

...y Brown Sutherland • Maude Riseden Hughett • A. Elizabeth Todd • Dora Young • Katherine Watson
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Also this month: The Predominant Factor Test Under the Uniform Commercial Code

■ Humor: Massachusetts labor government causes a constitutional crisis

Tennessee Bar Journal

JULY 2001

VOL. 37, NO. 7



Marian S. Griffin, 1905



Rebecca Gougeon Jackson, 1910



Frances Grant Loring, 1904



Bertha Cash, 1907



Clare Galbreath Swafford, 1917



Frances Smith Sellers, 1911

50 Years of Pioneers

Early Women in Tennessee Law

... Dorothy Greenberg • Pearl A. Fair • Mildred Lunn • Louise Shell Sm... Elizabeth Wincler Fo...
... Pauline A. La... Catherine Lewis...
... Innifred G. Mashburn • Beverly Medley • Daisy M. Peltz O'Mell • Virginia MacKenzie Ritter •
... ona M. Rutherford • ... Wilena Roberts Bej...
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Cover Story

50 Years of Pioneers: Early Women in Tennessee Law

By Suzanne Craig Robertson

People often ask Frances Grant Loring if women lawyers were discriminated against when she started practicing law in 1944.

"OF COURSE," she bellows. "All women were discriminated against!"

Loring, who stood before the packed ballroom at Nashville's new Hilton Suites Hotel, leaned over the podium and looked at the assembled group of lawyers and their families.

"But I must say that in justice I did not experience that," she added. "There were so few of us we didn't threaten the establishment yet."

She was one of the featured speakers at "50 Years of Pioneers: Early Women in the Law," a dinner co-sponsored by the Lawyers Association for Women (L.A.W.) and the Tennessee Bar Association, held June 7 during the TBA's annual convention. The dinner was a culmination of the several-year project to find out more about the women who practiced law in the first 50 years of the last century. Of the 281 women discovered, several are still living — some are still practicing. The project has also raised about \$10,000 so far to establish a need-based scholarship fund at the University of Tennessee for women law students. A video documenting the project and highlighting some of the early women in the law was shown at the dinner and is for sale as part of the fundraising.

The project was initiated and carried out by the Lawyers Association for Women, Marion Griffin Chapter, chaired by Ashley Arnold and co-chaired by Kathryn Stephenson, both Nashville lawyers.

According to L.A.W., this project was initially conceived as an event to honor the first 100 women admitted to the practice of law in Tennessee. Nashville lawyer Beverly Hayden and Judge Martha Craig Daughtrey knew about similar projects in Utah and Nevada, states in which the first woman was admitted to practice in the late nineteenth century, and the 100th woman in the 1960s or 1970s. They brought the idea back to Tennessee, to L.A.W. As research began, L.A.W. committee members realized that Tennessee was different. The first women in Tennessee were admitted later than women in those western states, but the 100th woman was admitted in Tennessee in 1930, much earlier than in the western states. Tennessee's first 100 are all deceased. So they expanded the project to honor the almost 300 women admitted to the practice of law in Tennessee during the first half of the nineteenth century.

The process was tedious, as the committee searched the records of the Board of Law Examiners. Until recently, however, the board did not record the gender of newly admitted attorneys, so there were some judgment calls on what sounded like a woman's name. From there they contacted the schools listed in the board's records and began tracking down the women.

What they found was very interesting. Here is an excerpt:

Our pioneers went to law school for a variety of reasons. A few of them grew up surrounded by family members who were lawyers. Annie Morton Stout, whose great-grandfather, grandfathers, and two uncles were attorneys, quipped that she was carrying on the legal traditions of the family "because there aren't any boys to do it." Some women went to law school to keep their law-student husbands company. Some went because they wanted to be lawyers. We found little evidence of women who went to law school out of a desire to promote or protect women in general. To the contrary, a number of women expressed a dislike of "women's liberation." Ann Kirby Nigro equated women's liberation with women who were coarse and mannish. Emily Anderson Kindel maintained that she was not a feminist and that she enjoyed being a woman. Hazel Sweet Schaffer observed, after talking with women attorneys in the 1970s and 1980s, that a "feminist" attitude was both unnecessary and inappropriate.

