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The Honorable Society of King's Inns

Keynote address Dr. MARY MCALEESE

Celebrating a centenary of women in law

One of the surest signs that women lawyers lag behind their male counterparts is the almost total absence of jokes that are specifically about women lawyers. It's a pain in the neck for someone giving a keynote speech on women lawyers but Marc Galanter remarks on this phenomenon in his book, 'Lowering the Bar. Lawyer jokes and legal culture'. Do not rush out and buy it for it is an academic tome and so almost entirely devoid of humour. He notes that "the great stock of lawyer jokes was formed at a time when women lawyers were rare"¹. They are far from rare today particularly at certain levels in the profession but yet the stock of women lawyers jokes has not grown accordingly. There is a message there somewhere, but I cannot figure it and I am happy just to leave you wondering?

Tonight, we celebrate this special centenary of women in law and I want to go back a century to that heady time when this building first admitted women bar students, two to be exact and when the Law Society added its first female to the roll of solicitors.

¹ M. Galanter, *Lowering the bar. Lawyer Jokes and Legal Culture*, Madison, London 2005, p. 144.

It was not quite ‘the night before Christmas’, but rather two days before Christmas that the Sex Disqualification (Removal) Act of 1919 received Royal Assent. The Lord Chancellor described it as having “a revolutionary character”² for it opened up to women employment and professional opportunities which had previously been closed to them on account solely of their gender. Now they could, if they wished become solicitors or barristers or senior civil servants and they could aspire to the same career progressions as male members of the legal profession including to the judiciary.

The Act did not herald the establishment of an immediate egalitarian meritocracy. Far from it for in part it was designed to thwart a contemporaneous private members bill entitled the Women’s Emancipation Bill which would have had the same effect with regard to opening up careers in the civil service and legal profession but which would also have extended the franchise to all adult women and not just those over thirty who met certain property requirements as the law then provided. The Lord Chancellor Lord Birkenhead and Government were aghast at the prospect of adding another 5 million voters, all women, to the electorate for God knows how they might have voted. Women in Great Britain and Northern Ireland would have to wait almost another decade before achieving the voting equality which Irish women south of the border achieved in 1922 with the arrival of independence.

If the Sex Disqualification (Removal) Act was indeed revolutionary it was a very limited and slow-burning revolution. Yes the door to the legal and other professions including the senior civil service was now unlocked for women, but the Act was merely declaratory. It envisaged no mechanisms by which the revolution could be effected other than the momentum created by women themselves. Individual women would have to push the door open on their own and once on the other side they would face wall after wall of embedded obstacles that they would have to identify, call out and dismantle even as they struggled to live with their consequences. Those women would have to be highly educated which back in the early nineteen hundreds and for a great deal of the following century meant they would come from the upper or wealthier classes in other words they would in their turn be drawn from the very

² Cf. Hansard (vol. 35) Debate on Second reading of the Sex Disqualification (Removal) Bill 22 July 1919 [https://hansard.parliament.uk/Lords/1919-07-22/debates/f7fd2eb4-45a4-4e36-b30d-0bcbdd6a6a4a/SexDisqualification\(Removal\)BillHI](https://hansard.parliament.uk/Lords/1919-07-22/debates/f7fd2eb4-45a4-4e36-b30d-0bcbdd6a6a4a/SexDisqualification(Removal)BillHI)

elites which had ring-fenced the professions with the sexism that had historically kept women out. Access for women to university was then still in its infancy and for those who had a law degree and hoped to use it the career options were limited to clerical work. Those first pioneering women who pushed through into the two branches of the legal profession would require a special kind of courage and confidence and well-to-do background. These were not the days of access programmes. They would have to confront the disapproval of even their own elitist peers both male and female and they would have to chip away at the infrastructure of paternalistic, patronizing and dismissive attitudes to women which no Act of parliament could demolish overnight even if it wanted to which it did not. 1919 then merely marked the start of a long road towards a destination of full gender equality which we have yet to arrive at but which is today coming more clearly into view. Still the Act caused quite a kerfuffle in this very place for within days two young women had pushed through the unlocked door and been admitted to the King's Inns as students who intended to take the bar exams and become Ireland's first women barristers. With remarkable cross-border synchronicity one was from Belfast and the other from near Dublin. They were both graduates in law of Trinity College Dublin and both from well-to do Protestant backgrounds.

