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## Beyond Firsts: Feminist Biography and Early Women Barristers

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### Introduction

A consistent theme running through Rosemary Auchmuty's publications on the history of women in law schools and the legal profession is the need for a nuanced, feminist approach which eschews straightforward narratives of progress. Through her ground-breaking exploration of the life of Gwyneth Bebb, a pioneering law student who challenged women's exclusion from the legal profession, Auchmuty has argued that the 'great lives' model of biography, focused upon a single and singular individual, is ill-suited to exploring the systemic effects of gender upon women's engagement with the law.<sup>1</sup> The failings of the earlier model, which suffered only a slow and incomplete death over the course of the last century and lingers on in legal biography,<sup>2</sup> have important political as well as historiographical consequences: 'to reveal women's legal history too clearly would be to uncover the many mechanisms by which men have retained power for themselves in law and to give the lie to the vaunted equality of opportunity for men and women.'<sup>3</sup> Auchmuty is at the forefront of feminist historians who are working to uncover precisely that.

The development of feminist methods and methodologies to do this work is, of course, an ongoing process. This chapter examines a persistent survivor of the 'great lives' approaches still apparent in recent celebrations of early women

<sup>1</sup> R Auchmuty, 'Whatever Happened to Miss Bebb? Bebb v The Law Society and Women's Legal History' (2010) 31 *Legal Studies* 199; R Auchmuty, 'Researching Women in Legal History: The Case of Miss Bebb' (2014) 14 *Legal Information Management* 19; R Auchmuty and E Rackley, 'Feminist Legal Biography: A Model for All Legal Life Stories' (2020) 41 *Journal of Legal History* 186.

<sup>2</sup> Auchmuty and Rackley (n 1) 191; and see V Barnes, C MacMillan and S Vogenauer, 'On Legal Biography' (2020) 41 *The Journal of Legal History* 115. However, for the disruptive potential of legal biography, see C Smith, 'The Disruptive Power of Legal Biography: The Life of Lord Phillimore – Churchman and Judge' (2020) 41 *Journal of Legal History* 164.

<sup>3</sup> R Auchmuty, 'Recovering Lost Lives: Researching Women in Legal History' (2015) 42 *Journal of Law and Society* 34.

lawyers: a focus upon ‘firsts.’<sup>4</sup> Through considering several pioneers in England and Wales, including Olive Clapham (first women to pass Bar Finals examinations) and Monica Geikie Cobb (first woman briefed to appear in court), it will explore why the status of ‘first’ has been given such importance. It will consider the benefits and limitations of framing women’s roles and achievements in this way, particularly from a feminist perspective, and the implications for our understanding of today’s profession. It does so by considering what effects this specific temporalisation of women’s experiences produces, not only upon our interpretations of the past but also upon the ways they interact with our present and ‘conceivable futures’<sup>5</sup>

## Olive Clapham and Monica Geikie Cobb

In considering women’s entry to the Bar of England and Wales, it is not simple to identify *the* first.<sup>6</sup> The initial step towards qualification was joining one of London’s four Inns of Court, all of which had excluded women until 1919. The first woman admitted to an Inn of Court was Helena Normanton.<sup>7</sup> There were then two steps usually taken more or less simultaneously: passing a series of examinations culminating in the Bar Finals and keeping 12 dining terms (eating several dinners each term) at one’s Inn. The first woman to pass the Bar Finals examinations was Olive Clapham, widely but erroneously reported in the contemporary press as the ‘first woman barrister’.<sup>8</sup> When examinations and dining were both completed, the final step was the ceremony of being called to the Bar by one’s Inn: the point at which one became a qualified barrister. The first woman called to the Bar of England and Wales, in May 1922, was Ivy Williams, who chose to continue her academic career and never practised.<sup>9</sup> Normanton was the first woman called to the Bar who intended to practise, but that is a very fine distinction as she was one of nine women called on the same night. (They were all a year behind the first woman barristers in the UK, however: Frances Kyle and Averil Deverell had been called to

<sup>4</sup> Auchmuty’s own work refers to ‘early’, rather than ‘first’, women law students: R Auchmuty, ‘Early Women Law Students at Cambridge and Oxford’ (2008) 29 *Journal of Legal History* 63.

<sup>5</sup> E Grosz, ‘Histories of a Feminist Future’ (2000) 25 *Signs: Journal of Women in Culture and Society* 1017.

<sup>6</sup> See U Schultz, ‘Introduction: Gender and Careers in the Legal Academy: Overview and Synthesis’ in U Schultz et al (eds), *Gender and Careers in the Legal Academy* (Hart, 2021) 1, especially Table 1 (which nonetheless simplifies ‘first’ to the date of admission).

<sup>7</sup> J Bourne, ‘First Woman to Be Admitted to an Inn of Court, Helena Normanton, 1919’ in E Rackley and R Auchmuty (eds), *Women’s Legal Landmarks: Celebrating the History of Women and Law in the UK and Ireland* (Hart, 2018) 147.

<sup>8</sup> ‘The First Woman Barrister’ *The Times* (London, 26 May 1921) 10; ‘The First Woman Barrister’ *The Scotsman* (Edinburgh, 27 May 1921) 5; ‘Yorkshire Distinction’ *Leeds Mercury* (27 May 1921) 12.

