. Robing rooms were male domains. There are tales of trying to dress in the foyer outside the courtroom, or, as Dame Sylvia Cartwright recalls, changing in public toilets throughout her litigation career. In Christchurch the Registrar allowed five women to change in his room before their admission ceremony in the 1970s because they were not allowed to use the Court robing room.

By the 1980s, the numbers of women in the law began to reach a critical mass, though appointments to the bench were still infrequent. Patricia Costigan was the first female District Court Judge appointing in Canterbury and was appointed in 1989. However, she too, had faced obstacles and prejudice. Shortly after her admission in 1975, while defending a man accused of assault, Miss Costigan was told by the Magistrate "the criminal Court was no place for a woman ... and [she] had better think about what [she] was doing. Why couldn't [she] be satisfied with doing family work which was more suitable for a woman".

Stereotypes can be perpetuated even by women themselves. I remember being told about a female law student meeting a middle-aged woman at a function who asked the student what she was studying. The student politely explained she was studying law and gave the middle-aged lady a simplified explanation of what the law of torts was, only to be mortified when she was subsequently told that she had been speaking to Judge Costigan.

It was in this environment that this Association was born to represent the interests of female practitioners in Canterbury. I would like to say that its inception was welcome, reflecting the growth of women practicing law and the need for a body to represent and support them in that venture. However, in 1990, when this Association was formed, it did so in face of opposition from the Canterbury District Law Society. It was argued that women's issues should be addressed within the Law Society. However, the new Association forged on, suspecting the Law Society would not properly advance women's interests and believing that a separate society could advance women's issues more generally.

The Canterbury Women's Legal Association has been part of the environment in which much further progress has been made. It was established at a time when females finally comprised approximately half the graduates from law schools and slowly since then (we can all argue too slowly), they are being admitted to the higher ranks of the profession.

In 2000 Isabel Mitchell became the first female President of the Canterbury District Law Society. Justice French was the first woman in the South Island to be appointed as a High Court Judge in 2008. She was very quickly elevated to the Court of Appeal. Pru Stevens was our first female QC appointed on 5 June 2014. In 2018, 50 per cent of QC appointees in New Zealand were women, the highest ever proportion of women, although regrettably no Canterbury candidates were amongst those. The University of Canterbury now has its first female Dean of the law school, Ursula Cheer, and almost half its academics staff are now women, including Professor Elizabeth Toomey, Professor Karen Scott, Professor Lyn Taylor, Professor Elizabeth McDonald, and Professor Annick Masselot.

The make-up of our District Court bench is also slowly changing, with the local bench including, Jane Farish, Michelle Duggan, Sarah Lindsay, Jane McMeeken and in Timaru, Joanna Maze.

The work of the Association cannot always be linked directly to these advances, but that is to misunderstand the way these things work. No change happens in society without many groups and people advocating for change, until we get to the point where the change which is promoted becomes the only logical place to go.

The Canterbury Women's Legal Association is part of that force for change by recognising, supporting and promoting women who choose a legal career. It provides a supportive network where women can meet other woman who face similar challenges. It provides the inspirational annual professional women's conference which has brought remarkable speakers together to inspire local professional women. I still remember watching Jacinda Ardern speak a few years ago and hearing a woman behind me say "if she was leader I'd vote for her". How prophetic that was!

So now we return to the present. Our 15 minute breather as we climb the mountain is over. We have looked back and we have seen we have come a long way and for the last 30 years, this Association has been supporting Canterbury women lawyers to do that.

Let's keep climbing. If I am around in another 30 years, I would like to think the mountain top will at least be in sight, even if not conquered.

Kia Kaha wahine roia – be strong and keep doing what you are doing!