Frances Christina Kyle or Fay as she was known was born in Belfast in 1893. She grew up in the upmarket Malone Road area close to the Queen's University of Belfast and just a stone's throw from today's Institute of Professional Legal Studies where barristers and solicitors receive their professional training and where a majority of students are women as is the case in most law schools. Not that Fay would have dreamt of throwing a stone even if it was Belfast. She and her older sister Katherine had a French governess with the wonderful name of Delphine Ladiray and that must surely have helped Fay's decision to take a degree in French at Trinity before her LLB. She was brave but no Pollyanna for she predicted correctly that the first women barristers would find it hard to make a living at the Bar. Even knowing and expecting that she felt strongly that she had a duty to practice as she said 'to prepare the way for those who will follow'.

There was no rush to follow her. The next barrister to follow her in Northern Ireland was Sheelagh Murnaghan called in 1947, almost thirty years later. By then Fay was

forgotten and many books erroneously refer to Sheelagh as the first female practicing barrister in Northern Ireland.

Fay Kyle set the Bar high, literally for in the exams leading to admittance to the degree of barrister-at-law she outshone everyone else and was awarded the John Brooke Scholarship better known today as the Honourable Society's Exhibition Prize. It was ironic that the John Brooke Prize had been instituted over forty years earlier by three sisters of John Brooke in memory of their brother at a time when the prospect of a woman winning the prize was inconceivable. In the intervening years at least two septuagenarian members of the King Inns (Serjeant Jellet and Piers White in the early 1890s) would make decent fees by advising the Board of Trinity College against admitting women as students since it would "seriously weaken and disturb the discipline of the College". On the basis of that opinion the Board declined to admit women since 'the introduction of female students into our classes would be attended with risks... which they do not choose to run'. Fay was one of the early cohorts of females who entered Trinity College when the ban was lifted in 1904 after Provost's Sammons death. He had earlier insisted they would enter College over his dead body and that turned out to be more prophetic than he intended. In the same year Christabel Pankhurst had applied to be admitted as a bar student to Lincoln's Inns. The appropriately named Masters of the Inns turned her down. Momentum for change was gathering but before we get carried away with the idea that the flame of equality had descended on a newly enlightened and liberal establishment, Susan Parkes book *-A Danger to the Men-* asserts that the real reason for the admission of women to Trinity was a fear that Irish Protestant women would be tempted "to go elsewhere and fall under the influence of a new national university of Ireland, so admitting them to Trinity was regarded as "the lesser of two evils".

When Fay won the Brooke prize and became the first of two female barristers in the world along with Dubliner Averil Deverell, her story made headlines around the world and led the Irish Times to remark on the:

'the possibility which Miss Kyle's victory suggests- namely a women's invasion of the Law. We are a liberal-minded people, as our universities have shown and a large accession of women to the law would be quite consistent with the adventurous spirit of the age'.

Hard to credit that one or two women could constitute an invasion or the prospect of one. As it happened there was no invasion.

Celebrity status and publicity were no guarantee of work and although Fay chalked up a litany of important firsts among them the first woman admitted to a circuit when she joined the Northern Circuit, in truth within ten years she seems to have given up practice. Without family money her chosen profession would never have sustained her financially. She went to live in London with her older married sister and died there aged sixty four. We know so very little about this critical trailblazer but we can guess that hers was likely often a journey into disappointment and discrimination. Averil Deverell survived rather better in practice. She was also from a solid well-to-do background. Born in Dublin and raised in Greystones she attended the French School in Bray. Her father was Clerk of the Crown and Peace for County Wicklow and Averil had been presented to King George V and his wife Queen Mary on their visit to Dublin in 1911.

Averil chalked up another set of firsts becoming the first woman barrister to appear in the Irish Supreme Court and Court of Criminal Appeal. In 1928 she became the first female barrister to appear before the Privy Council in London. She practiced until well into her seventies and by the time I came to Trinity College in 1975 she had a revered reputation as the former “Mother of the Bar”. Yet by the time she died in her mid-eighties a new generation had all but forgotten the debt owed to her and Fay Kyle, two women born at the end of the nineteenth century whose lives became the bridge over which so many pass today without knowing how much they sacrificed and how hard they fought.

For female solicitors the story to acceptance as equals was no less difficult for this was radical social reform that drilled deep into the accumulated prejudices and perspectives of centuries. Two years after Averil and Fay made headlines Mary Dorothea Heron became the first woman admitted as a solicitor in Ireland. She did not however take out a practicing certificate but she was a working solicitor for years in her uncle's practice in Belfast. The first woman to take out a practicing certificate was Dubliner Helena Mary Early and she too practiced for many years in her brother's Dublin law firm.

For all these women not only was there a formidable backdrop of discrimination and inequality but there was also a terrible backdrop of violence and war right on their doorsteps. By the time they qualified the two professional bodies for both barristers and solicitors were getting ready to divide into the separate organisations which marked Partition. They lived through convulsive times. They pushed through those times to open the door that let the future in to the coming generations of women.