Nevertheless, a number of women lawyers dedicated themselves to improving the prospects for women as lawyers and for women in general. Sophie Goldberger Friedman and Sue Shelton White were active Suffragists. Osta Underwood worked to change the law to allow women to serve on juries. *[In the video, she notes that even convicted felons could serve on juries at that time, but women could not.]* Sue Shelton White, Jean Shannon Norman, and Osta Underwood helped to push the Equal Rights Amendment through Congress. Women lawyers were active in the Business and Professional Women's Club, of which Frances Wolf was a charter member in 1916.

For the most part, the women reported no sense of discrimination from their professors, classmates, or colleagues. But there were some stories. Emily Anderson Kindel was a member of the *Tennessee Law Review*, but was discouraged from attending the Law Review Banquet because the conversation "might turn to topics that would be unpleasant for a young lady." Mary Guidi won a Supreme Court-ordered new trial in 1949 on the grounds that the trial judge had an "aversion and prejudice to women lawyers." Erma Griffith Greenwood's father tried to talk her out of going to law school because he wanted her to "be a lady." Ann Kirby Nigro excelled in law school but, because she was a woman, she was not invited to join the Phi Delta Phi legal honor society. The dean at the University of Virginia law school told Nancy Smith Sellers that it would be a waste of time and money for a girl to attend law school, since she would never graduate and, even if she did, she would not be able to get a job. Some women were admitted to the Bar, but were convinced they would never be taken seriously as lawyers and so abandoned or never embarked on practicing law.

Only some of the women actually practiced law. Some used their law degrees as legal secretaries. Some became social activists, working, for example, as suffragists. Some raised their children and worked as volunteers for various organizations. Some went into government work. There were many women about whom we were able to learn nothing. Of the ones on whom we have information, at least 40 went into private practice, some of them raising families as well.

— from *Fifty Years of Pioneers: Early Women in the Law*

Researchers found that many of the women were active in bar association activities, both locally and in the Tennessee Bar Association. Eleanor Coonrod was probably the first woman admitted to the TBA, in 1909. A number of women served as president of the Women's Section of the TBA, a section that was organized in 1942 and no longer exists. In 1942, there were 21 women members of the TBA. In 1944, there were 42 women members.

It took until 1998 for the TBA to have a woman president, Pam Reeves of Knoxville. In 2001, there are 10 members of the Board of Governors (nearly half) who are women. One of them is Immediate Past President Katie Edge, the association's second woman to fill the presidency, and another is Pat Vital, who is speaker of the House of Delegates, TBA's representative body with more than 70 members.

L.A.W. produced a video documenting some of these early women lawyers, which premiered at the dinner. Featured in the video or in attendance were Osta Underwood (admitted in 1936), E. Corynne Brazzell Arney (1940), Frances Grant Loring (1944), Selma Greenberg Cash Paty (1947), Claude Galbreath Swafford (1948), Shirley Bumgardner Underwood (1948) and Nancy Smith Sellers (1950).

Osta Underwood says she had no trouble in law school with discrimination. "There was not a perception that women were interlopers," she said, but there was a feeling that women were taking up space that could have been used for men.

"It made no sense [to go to law school] because you weren't going to be able to practice," Paty said in the video.

"We always battled the perception of 'you're not serious,'" added Swafford.

Her daughter, Juvenile Court Referee Claudia Swafford Haltom, recalls her mother when she was growing up. "Mother was always great at keeping all the balls in the air. She did everything. She ran a law practice, was on the school board, was involved in Republican politics and took care of my brother and me."

Haltom, whose father, brother and husband are all lawyers, "didn't know what else to do [besides be a lawyer]. And watching Mother and realizing that she was able to have a career that had lots of variety [helped me decide]."