<sup>9</sup> H Fox, ‘Williams, Ivy (1877–1966)’ in D Cannadine (ed), *Oxford Dictionary of National Biography*, (DNB, 2020); C Morris, ‘Dr Ivy Williams: Inside yet Outside’ (June 2020) 29(4) *Women’s History Review* 583–614.

the Dublin and Belfast bars in 1921.)<sup>10</sup> The first woman briefed to appear in court in England and Wales was Monica Geikie Cobb, who simultaneously became the first woman to prosecute a criminal case, the first woman to appear in a jury trial, and the first woman to win her case.<sup>11</sup> There followed a series of first women appearing in various specific courts, but soon there would be a barren period as the early women barristers met persistent systemic barriers to further progression. They had to wait until after the Second World War for the first women King's Counsel and judges.<sup>12</sup>

This chapter explores the biographies of two of that plethora of early women barristers who could be described as firsts: Olive Clapham and Monica Geikie Cobb. Both were admitted to Middle Temple within weeks of the Bar being opened to women by the Sex Disqualification (Removal) Act 1919. It had received Royal Assent on 23 December and, as soon as Middle Temple reopened after the Christmas holidays, Monica Geikie Cobb was admitted on 2 January 1920;<sup>13</sup> Olive Clapham followed a fortnight later, on 17 January.<sup>14</sup> They had now formally begun their path to qualification.

It was an unlikely path for Clapham. She was a Roman Catholic, working-class Yorkshirewoman born in Wakefield in 1898. After her father, a printer and compositor, died when she was not quite five years old, she, her two older brothers, and her mother had gone to live with his sister and brother-in-law in Kingston-upon-Hull.<sup>15</sup> Marian MacKenzie, professionally known as Madame Clapham, was a famous couturier whose clientele included minor royalty. Her husband Alexander was her business manager, and Clapham's mother became her housekeeper, looking after the young women employees who both lived and worked on the premises. Madame Clapham was known as a demanding employer, but also one capable of real generosity.<sup>16</sup> She certainly treated her niece and nephews well: while she was a Christian Scientist, they were educated in leading Catholic schools and Clapham also studied piano.<sup>17</sup> After Clapham completed her schooling at the French Convent School in Hull, she continued her education as an Oxford University 'home student' (that is, one not a member of a college) while

<sup>10</sup> L Goldthorpe, 'First Woman to Practise as a Barrister in Ireland and the (Then) United Kingdom, Averil Deverell, 1921' in Rackley and Auchmuty (n 7) 175.

<sup>11</sup> GE Gates (ed), *The Woman's Year Book 1923-1924* (NUSEC, 1924) 42; C Derry, 'Cobb, Monica Mary Geikie (1891-1946)' (DNB, 2018).

<sup>12</sup> L Lammasniemi, 'First Woman to Hold Regular Judicial Office in England and Wales, Rose Heilbron, 1964' in Rackley and Auchmuty (n 7) 257.

<sup>13</sup> HAC Sturgess, Register of Admissions to the Honourable Society of the Middle Temple (Butterworth & Co, 1949) 842.

<sup>14</sup> *ibid* 844.

<sup>15</sup> Birth certificate of Olive Catherine Clapham; National Probate Calendar (Index of Wills and Administrations), 1858-1966, 1903, 72; 'Hull's Lady Barrister' *Hull Daily Mail* (27 May 1921) 3; C Derry, 'Clapham, Olive Catherine [Married Name Miles] (1898-1973)' (DNB, 2018).

<sup>16</sup> *Hull Daily Mail* (n 15); 'College of Music Concert', *Hull Daily Mail* (7 December 1914) 3; J Tyler and C Parsons, *Madame Clapham: Hull's Celebrated Dressmaker* (Kingston Upon Hull City Museums and Art Galleries, 1999).

<sup>17</sup> *Hull Daily Mail* (n 15).

residing at St Frideswide's hostel for Catholic women students.<sup>18</sup> After studying English for a year, she changed to Jurisprudence and graduated in that subject in 1919. She went on immediately to study the postgraduate Bachelor of Common Laws, which had opened formally to women only a year earlier.<sup>19</sup> Three women, including Cornelia Sorabji and Ivy Williams, had received special permission to study it before 1918.<sup>20</sup> Clapham's final year saw the university return to something like its pre-war state after the rigours of the First World War, and also saw women admitted to degrees. Clapham was thus among the first women to graduate from Oxford. However, she must have had limited opportunity to enjoy the pleasures of peacetime since she was already studying for her Bar Finals examinations, which she passed in May 1921.<sup>21</sup>

Monica Geikie Cobb was seven years older than Clapham and came from a more typically professional background.<sup>22</sup> Her father was a leading, if notorious, Church of England clergyman and her elder brother would become a well-known Harley Street doctor.<sup>23</sup> The Reverend Geikie Cobb not only championed divorce reform but also supported women's rights and would speak at suffragette leader Emmeline Pankhurst's funeral in 1928.<sup>24</sup> Cobb studied at the University of London which, unlike Oxford, had awarded degrees to women since 1878:<sup>25</sup> first at Queen's College (a 'junior department' of King's College, London) and then at University College, London. She graduated with a BA in Philosophy in 1914, then returned to the university in 1918, taking her LLB Law and graduating with third-class honours in 1921.<sup>26</sup> She combined her study with employment as Joint Secretary for the Professional Classes War Relief Council which aimed to provide practical assistance to members of the professional classes suffering 'distress ... due to the War'.<sup>27</sup> Cobb received an MBE for that work and continued to be involved in the Society long after it reinvented itself as a peacetime organisation, the Professional Classes Aid Council.<sup>28</sup> Meanwhile, she was working towards qualification as a barrister and, although she passed her Bar Finals later than Clapham, she would

<sup>18</sup> *ibid.*

<sup>19</sup> 'St Anne's', *Combined Register: 1878–1920*, Oxford, 2020, archives of the Association for the Education of Women in Oxford, Bodleian Library. [www.firstwomenatoxford.ox.ac.uk/files/students1878to1920-allcollegesfinalxlsx-0](http://www.firstwomenatoxford.ox.ac.uk/files/students1878to1920-allcollegesfinalxlsx-0).

<sup>20</sup> Auchmuty (n 4) 88.

<sup>21</sup> *The Times* (n 8) 10.

