WOMEN NOT LEGAL PERSONS

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Although history has recorded many pleadings on the part of women—for the life of their men, their children, their homes —Shakespeare was the first to emulate a woman as a barrister in his histrionic portrayal of The Merchant of Venice where Portia defied convention and disguised as a man pleaded before the court. With the mind of a woman and the guise of a man she was accepted, but had she appeared as a woman the acclaim that she received incognito would have been ridicule. The advent of the modern Portia on the legal scene was not quite so spectacular but a quiet, bitter struggle.

The first indication of women seeking admission to practice Law in New Brunswick was the application of Mabel Perney French in 1905. Miss French applied to the Barristers Society of New Brunswick asking the Council to recommend her for admission as an attorney. The Council passed a resolution but it was ". . . subject to the opinion of the court as to her SEX being under existing laws a bar to her admission as attorney . . ."

The statutes and authorities on the question were submitted to the Supreme Court by Mr. Connel, K.C., President of the Barristers Society, which resulted in the case In Re French 37 N. B. R. 359.

In the judgment of Tuck, C. J., the following statement is given: "If I dare to express my own views I would say that I have no sympathy with the opinion that women in all branches of life come in competition with men. Better let them attend to their own legitimate business."

The decision of the Court was that the word person, as relating to the admission of attorneys-at-law under the then existing statutes applied only to MALES, the only persons qualified at common law. To sum it up, a WOMAN WAS NOT A PERSON. It was left to the Legislature to make the necessary changes in the statutes.

By the Acts of Assembly 1906—Edward 7 Chapter 5—this disability of women so far as relates to the study and practice of Law was removed. The Act provided that (1) Notwithstanding any law, regulation, by-law or custom to the contrary, women shall be admitted to the study of the Law, and shall be called and admitted as barristers and attorneys, upon the same terms, and subject to the like conditions and regulations as men.

(2) The provisions of section 1, relating to the administration of barristers and attorneys, shall apply to women who have been admitted to the study of the law before the coming into force of this Act, and whose admission as such students-at-law is hereby declared to have been legal.

The retroactivity of this Act thereby allowed Miss French to be admitted as an attorney on April 21, 1906. Later she went to British Columbia to practice.

Other women who have become lawyers in New Brunswick and the dates of admission are:—

Mary Muriel Corkery (Ryan), the Eastern Trust Company in Saint John, November 10, 1921.

Muriel Elizabeth McQueen (Fergusson), Regional Director of Family Allowances for N. B., November 12, 1924.

Margaret M. Sim, November 13, 1925.

Margaret Hanington Teed (Tector), September 15, 1927.

Mary Bernice Wilson, Assistant to the Superintendent of Insurance for N. B., September 18, 1931.

Mary Louise Lynch, Messrs. Gilbert & McGloan February 16, 1934.

Frances L. Fish, practising in Newcastle, February 25, 1934.

Hamlin Lee Fairweather (Hume), Fairweather & Hoar, September 20, 1935.

Dorothy Monica Hughes (King), practising in Fredericton, September 20, 1935.

Mary Barbara Ramsey, September 21, 1939.

Margaret Stanwood Drummie, November 24, 1939.

Muriel Elizabeth Sargent, Wartime Prices and Trade Board, June 10, 1944.

Mary Catherine Boyle (Ryan), practising in Saint John, June 14, 1946.

Besides this comparatively small, yet highly successful and prominent list of women lawyers, there are at present five studying Law at the U. N. B. Law School. In the second-year class are Marie Dever and Margaret Warner of Saint John, while the first-year has three, Elizabeth Hoyt, Eleanor Baxter of Saint John and Beatrice Sharp of Hampton.

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* *Editor's Note:* In Bradwell-v-State of Illinois 1873 16 Wall 130, Mr. Justice Bradley of the U. S. Supreme Court in delivering the judgment of the Court stated the following: "Man is or should be woman's protector and defender. The natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life. The constitution of the family organization which is found in the divine ordinance as well as in the nature of things indicates this sphere as that which properly belongs to the domain and functions of womanhood . . . The paramount destiny and mission of women are to fulfill the noble and benign offices of wife and mother. This is the law of the Creator."

This highly illuminating judgment shows the general feeling of the country at the time (1873) in respect to the rights of women to enter into all professions. As to its validity today, however, I am rather dubious.