Haltom laughs as she describes her mother's abilities: "Mother is temperamentally suited for arguing. She's great. Billy (Haltom, Claudia's husband) says she's the best lawyer in the family. She not only pours her heart in it, but she enjoys it."

Swafford specialized in Social Security work and although she no longer practices, Haltom says, "every now and then someone will come along and need some help. She'll help them," usually with her son, Jasper lawyer Graham Swafford.

"When you can help people," the elder Swafford said, "that's the real joy [of practicing law]."

Nashville lawyer Anne Arney told of the influence her lawyer mother, Corynne Arney had on her. "I told her I was thinking of going to law school and she suggested there were a lot of other careers that would be easier, with less stress."

Arney described a meeting with her mother after a job interview fresh out of law school, where they showed up at the restaurant wearing similar suits. The daughter, trying to give her mother a compliment that she was dressed so spiffily, said, "Mother! You look more like a lawyer than I do!" To which her mother replied, "Honey, I *am* more of a lawyer than you are."

"She did influence me [to become a lawyer]," the younger Arney says. "The happiest days in her life were in law school."

When Frances Loring started practicing, during World War II, she reports there were 10 or 20 women practicing in Memphis. She said it was easier for women to find work during the war, but "after the war, they got bumped back down."

Indeed, L.A.W. statistics show a large increase in the number of women admitted to the bar in 1941. According to the report, "Law firms apparently readily hired women during World War II, but some of those firms made the women unwelcome after the war was over."

At the dinner, Loring categorized women lawyers by how long they've been in practice: She referred to herself as the "second generation of women lawyers." (Marion Griffin and her peers being the first.) Then there is the third generation, "the Martha Craig Daughtrey generation. And then many of you in this room are the beginning of the fourth generation."

"We have no better models than Marion Griffin, Frances Wolf and women in this very room. All of us stand on their shoulders," Loring said. "I say to younger ones among us: stand tall, be brave, be honest."

"And don't forget to reach back and help somebody up the ladder with you."

Suzanne Craig Robertson is editor of the Tennessee Bar Journal.

Tennessee Bar Journal
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BALANCE AND FLEXIBILITY ARE KEY

Equal numbers don't add up to equal opportunities for many women lawyers, ABA report finds

Although women have been a significant presence in the legal profession since the 1970s, they now account for nearly 30 percent of all lawyers and they are on the brink of being a majority of entering law students this fall, they still remain significantly underrepresented in positions of greatest status, influence and economic rewards. This is the conclusion of "The Unfinished Agenda: Women and the Legal Profession," a report released by the American Bar Association Commission on Women in the Profession.

The report chronicles research, reports and recommendations by leading scholars, state and local bar associations, national women's organizations and ABA section reports and publications.

"Women are the emerging majority in the legal profession," said ABA President Martha W. Barnett. "They now account for half of entering law students, and the number of women law partners, general counsels, law professors and federal judges has doubled in the past dozen years. Substantial progress towards equal opportunity for women lawyers has been achieved.

"It is now time for those women to use their positions and influence to remove the remaining impediments to equal participation in all areas of the profession," said Barnett.

"A central obstacle for women lawyers is the 'no-problem' problem," noted ABA Commission on Women Chair Deborah L. Rhode, a professor at Stanford School of Law. "A large number of women in the profession foster a perception that the 'woman problem' has been solved. That in itself has become a major problem." She added that many lawyers equate gender bias with overt discrimination and overlook more subtle forms of discrimination.

The commission's report finds that many obstacles to women's full participation in the profession persist, but that factors other than conscious prejudice may be responsible. Among these are unconscious stereotypes, inadequate access to support networks, inflexible work structures, sexual harassment and bias in the justice system.

The commission's report details these barriers as well as suggestions for resolving them. Chief among the solutions is the willingness of legal organizations to ensure that equal opportunity exists for women lawyers.

"Our research shows that the employers most successful in promoting gender equity are also the most successful in financial terms, such as economic growth and return on investment. It stands to reason that an organization's ability to take full advantage of the entire pool of talented professionals will affect its productivity," said Rhode.