<sup>22</sup> Derry (n 11).

<sup>23</sup> 'Obituary: The Rev Dr WF Geikie Cobb' *The Times* (London, 15 December 1941) 6; 'Obituary: Dr I Geikie Cobb' *The Times* (London, 18 August 1953) 8.

<sup>24</sup> J Purvis, *Emmeline Pankhurst: A Biography* (Routledge, 2003) 353; 'The Passing of a Great Spirit' (1928) *British Journal of Nursing* 182.

<sup>25</sup> University of London, 'Leading Women 1868–2018' *History of the University of London* (2018) [www.london.ac.uk/about-us/history-university-london/leading-women-1868-2018#](http://www.london.ac.uk/about-us/history-university-london/leading-women-1868-2018#).

<sup>26</sup> University of London Graduate List, 1836–1926, 354; University College London Archives, 'COBB, Monica Mary Geikie'.

<sup>27</sup> Professional Classes War Relief Council, London, 1914, 3.

<sup>28</sup> 'Professional Classes Aid Council' *The Times* (London, July 1939).

be among the first cohort of women would-be practitioners called to the Bar in November 1922.<sup>29</sup>

Within a fortnight of call, on 1 December 1922, Cobb was briefed to prosecute a case of bigamy at the Birmingham Assizes. The defendant, bricklayer Thomas Fallow, was convicted of bigamously marrying Ada Howell while his first wife Sarah Ann was still alive. He was found guilty and sentenced to six months' hard labour.<sup>30</sup> The press reports were as impressed by the 'trim and neat' prosecutor's 'perfectly fitting silver horse-hair wig and black gown' as by her 'brevity': '[s]he confined her remarks to essential points in the charge, every one of which she drove home with clarity and force.'<sup>31</sup>

## Firsts in Time

What were contemporaries doing when they described women as 'firsts'? And crucially, what do we do when we repeat or reapply that description today? The label of 'first' imposes a particular temporality upon its subject: they are frozen in an instant, the moment at which they are the 'first' to do something. That fragmentation of time separates them from their pasts and broader presents; it suggests a completeness to the act which allows difficult histories and potential futures to be ignored. This endless rebirth of the subject is a key mechanism in producing the (masculine) liberal subject who, thus shorn of context and history, is able to act rationally and autonomously, unencumbered by relational responsibilities or systemic oppression. It is a function of linear time, the dominant construction of time in European cultures and which pervades the law. Linear time is understood as a straight line or arrow moving from the past, through the present, to the future. It is measurable and thus divisible into discrete periods, episodes or events. Linear time may seem natural, an observable scientific fact, but is culturally produced and serves specific political functions. Emily Grabham has described this process as 'brewing': temporalities are 'not either "natural" or "social" but always both, brewed through changing relationships of humans and material forms.'<sup>32</sup> The understandings of time thus created are a collection of intertwined temporalities with 'world-making capacities'.<sup>33</sup>

What, then, are the world-making functions performed by the designation of women as 'firsts'? This chapter suggests that it performs several temporal tasks: to isolate the subject in time, to render her singular, to emphasise that she is untimely, to hide the difference in tempo between the speed of her achievements

<sup>29</sup> 'Calls to the Bar', *Solicitor's Journal and Weekly Reporter* (No 67) (25 November 1922) 115.

<sup>30</sup> 'Woman Barrister Secures a Conviction' *The Scotsman* (Edinburgh, 2 December 1922) 8.

<sup>31</sup> 'Women Lawyers' *Aberdeen Press and Journal* (4 December 1922) 3.

<sup>32</sup> E Grabham, *Brewing Legal Times: Things, Forms and the Enactment of Law* (University of Toronto Press, 2016) 14.

<sup>33</sup> *ibid* 13.

and the slow pace of legal change, and to obscure the ‘temporalities of precarity’ in which she existed after the brief, shining moment of being ‘first’.<sup>34</sup> However, that does not mean that the effects of identifying firsts are wholly negative. They reveal as well as obscure; indeed, they are revealing in what they obscure. They also offer times for celebration, valuable in themselves and for the effects they can produce.<sup>35</sup> This chapter does not, then, call for an outright abandonment of firsts but rather for a more sparing, critical use of them in both historiography and public engagement.

## Isolating Times

Auchmuty has pointed out that ‘a life is not always interesting in itself’: without more, it can leave the reader asking, ‘*So what?*’<sup>36</sup> That the subject of a biography was the first to do something might seem to be an answer to that question. In reality, it simply raises another: *so what* that she was the first? Why is being a first given such significance? There is, of course, more than one answer to this question but, too often, firsts have been allowed particular significance for what they conceal as much as for what they reveal. In the context of women’s entry into the legal profession, the ‘first’ as an isolated moment in linear time has specifically allowed the difficult history of exclusion to be downplayed, consigned to a less-enlightened ‘past’, hermetically sealed away from a progressive present. It, therefore, obscures the past in order to avoid examination of the present and the taking of difficult actions in the future. The ‘bad old days’ of women’s exclusion are marked as having ended, meaning that further exploration of them is not required. As a consequence, the reasons why women were previously excluded, including enduring systemic obstacles and persistent discriminatory attitudes, remain conveniently unexamined.

In that light, the contemporary over-excitement of the press at Olive Clapham’s pioneering success in the Bar Finals examinations begins to make sense. Having passed them, Clapham still had to complete her dining terms before she could be called to the Bar, and she had six terms (about 18 months) remaining. However, most newspapers directly misrepresented the facts. Even the *Times*, which ought to have known better since it regularly published the results of the Bar examinations, described her as ‘the first woman barrister’.<sup>37</sup> The *Hull Daily*

<sup>34</sup> J Goodman, ‘Afterword: Histories of Women’s Higher Education, Time, and Temporalities’ (2020) 56 *Paedagogica Historica* 6.

