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Professor Charlene Smith



Washburn University School of Law can proudly say it is in the forefront of legal education for women. From the school's inception in 1903, women have been welcome. Compared to other law schools, this is remarkable. For example, Columbia Law School--one of the oldest American law schools at 200 plus years--has admitted women only since 1927.



History of Women at Washburn University School of Law

The explanation for Washburn Law's welcoming of women may be partially related to the culture in which it was founded. That culture is personified by the characteristics of Dorothy in the Wizard of Oz, explained Washburn University History Professor Thomas Averill. Dorothy was courageous, straightforward, loyal, strong, and could show anger when necessary. The women who settled Kansas possessed these qualities, so it is no surprise that Kansas was among the first states to give women the right to vote and to elect women to public office. Further, colleges and universities not located on the east coast tended to be co-ed from their inception.

Given this social climate, there was no reason that women, who had joined men in the arduous task of settling Kansas, should be prevented from pursuing a legal education at publicly supported Washburn University School of Law. Indeed, the fact that there were three women in the entering class of 1903 passed without comment in local papers. While it may not have been seen as noteworthy at the time, in retrospect it was a milestone. In commemoration, this issue of *The Washburn Lawyer* is devoted to vignettes of a cross-section of women who have attended Washburn Law.

COMMON THEMES

Regardless of the fact that women were admitted on an equal basis with men in the first Washburn Law class, the day-to-day reality of their lives sometimes did not reflect the over-all goal of equality. The reality was that although women were free to pursue their dreams of education, they were required to conform to gender roles and adhere to acceptable lines of conduct.

WOMEN ARE WELCOME, BUT...

Writing in the student newspaper, *The Washburn Review* Jessie Junette Nye, class of 1912, observed that "the barrier of entrenched prejudice against the study of law by women is gradually breaking; it is responding to the spirit of the times, which is unquestionably a spirit of greater freedom for women."

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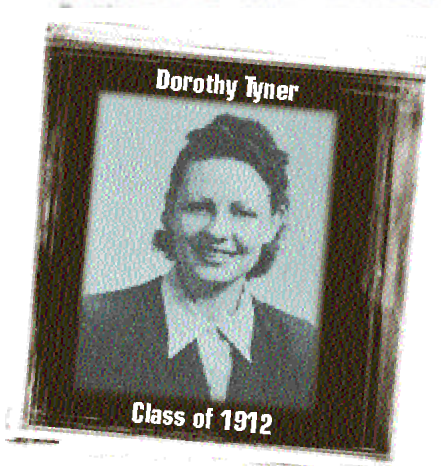
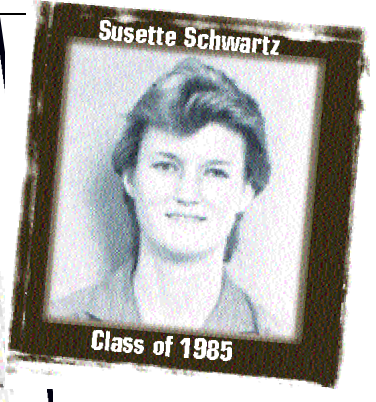
“You may be excused from class attendance tomorrow, because the topic for discussion might be too embarrassing.”

Nevertheless, the Review also suggested that women law students had a particular role to play at the School; they were to "lift the social and moral status of the law student while in school..." This deferential treatment was evident even in the graduation ceremony. Jessie Nye was described as "a strikingly attractive girl" in the Review, and she was "presented with a sheaf of American Beauty roses" by the Dean.

This morally uplifting role combined with the gender expectations of women was carried into the classroom. Justice Alfred Benson, a part-time instructor, told Mabel Jones, class of 1918, "You may be excused from class attendance tomorrow, because the topic for discussion might be too embarrassing." Women were protected from the brutish and obscene, the unclean aspects of society.

At the same time, women endured "practical" advice. Ed Rooney, a local attorney and part-time instructor, told Mabel Jones, "It is very good for the man you marry that you are developing your mind logically. When you are cooking and your biscuits fall, instead of becoming emotional and hysterical, you will pause and think (logically) 'Now what did I do that was wrong?...Oh, yes, I left the baking powder out.'"