They made themselves the stepping stones for the women who kept the door open and made it more welcoming little by little- Fran Moran, Ireland's first silk (1941) and first Regius Professor of law (1944), Eileen Kennedy first District Justice (1964), Mella Carroll first female High Court judge (1980) and addressed as "My Lord" for the next ten years, Catherine McGuinness first female appointee to the Circuit Court (1994), Katherine Delahunty-O'Byrne, first female solicitor appointee to the Circuit Court (2001), Susan Denham first female appointee to the Supreme Court (1992) and first female Chief Justice (2011), Fidelma Macken first female appointee to the European Court of Justice (1999), Maire Geoghegan Quinn first Minister for Justice (1993), Maire Whelan, first female Attorney General (2011) and in Northern Ireland, Eilis McDermott the first female QC, Corinne Philpott the first female county court judge (1998) and Denise McBride and Siobhan Keegan the first females appointed to the High Court (2015). And Mary Robinson first female steward of the Irish Constitution elected President of Ireland 1990. We remember too this night the first woman veterinary surgeon in these islands Aleen Cust who parctised in County Roscommon, finished her exams in 1897 and was refused admission to the Royal Vollege of Veterinary Surgery until 1922 when the 1919 Act kicked open that barn door. And Clare woman Georgie Frost first female Clerk of Petty Sessions whose appointment in 1915 went to court and probably had a role in bringing about the 1919 Act. And Ellen Woodworth first woman to be admitted as a student of the Institute of Chartered Accountants (1920).

The "invasion" predicted a hundred years ago did not materialize instead a long slow-burn began to gather feeble momentum until it became fueled by the advent of free second level education, the massification of third level education, the expansion of legal services including the advent of Legal Aid and the general improvement in the economy. The transformation in the fortunes of numbers of women in law does not get a real wind until the latter end of the twentieth century and the entry of young women from much less homogeneous backgrounds. When I became a law student

in 1969 there were no women practicing at the bar in Northern Ireland at all and about twenty percent of the law class was female. The first book on our Law Faculty reading list was learning the law by Glanville Williams. It had a whole chapter on “Women” and no equivalent chapter on “men”. It read:

“Practice at the Bar is a demanding task for a man; it is even more difficult for a woman... she has a double prejudice to conquer: the prejudice of the solicitor and...of the solicitor’s lay client. An advocate’s task is essentially combative, whereas women are not generally prepared to give battle unless they are annoyed. A woman’s voice also does not carry as well as a man’s”. Women have had to listen to some shocking sexist piffle over the generations in justification for their exclusion from everywhere except the kitchen.

But Prof Williams had some good news: “There is no longer any reason why a woman should not succeed as a solicitor.... women have special qualifications in matters of divorce and nullity since married women frequently prefer to confide the details of their married lives to a member of their own sex”. So onwards and upwards then for female solicitors. At least by the eighth edition of his book Williams had removed the suggestion that Law schools were useful place for misguided women to encounter men who would make good husbands.

When I was called to the bar in Northern Ireland in 1974 two other women were called at the same time. On our call day the Lord Chief Justice presented all of us, male and female with a hard-backed copy of Glanville William’s *Learning the Law*. I hope by then they had been bought as a remaindered job lot. It would not happen today!

Why because the invasion is in fact upon us at last. It has taken an entire century and unlike most invasions it has brought about a welcome assault- on the sexist prejudices and structures which kept women and entire cultures in a sorry state of wasted talent and under-achievement. The invasion has not been a conquest of men’s territory but the subjugation of sexism, the triumph of truth, the release of talent, the flourishing of potential.

Today half Ireland’s solicitors are women and the bar is heading in the same direction well ahead of most other jurisdictions. Gender parity is worth celebrating.

It is something to be proud of but there is still a distance to travel before gender parity becomes true gender balance and equality at every level. In academia, on the bench and as lawmakers women are showing their mettle as never before but the numbers are frustratingly slow to shift towards gender balance. In the upper echelons of the civil service the story is just as bad. Just this week and Irish Times report claimed that 82 percent of senior civil servants are men while women make up 58 percent of civil servants. Gender parity and gender balance are still well out of balance.

A hundred years ago men in courts and parliaments tried to stand in the way of women's equality because they did not believe in it. It took brave men to face them down and brave women to prove their worth, their entitlement to equality of opportunity. Where Fay Kyle and Averil Deverell once stood alone, isolated and gawped at as curiosities a century ago in this very place we now stand. We call their memory to mind as another century opens up and its opportunities are ours thanks to them. So are our responsibilities for we still have a duty as Fay said "to prepare the way for those who will follow". That includes widening the stairway that leads to the top.