<sup>35</sup> I should declare my own involvement in celebrating firsts, not least through organising the *Diversities, Dilemmas and Discoveries* conference to celebrate the centenary of Clapham’s Bar Finals success (Open University, May 2021). [www.youtube.com/watch?v=31Ds2VAHp0k&list=PLLeOSYXGYWMvJoOZJe0aWijaPa9TizrD3](https://www.youtube.com/watch?v=31Ds2VAHp0k&list=PLLeOSYXGYWMvJoOZJe0aWijaPa9TizrD3).

<sup>36</sup> Auchmuty (n 3) 43.

<sup>37</sup> *The Times* (n 8) 10.

*Mail*, devoting a longer article to its hometown success, included a detailed and accurate account of the qualification process to date but erroneously suggested that, if the Benchers allowed, she could be called immediately.<sup>38</sup> Only the *Sphere* recognised that Clapham might not be the first woman barrister, despite her early success.<sup>39</sup> Ignoring or downplaying the future challenges in progressing to qualification, and rendering invisible the even greater difficulties of establishing a practice at the Bar, the reports trapped Clapham in her instant of success. They could avoid the complexities of her path from Hull to the examination hall, and from the publication of results to qualification and her eventual departure from the profession.

Imported into our histories, the 'first' can perform a similar function: the shining moment is identified and celebrated; the often-miserable aftermath need not be addressed and, indeed, is frequently ignored. Researching Clapham's life, it was difficult to discover what happened to her between Finals and call night, as well as after her call to the Bar, since the secondary sources were silent and the primary sources scarce. In fact, she was not called until 1924 because she had moved out of London in order to work. Once called, she remained at the Bar only briefly. She nonetheless lived a rich life including many years in Ceylon (now Sri Lanka) with her husband and four children; a wartime spent in London, Yorkshire and the South Coast; and continued pursuit of her intellectual curiosity.<sup>40</sup> Thus her Bar Finals success was not a singular event, still less a conclusion, but one moment in a process of becoming.

Indeed, it was a moment in several such processes: Clapham's own as well as the profession's. Those processes of becoming, the former lasting decades and the latter extending beyond any single person's career or lifespan, are reduced through the characterisation of 'firsts' to single events. Yet, over a century after the major firsts of women's entry into the United Kingdom's legal professions, women are still in the same process of becoming as they seek full membership in a profession which does not yet wholly embrace them. Despite their increasing numbers, they face particular barriers throughout their careers and are disproportionately absent from the profession's highest levels: in 2020, only 32 per cent of barristers with over 15 years' experience, 28 per cent with over 20 years, 32 per cent of court judges, and 17 per cent of Queen's (now King's) Counsel were women.<sup>41</sup>

<sup>38</sup> *Hull Daily Mail* (n 15).

<sup>39</sup> 'Women at the Bar' *The Sphere* (London, 4 June 1921) 5.

<sup>40</sup> I am indebted for much of the information here to Clapham's daughter, Margaret Miles (personal communications, 2021); and see M Miles and C Derry, 'Olive Clapham' (recorded lecture) The Open University, May 2021 [www.youtube.com/watch?v=31Ds2VABp0k](https://www.youtube.com/watch?v=31Ds2VABp0k). The record of Clapham's marriage was not easily found since she wed in Sri Lanka. That disappearance of women upon marriage, when their names change and even their given name often disappears from records, is an enduring issue for historians of women's lives.

<sup>41</sup> Ministry of Justice, 'Diversity of the Judiciary: Legal Professions, New Appointments and Current Post-Holders' (MoJ, 2020) 11–18.



## Singular Times

The production of the endlessly reborn liberal subject slices duration, the rich and undivided flow of subjective time, into singular moments which are severed from past and future. In other words, it removes her from her context: she is the universal autonomous individual, shorn of her history and isolated from her wider relations. She is thus placed upon liberalism's imaginary 'level playing field' where she competes on equal terms. The systemic power structures which oppress her and the social relations which sustain her are hidden from view.

A focus upon Helena Normanton as the first woman admitted to an Inn of Court, for example, obscures the question of why Cobb did not join the same afternoon but had to wait until the new year. The answer is that Normanton already had a relationship with officers of Middle Temple, thanks to her earlier unsuccessful requests for admission and ongoing appeal against refusal, so the office was opened specially for her on Christmas Eve 1919.<sup>42</sup> Looking beyond the first woman, then, paradoxically brings her own prior struggles into view and in doing so, starts to uncover the whole history of women's efforts to enter the profession and its adamant refusal to admit them. It also throws light upon how the apparent equality which followed was, as Catherine MacKinnon has termed legal sex equality, 'designed for the exceptional individual whose biography approximates the male one'.<sup>43</sup> To ask, then, 'what about the *second* woman?' is to expose a history in which admission to the profession was not gifted by a kindly Parliament through the Sex Disqualification (Removal) Act 1919 but was the consequence of decades of women's campaigning, fiercely resisted by many senior lawyers.<sup>44</sup>

The celebration of Cobb's courtroom victory similarly obscured a difficult future in which she would encounter the problems of a pioneer woman barrister. One of these was the very fact of being a 'first'. While newspapers continued to report on women's legal firsts, many clients were understandably not eager to risk their cases coming under press scrutiny should their barrister happen to be, for example, the first woman appearing in their local court.<sup>45</sup> That was even assuming that they or their solicitor were willing to instruct a woman at all. Nor were the problems quick to disappear: Enid Rosser (later known by her married name Enid Rosser Locket), called five years later and writing in 1938, described the difficulties faced by women as 'enormous'.<sup>46</sup> There were material challenges: for example, the lack of toilets was an excuse for chambers not to accept women pupils

<sup>42</sup> J Bourne, *Helena Normanton and the Opening of the Bar to Women* (Waterside Press, 2016) 102–106.