History of Women at Washburn University School of Law



TIME LINE

1638 Margaret Brent - first woman attorney in the United States.

1781 Munn Bett, a slave, provides her attorney with the argument that the Massachusetts Constitution which provides, "All men are born free and equal" includes her. She wins.

1839 The first state to pass the Married Woman's Property Act: Mississippi.

1872 Charlotte Ray is the first African-American woman admitted to a bar.

1873 Bradwell v. Illinois – U.S. Supreme Court holds that states may prevent women from practicing law.

1881 Jennie Mitchell Kellogg - first woman attorney in Kansas.

1903 First three women attend Washburn - Maude Bates, Anna Marie Nellis and Ruth Welles.

1906 Jessie Dean (1907-1908) Enrollee at Washburn University School of Law with a LLB.

1909 Jessie Nye enters law school Washburn University School of Law.

1912 Jessie Nye becomes the first woman graduate of Washburn University School of Law.

1920 The Nineteenth Amendment is passed giving women the right to vote.

1922 83 regular law students, (Nine women) "enjoyed the protection and care afforded by the general supervision of the dean of women over student life." "We tried hard to be as little trouble as possible and always on the front row nearest the door." (Washburn Alumnus Law School Edition, p.9)

THE TIMES THEY ARE A 'CHANGIN'

Although women were subjected to reminders of their gender roles, Washburn Law administrators also responded in a positive and supportive fashion to prospective students. Kay Arvin, who was blinded in an auto accident, began accompanying her husband to School because she was bored. "I sat in class and just listened," she recalled. As she listened, she began to think of all the things she would like to learn. Dean Schuyler W. Jackson told her, "If you are coming to class, you might as well make it count for something." She enrolled in Torts and Property, and remarked that she "just loved it." Kay graduated in 1951.

While black men entered the School of Law by the time it was only four years old, it was many years before a black woman graduated. However, this incongruity no longer existed by the 1980s. Many black women came to Washburn for the same reasons Judge Quintress Gilbert, class of 1988, did. She "wanted to be away from distractions," and she had heard of Washburn Law because of *Brown v. Board of Education*. Judge Gilbert had been admitted to four other law schools, including the University of Virginia. She chose Washburn because she believed it offered a chance for practical experience in the Law Clinic and extern programs as well as supportive faculty and peers who would be there to listen to her.

MAKING WAVES

Even though the atmosphere was becoming more supportive, women students were sometimes a proper thorn in the side of the administration. Susette Schwartz, class of 1985, organized the Women Ordering More Bathroom Stalls group. At the time, 180 women were enrolled at Washburn Law. According to Schwartz, "each relief station frequented by males accommodates 21.7 people, whereas each relief station frequented by females accommodates 36 people."

Then Dean Carl Monk responded by immediately ordering new fixtures. And, he went on to observe..."Frankly, I am glad that we have expanded our enrollment here to include many more women

than the building was originally designed for."

THE PRACTICE

Undoubtedly, some early women students chose to study law because they perceived that women, especially married women, had few legal rights. Margaret McGurnaghan, class of 1927, wrote, "The figure of a blindfolded woman holding a pair of scales...was used by man to symbolize Justice, and yet, for ages, woman was not given equal justice...." A married woman, according to McGurnaghan, was deprived by the common law of "nearly every right she had enjoyed as a single woman and left only the legal capacity to sin and to be punished for it."

Thus, many women started law practice with the notion that

the legal status of women needed to be changed and that those who lacked status and money should be represented. So it was that Jessie Nye represented many in the Mexican community. Santa Fe workers were her clients. She did income tax returns for \$7.50 to \$12. She did divorces for nothing if need be. She never made a lot of money. She'd say, "He couldn't afford that...He'll pay me someday." She wasn't concerned with the bottom line.

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Kay Arvin

Class of 1951

TIME LINE

1924 Isabel Obee graduated cum laude from Washburn University School of Law with the highest grade point average in the class of 1924. She practiced in Great Bend, Kansas until her retirement in 1975.

1925 Marie Russell (J.D. '25 cum laude) the first woman to graduate from Washburn with a J.D. and she also doubled as Law Librarian.