U.S. District Judge Aleta Trauger of Nashville sees the trend. "I have not been in a firm since 1991 so I feel a little out of touch, but from talking to younger women lawyers — women *and* men — it seems to me that young lawyers looking at firms are inquiring about their family-friendly policies and whether they have them. Many lawyers — men and women — are choosing their firms or their other legal position bearing in mind whether they want to be married and/or have children ... or

have a life outside the law. That seems to be a predominate concern.

“When the women of my generation entered the law (in 1976), we were not as sensitive of that because we were looking for jobs where you would be given opportunities to rise to the top. To have responsibility to go to court if you wanted to. To deal with the big clients. Try the big cases. Or would you just be stuck in the library writing briefs?”

“We were more focused on the profession than on the family because it was so new,” Trauger continued. “We were concerned to find a professional position where we would be able to have substantial responsibility, where we would be given opportunities. We were more worried about even raising the issues of pregnancy leave or anything like that — it was such a new thing to have women, in numbers, practicing law.”

Trauger is liaison to the ABA Commission for the National Association for Women Judges.

Findings of the ABA report include:

- Meritocracy Myths: The perceptions that barriers to equality have been eliminated are difficult to square with the facts: women comprise only 15 percent of law firm partners, 10 percent of law school deans and corporate general counsels and 5 percent of law firm managing partners
- Policy vs. Practice: A wide gap persists between adoption of formal policy and practice concerning “family friendly” schedules.
- Minority within a Minority: Racially and ethnically diverse women lawyers, who comprise only 3 percent of the profession, face unique and daunting challenges. A recent study by the National Association of Law Placement found that 100 percent of minority women lawyers surveyed had left their first job within eight years.
- Law is an Inhospitable Profession for Work-Life Balance: Only a fifth of surveyed lawyers — both men and women — are “very satisfied” with the allocation of time between work and personal needs.

The report quotes a 2000 poll conducted by the *ABA Journal* in which a third of women doubted that it is realistic to combine successfully the roles of lawyer, wife and mother. The number of women expressing such doubts has almost tripled over the past two decades.

Shelby County Juvenile Court Referee Claudia Swafford Haltom sees it as possible, with limits and balance.

“I think life has many eras and that you can combine them successfully throughout your life. But there are eras where some things take priority and other eras where other things take priority. There are eras when baseball and ballet are more important and eras when depositions are more important.

“Women can go faster and slower at different periods in their lives.”

Would she recommend the law as a career for her children? “I’m going to steer (6-year-old) Margaret Grace toward a career that will have potential for part-time. My mother, when we were growing up, was always flexible enough to keep her hand in the law practice but take care of her

family, too.”

Women’s representation in the legal profession will equal men’s in the foreseeable future if the current pace of law school applications continues, the report finds. “But whether equal numbers will bring equal opportunities is less clear. Much depends on the profession’s willingness to address the gender bias issues and barriers that persist,” Rhode said.

“The Unfinished Agenda: Women and the Legal Profession” is available online at www.abanet.org/women.

The video of “50 Years of Pioneers: Early Women in the Law,” is available for \$15. Send your check to L.A.W., P.O. Box 190583, Nashville, TN 37219-0583.

A lot of people were involved in this project. Here are some of them: **Ashley Arnold**, chair, and **Kathryn Stephenson**, co-chair. **Brenda Dowdle** was in charge of the video produced for the event; **Mandy Haynes Young** handled the evening’s presentation. **Will Cheek** and **Nancy Stabell** took care of fund-raising. **Lora Barkenbus** was in charge of publicity and **Randi Greene** oversaw mailing of invitations. L.A.W. would also like to thank **Anne Arney, Delicia Bryant, Frank Burns, Jackie Dixon, Marcia Eason, Sara Falkinham, Claudia Jack, Judy Johnson, Lewis Laska, Mary Jo Middlebrooks, Marietta Shipley, Barbara Moss, Linda Knight, Anne Martin, Katie Edge, Chris Norris and Katherine Stratton.**

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