<sup>43</sup> C MacKinnon, 'Reflections on Sex Equality under Law' (1991) 100 *Yale Law Journal* 1297.

<sup>44</sup> See also Auchmuty, 'Whatever Happened to Miss Bebb?' (n 1).

<sup>45</sup> See, eg, the lengthy report of a magistrates' court order for two dogs to be kept under control, presented as 'remarkable' because Cobb was 'the first lady advocate to appear at Oxted': "Loving Dogs" at Felbridge Ladies' Colony' *Courier* (Oxford, March 1926). For a summary of the problem, see Enid Rosser, 'Women and the Legal Profession' *St Hugh's Chronicle* (Oxford, nd) 13.

<sup>46</sup> Rosser (n 45).

or tenants, as well as a constant issue when attending court (along with the lack of robing-room facilities).<sup>47</sup> Male colleagues could be patronising, when they were not actively hostile. At the end of her first case, Cobb 'was heartily congratulated', not a usual courtroom response.<sup>48</sup> Such differential treatment was not always couched in benign terms: Rosser, early in her career, received a message from a High Court judge stating, 'women in the law are matter out of place'.<sup>49</sup>

Early women barristers thus appeared either frozen alone in the moment of being first, or as a collective outsider class similarly frozen in the present as a sudden intrusion. A change of temporal framing, so that the 'first' was not a self-contained occasion but rather one moment in the flow of a wider social movement, can transform this history into a relational one. That was understood by activists of the time: looking forward to the prospect of the first woman barrister following Cobb's exam success, the *Woman's Leader* wrote, 'Priority of a few months is, after all, not a very important matter, but the status of women at the Bar will depend very much upon the tact and ability of the first *flight of successful women*' (emphasis added).<sup>50</sup>

The significance of paying attention to networks, especially where histories are sparse or suppressed, has been an enduring theme of Auchmuty's work for over three decades.<sup>51</sup> Her influence upon the historiography of gender in the legal profession is apparent in recent work which has moved from individualistic biographies to explore the connections between pioneering legal women.<sup>52</sup> Such work is not straightforward: like most research into these women's lives, it is inhibited by the loss of most women's personal papers. For some of the first cohort of women at least, that seems to have been a deliberate omission: Ethel Bright Ashford, who was also an enthusiastic amateur historian, ensured the archival preservation of records belonging to an organisation she chaired but not of her own personal or professional papers. Helena Normanton did keep her papers, now held in the Women's Library at LSE, but their tantalising glimpses of networks raise as many questions as answers. For example, Cobb wrote to her stating that she understood Normanton wished to have a separate women's table in Middle Temple. Cobb had dined with six other female students, and they were unanimous that they did not want any such action. They felt grateful for the consideration shown to

<sup>47</sup> See, eg, L Noakes, 'Early Women Barristers and the Negotiation of Professional and Political Identity' (2022) *Women's History Review* 8.

<sup>48</sup> *Aberdeen Press and Journal* (n 31). She would also be congratulated by the Chairman of the bench at Oxted magistrates' court (see n 45).

<sup>49</sup> Rosser (n 45).

<sup>50</sup> 'The First Woman Barrister?' *Woman's Leader* (London, June 1921).

<sup>51</sup> R Auchmuty, 'By their Friends We Shall Know Them: The Lives and Networks of Some Women in North Lambeth, 1880–1940' in Lesbian History Group (ed), *Not a Passing Phase: Reclaiming Lesbians in History 1840–1985* (The Women's Press, 1989) 77; Auchmuty, 'Researching Women in Legal History' (n 1).

<sup>52</sup> This is apparent both in the greater attention to wider networks in individual biographies and in group and comparative biographies, eg, L Noakes, *Chrystal MacMillan and Elsie Bowerman: First Women Barristers' Negotiation of Professional and Political Identities* (The Open University, 2021).

women students and wished to fall in with the arrangements made.<sup>53</sup> It is not clear that Normanton did in fact want such an arrangement – her papers reveal nothing further on the subject, although it is suggestive that Rosser described her as ‘always trying to organise the women into forming a separate group from the men’<sup>54</sup> – but the letter shows some of the tensions within this small group of women who shared common ambitions but varied in ages and social and political backgrounds.

Viewed in social rather than singular time, these women were not only part of a community but also part of other temporal forms, not least as members of a generation. That was keenly felt by Rosser who defined herself in her unpublished memoir as ‘of the newer generation of women and ... therefore not a fanatical feminist’. By contrast, the ‘first’ women who had joined the Bar before her were ‘part of history’, and not only because of their historical status as firsts. They also represented an older politics, as well as a lack of professional success.<sup>55</sup> For example, Rosser described Elsie Bowerman (called in 1924) as ‘another old Equal Pay for Equal Work campaigner ... She did not achieve much but she was there constantly seen about the Courts’, making ‘no headway at all’.<sup>56</sup> Helena Normanton was ‘a war horse from the Old Feminist days’, ‘a comic character’ and ‘a menace to the movement’.<sup>57</sup> This generation gap is all the more striking since Rosser was called only a few years later, in 1927. Of course, many women called in the earliest years were much older, having waited years or decades for the profession to admit them.<sup>58</sup> However, here the generation difference was not ‘a linear temporal enumeration’,<sup>59</sup> so much as a metaphor for a subjective temporal shift in women’s sense of being and becoming. That insight into two generations of women emerges only when the historical tempo shifts from the singular temporalities of firsts.

## Untimely Women

Firsts, then, can function as moments in time within which their subjects are not only frozen but also isolated. That does not mean that ‘firsts’ have no place in our history. The identification of how certain women were on certain occasions positioned by their contemporaries as firsts can serve an analytical purpose.