(Washburn Alumnus Law School Edition, p. 10) (LLB and JD offered in 1923)

1928 The Topeka Daily State Journal feature article on women practicing law in Topeka. (Washburn alumnus Law School Edition, p.11) "Today women are entering and proving themselves in almost every field in which man has been regarded as supreme. The profession of law is no exception. There are now six young women actively engaged in the practice of law in Topeka, some of them actually representing clients in the courts."

1942 Washburn University School of Law hires its first female professor, Dorothy Davidson Tyner '41.

1942 U.S. v. Ballard – The U.S. Supreme Court decides that women cannot be excluded from federal juries. States could exclude them.

1944 "There were only ten enrolled in law school, and three of those were girls." (Washburn Alumnus Law Student Edition, p.11)

1954 The law school wives banded together to form the Washburn Law Wives Association.

1967 Dorothea G. Warren '42 becomes the first Woman Director of the Washburn Law Library.

1967 Mary Hack becomes first women editor of the Washburn Law Journal.

THE RIGHT PLACE AT THE RIGHT TIME

Many women completing their education at Washburn Law said they got jobs just because they were in the right place at the right time. Bessie Mae McIntosh, class of 1940, observed, "Many of the country's male lawyers were being drafted to serve in the war." Thus, it was not a surprise to her to be hired by the FBI as an attorney, even though J. Edgar Hoover would not hire women agents. The only other women in the office were secretaries, and she was mistaken for a secretary many times.

Like the FBI, Washburn Law found it needed to fill its ranks with women. In 1942, the School hired one of its graduates, Dorothy Davidson Tyner, to teach Property, Federal Taxation, Domestic Relations, and Legal Bibliography. She was the first female professor; now one-third of the faculty are women.

Judge Kay McFarland (class of 1964) echoes much of what McIntosh said about being in the right place at the right time, but she adds, "You have to take chances." In fact, when McFarland was considering applying for law school, an attorney friend of her father told her that she would be confined to a research ghetto. He used Margaret McGurnaghan as an example: "She does only research, and that's the most a woman can aspire to and you wouldn't like that," he said.

McFarland did not take work in the research ghetto, but there was male chauvinism at work. She remembers being sent by one of the partners in her firm to try a case Lyndon, Kansas. "I was so pleased that he had confidence in me," she said. While trying the case, the opposing attorney called her "girlie" and told her that she must have missed a point while she was out getting her hair fixed. She won the case. Later she learned that her partner had sent her to try the case to "prove to the belligerent attorney that the case was so open and shut that even a woman could win it." Today, Judge McFarland is chief justice of the Kansas Supreme Court, the first woman to hold that position.



Thus, many women started law practice with the notion that the legal status of women needed to be changed and that those who lacked status and money should be represented.



TIME LINE

1969 Mary A. Senner '70 was the first woman to be Editor-in-Chief of the Washburn Law Journal.

1971 Kay McFarland '64 - first woman to serve as judge of probate and juvenile court in Shawnee County, Kansas.

1973 Kay McFarland '64- first woman district court judge Shawnee County, Kansas.

1973 Marcia Johnston '74 (formerly Harley) was the first woman to represent the school in the National Moot Court Competition. She was a member of the team that won the regional Jessup competition.

1977 Kay McFarland '64- first woman appointed to Kansas Supreme Court.

1978 Billie Parr is appointed as Assistant Dean at Washburn University School of Law.

1981 Sandra Day O'Conner becomes the first woman appointed to the U.S. Supreme Court.

1987 Christel E. Marquardt '74 becomes the first woman to serve as Kansas Bar Association President.

1987 Christel Marquardt is first woman to serve as President of the Kansas Bar Association.

1995 Kay McFarland '64 is the first woman to serve as Chief Justice of Kansas Supreme Court.

PREPARING FOR TOMORROW

Clearly, Washburn University School of Law has maintained its leadership position in preparing women for careers in the law. Its 1,464 alumnae attest to that. And the future looks equally bright. With 12 women faculty members (39 percent of the faculty) and 204 women students (45 percent of the student body), the women of Washburn Law will be making their marks on the legal profession for years to come.

History of Women at Washburn University School of Law

TIME LINE

1995 Roberta Cooper Ramo becomes the first woman president of the American Bar Association, which was established in 1878

2003 Marla Luckert '80 second woman appointed to Kansas Supreme Court

2003 One third of Washburn Law's faculty are women