<sup>53</sup> Monica Geikie Cobb to Helena Normanton, 19 January 1920, Women’s Library at LSE (London) 7HLN/A/17.

<sup>54</sup> E Rosser Locket, unpublished memoir: Women’s Library at LSE (London), LOCKET: Papers of Enid Rosser Locket (1899–1980), quoted in M Dunmall, ‘Enid Rosser Locket’ (Celebrating the Centenary of Women Lawyers 2017) [celebratingthecentenaryofwomenlawyers.wordpress.com/enid-rosser-locket/](http://celebratingthecentenaryofwomenlawyers.wordpress.com/enid-rosser-locket/).

<sup>55</sup> Rosser did not acknowledge that some of these women, including Bowerman, remained activists foremost: see Noakes (n 47).

<sup>56</sup> Rosser Locket, unpublished memoir, 276–277, quoted in Noakes (n 52).

<sup>57</sup> Quoted in Dunmall (n 54).

<sup>58</sup> Bowerman was aged 35 and Normanton 40 when called.

<sup>59</sup> Goodman (n 34) 7.

In particular, the consequent isolation of these women by their professional peers and contemporary media emphasises their untimeliness. In the related context of women's entry into higher education, Joyce Goodman writes that in a 'future they did not control, untimeliness brought with it a newness that raised anxieties that clashed with stagnating temporalities of accepted practice along gendered lines'.<sup>60</sup> The very notion of a first implies something new, unprecedented, and potentially disruptive.

In a profession which, given England and Wales's common law system, was unusually focused upon precedents, 'first' was a particularly anomalous and uncomfortable status. It made itself felt in material ways: the lack of toilet and robing facilities, the uncertainty over dining arrangements. It also created a psychic atmosphere where women were intensely conscious of themselves in uneasy relation to their peers and seniors in the legal profession. The men of the profession, meanwhile, moved to contain the threat of the new: the statutory 'eruption' that admitted women was to be incorporated into the fabric of the known through 'defensive counter-reaction'.<sup>61</sup> This process was familiar to barristers, given the courts' propensities for minimising the potential ruptures of new legislation by integrating it into the structure of the preceding common law.<sup>62</sup>

The wider social disruption caused by this growing class of professional women was also contained through the construction of 'firsts' as untimely women. Reporters remained fascinated by such instances long after Monica Geikie Cobb won her first case.<sup>63</sup> The cumulative effect of their reports was not, however, to create a sense of collective professional engagement or of transformation of the legal profession. Instead, by casting each woman on each occasion as untimely, they pushed her out of the wider flow of time. Isolated in her singular moment of strangeness, she could not be connected with her peers but was placed under solitary scrutiny. Static and alone, she was the antithesis of a women's *movement*: it is unsurprising, then, that one continuing legacy of contemporary reporting has been the enduring perception of the interwar years as a time of fracture and stasis for the women's movement (a perception firmly countered by recent scholarship on the period).<sup>64</sup> Even at the end of that era, Rosser was still obliged to write of women lawyers that they 'are *beginning* to be accepted without astonishment' (emphasis added).<sup>65</sup> the shock of the first repeated itself for a very long time.

<sup>60</sup> *ibid* 3.

<sup>61</sup> E Grosz, 'Thinking the New: of Futures Yet Unthought,' (1998) 6 *Symploke* 38.

<sup>62</sup> See my current research on sexual consent (*Legal Temporalities of Sexual Consent* (Edinburgh University Press 2024 forthcoming)), where the changes wrought by section 74 of the Sexual Offences Act 2003 have been minimised by judgments drawing upon caselaw from as far back as the nineteenth century (eg the reliance upon *R v Dee* [1884] 14 LR Ir 468 and *R v Clarence* (188) 22 QBD 23 in *R (on the application of 'Monica') v DPP and Boyling* [2018] EWHC 3508 (Admin)).

<sup>63</sup> See Cobb's case before Oxted magistrates (n 45).

<sup>64</sup> Including that produced and prompted by Auchmuty's project with Erika Rackley on women's legal landmarks, 14 of which are from that period: Rackley and Auchmuty (n 7).

<sup>65</sup> Rosser (n 45) 15.

## Tempos

Yet these were not the only temporalities at work. The slow pace of change in the legal profession was at odds with the speed at which women advanced their educational and professional achievements. After centuries of exclusion, it took only decades for women to establish a place in higher education, confront the legal establishment on its own terrain – the Inns of Court, the civil courts, and Parliament – and achieve the changes in law which allowed them to qualify. These networks of women together constructed changing times in which their advance upon the Bar benefited women not only as lawyers but also as clients and as activists. The speed with which they pursued change is apparent in Olive Clapham's fast route to qualification and Monica Geikie Cobb's near-immediate progression from Call to courtroom. The temporalities of forward movement were both cooperative and competitive: these women's desire to move ahead of their peers as well as the constraints which had been imposed upon them is apparent, but there is also evidence of mutual support.

By contrast, the masculine profession sought to achieve stasis. Many of its members wanted not to move into a 'feminised' future, but to hold onto the wholly masculine past. Their temporal goal was in direct conflict with that of the pioneering women; but the profession had the force of privilege, patriarchy and vested interests behind it. While that was not enough to wholly resist the momentum of women's advance, it was certainly enough to significantly slow it. Having been admitted to the profession, women found multiple forms of resistance to their continuing progress within it. From the provision of facilities to the availability of work, to advancement to King's Counsel and the judiciary, they were forced to slow their own tempo to a crawling speed.

Some women, unsurprisingly, concluded that adopting this new tempo was the only route to success. They attempted to heed advice given to male barristers to 'play the game' until 'the great brotherhood of the Bar ... eventually welcome his intrusion as inevitable'.<sup>66</sup> Rosser's memoir asserted her own adoption of this code and the need for 'fitting in with the traditions of the profession'.<sup>67</sup> Nonetheless, those traditions explicitly stretched back before the admission of women, thus implicitly excluding them, rendering them anomalous, and supporting the masculine profession's continued resistance to them. Women barristers' tempo was thus slowed still further. Experience was gained only gradually since briefs were slow to arrive: as Ashford explained in 1927, '[s]he did not hold out any very glowing prospects that after eating the required number of dinners, passing some examinations, and paying the fees, there were many women who were making a large, or even a subsistence living out of their practices'.<sup>68</sup> Formal recognition was slower still: the

<sup>66</sup> Sir Ernest Wild, quoted in N Alden Franz, *English Women Enter the Professions* (Cincinnati, Ohio, privately published 1965) 269.

<sup>67</sup> Quoted in Noakes (n 47) 8.

<sup>68</sup> Portia, 'House and Home', *Hull Daily Mail* (22 December 1927) 10.

first full-time woman judge, for example, was not appointed until 1962.<sup>69</sup> While the tempo did increase in subsequent decades, it is striking that Lady Hale was still able to achieve a string of significant firsts in the twenty-first century including first woman Lord of Appeal in Ordinary (House of Lords judge) in 2004 and first woman President of the Supreme Court in 2017. Those changes of pace, too often obscured by the relative rapidity of the prominent early ‘firsts’, is a potent reminder that ‘it has certainly not been a steady uphill climb nor, crucially, an inevitable one, and things are not perfect yet.’<sup>70</sup>

## Precarious Times

Despite the impressive tempo of the first women barristers’ initial advance, some of the most potent temporalities thereafter were ‘the discontinuous and fragmented temporalities of precarity’.<sup>71</sup> These were to some extent built into the profession which Clapham and Cobb entered. Barristers were (and most remain) simultaneously self-employed and obliged to find a tenancy in a set of chambers. Qualification was therefore only one step in the process of building a legal career, which would depend upon being able to attract instructions from solicitors on a case-by-case basis. That in turn involved a web of relationships including those with solicitors themselves, with clients who could make their own preferences known to the solicitor they employed, and crucially with chambers clerks who were responsible for the distribution of work to their barristers. Men as well as women entering the profession faced challenges in establishing a practice, but for women these were considerably greater. Sexism was systemic and endemic; almost all solicitors and all barristers’ clerks were men;<sup>72</sup> and a sexist reluctance by any one of the parties (client, solicitor or clerk) to instruct a woman barrister would ensure that she was not briefed. Class structures and the financial burdens of qualifying and supporting oneself while building a practice compounded these issues: as Rosser advised, it was a profession either for ‘those who can afford it and have patience’ or for those ‘lucky enough to possess sympathetic relatives or friends already in the profession’.<sup>73</sup>

The consequences, and the extent to which precarity did indeed impose a ‘discontinuous and fragmented’ temporality upon women’s careers at the Bar, are apparent in the experiences of Olive Clapham. This talented and driven young woman was able to become the first woman to pass her Bar Finals, having studied for them at the same time as for a demanding postgraduate degree at

<sup>69</sup>This was the appointment of Elizabeth Lane as a County Court judge.

<sup>70</sup>Auchmuty (n 3) 51.

<sup>71</sup>Goodman (n 34) 6.

<sup>72</sup>The first women solicitors in England and Wales, like the first women barristers, qualified in 1922 and their numbers were very small.

<sup>73</sup>Rosser (n 45) 14–15.

the University of Oxford. However, she then moved to Cambridge to work for a tutorial college, probably through financial necessity. In consequence, she was not able to complete her dining terms at her Inn of Court in London as quickly as many of her peers. She finally qualified in 1924, two years after the first women's cohort. It is unclear how far she was able to practise at the Bar before leaving permanently the following year in order to move to Sri Lanka and marry.

Monica Geikie Cobb was from a more conventional background for a barrister, and her family home was in London. She was, therefore, spared many class and economic disadvantages – indeed, it is likely her father's contacts helped her to secure briefs – but she was not immune from precarity's discontinuous temporalities.<sup>74</sup> In January 1925 she registered for a doctorate in law at University College London, which was never completed. Her registration suggests that she was looking at an alternative future in academia, and indeed her career in practice may have been saved by a quasi-legal appointment which reduced her reliance upon attracting briefs. In March 1926, she was appointed deputy chairman (*sic*) of London's Court of Referees, a tribunal of mostly lay members created under the Unemployment Insurance Act 1920.<sup>75</sup> Chairmen were the legally qualified members of these courts, earning a fee of 2½ guineas a sitting; by 1928, Cobb was the only woman in the role, although she did receive the same fee as her male colleagues.<sup>76</sup> Despite having to shift much of her time into activity outside the Bar, Cobb was probably the most successful of the first cohort of women barristers in terms of maintaining a practice. Nonetheless, success was relative: as a woman barrister, she remained subject to the fragmented temporalities of precarity.

It is important to note that such precarious times did not only affect the financial security of women barristers. The lack of a stable and continuous career tempo also had profound consequences upon their professional identities. As Laura Noakes commented, the earliest women barristers had to negotiate a complex 'relationship between assimilation and transgressing norms' which meant 'their career strategies remained in constant flux'.<sup>77</sup> This complicated entwining of tempos and rhythms, fundamental to their experience and still significant in the profession today, emerges from attention to these pioneering women – but only if we develop our research beyond the singular moment of the 'first'.

<sup>74</sup> An obituary of solicitor Sir George Fowler noted that he was both 'the first in [Bedford Row] to brief a woman barrister' and, as 'the legal champion of women's rights' had often shared a platform with Cobb's father, 'the clerical champion of women's rights in London': 'Our London Letter: Woman's Champion' *Nottingham Journal* (21 October 1937) 6.

<sup>75</sup> 'Woman Barrister's Post' *Daily Mail* (March 1926).

<sup>76</sup> Sir A Steel-Maitland, 'Oral Answers to Questions' in HC Deb 14 November 1928, vol 222, cols 879–80.

<sup>77</sup> Noakes (n 47) 11.



## Celebrating Firsts

Studies on 'first women' can offer a productive entry point from which to explore more extensive histories. They can also serve a practical purpose: generating anniversaries and highlighting human stories as a starting point for wider commemorations and explorations. We can use singular 'firsts' to draw people into the extensive histories that lie behind them. The centenaries of the Sex Disqualification (Removal) Act 1919, Olive Clapham's exam success in 1921, and the first women called to the Bar of England and Wales in 1922 have prompted a rise in popular and academic interest in the subject (of which this chapter is an example) with events and initiatives directed towards a wide range of audiences.<sup>78</sup> The celebration of firsts, then, has value even when viewed through a critical lens.

The use of firsts in this way is not, however, without difficulties. It does not offer a clear route to sustaining the momentum it generates, meaning it provides a starting point rather than an enduring approach. The audience for our work may drift away if we do not actively continue to engage them: after all, they have 'done' the centenary now. We also need to engage critically with our own research directions, so that we are creating sustainable scholarship and resources. How do we continue to deepen and extend research into a subject such as women in the legal profession, despite the temptation to look for the next anniversary to celebrate? Inevitably, some of those enthusiastic about the centenaries of the first women lawyers have moved on to other projects; nonetheless, collective foundations have been laid. Auchmuty and Rackley's work on feminist biography is a key reference point in considering how best to build upon them.<sup>79</sup>

Even while anniversaries are attracting attention, the commemorative approach risks diverting attention towards specific achievements of 'exceptional' women rather than encouraging an understanding of the importance of collective efforts and persistence. It promotes the tempting but problematic framing of these women as 'role models,' two-dimensional exemplars, rather than the flawed, complex, endearing and frustrating people they – much like today's students who seek to follow them into the legal profession – really were.<sup>80</sup> That is not to say that paying attention to 'firsts' may not offer other possibilities. Their expanded biographies do show both their location in time and place and that they moved through their

<sup>78</sup> Examples available online include academic conferences, lectures and publications (eg *Diversity, Dilemmas and Discoveries* (n 35); 'Women in Law' exhibition and podcasts, Inner Temple Library, 2019 [www.innertemple.org.uk/women-in-law/](http://www.innertemple.org.uk/women-in-law/)); resources for general audiences (eg 'Digital Museum, First 100 Years, [first100years.org.uk/digital-museum/biographies/](http://first100years.org.uk/digital-museum/biographies/); C Derry and C Howells, 'Biography of the First Female Judges' (OpenLearn 2019) [www.open.edu/openlearn/society-politics-law/law/biography-the-first-female-judges](http://www.open.edu/openlearn/society-politics-law/law/biography-the-first-female-judges) and articles in the solicitors' professional journal: 'Centenary', *Law Society Gazette*, [www.lawgazette.co.uk/people/women-in-the-law](http://www.lawgazette.co.uk/people/women-in-the-law)).

<sup>79</sup> See, eg Auchmuty and Rackley (n 1).

<sup>80</sup> *ibid* 204–208; C Derry, 'Ethel Bright Ashford: More and Less than a Role Model' (2020) 29 *Women's History Review* 615.



time in varied and variously significant ways. In particular, attention to the first *cohort* of would-be practitioners called to the Bar in November 1922 has allowed for consideration of the connections and relations between them; although since the primary unifying point is that singular moment, the Call Night, it does not altogether escape the challenges considered here.

## Conclusion

A number of early women barristers have been described as various kinds of ‘firsts’. This is a temporal labelling, which can shed light upon key facets of their experiences. It highlights their disproportionate visibility at their moment of entry to the profession; it encapsulates the fragmentation of their experience so that one moment of ‘success’ could be isolated, allowing the profession and wider system to congratulate themselves upon their progressiveness. For historians, it can be a helpful tool in attracting initial attention from audiences, who may then be directed to more nuanced and relational histories. Anniversaries may be rooted in linear time but, as Grosz concedes, they are ‘as good an excuse as any for engaging in reflections on the past and speculations about the future.’<sup>81</sup>

Nonetheless, the practical and analytical advantages of identifying ‘firsts’ must not be allowed to distract us from the complexities of feminist biographies, particularly our subjects’ wider networks and the need to contextualise their experiences in the broader social structures of the period. We must be particularly careful not to replicate past shortcomings. This requires awareness of the negative functions which ‘firsts’ could serve for their contemporaries: marking them as untimely, isolated individuals frozen in singular moments of time. The past and present are not neatly separated, as linear time would suggest, but are woven together; we cannot therefore be too quick to assume that ‘our’ use of firsts is different from and better than our predecessors’. We must think carefully about the various temporalities at play, and about which we use and how. We need to be alert to the different times constituting and constituted by women barristers’ professional lives: the faster tempos with which they moved into the profession, the slow, halting and precarious pace at which they progressed thereafter. We should be attentive to the relational nature of those temporalities, including material relations (forms pre-printed with ‘Mr’, buildings with no facilities for women, wigs and gowns which obscured gender differences) as well as interpersonal relations (with each other, established male colleagues, and wider familial, activist and social networks).

Our role as historians is to situate these women within complex and multiple temporalities. We must pay attention to how those were constructed through

<sup>81</sup> E Grosz, ‘Histories of a Feminist Future’ (2000) 25 *Signs* 1017.

the women's relations with the world in which they campaigned, learned, lived and worked. Those temporalities were not the singular moments of the classic liberal subject but enduring and variegated. Nor did they end 100 years ago, since as historians we are endlessly rewriting their histories in ways shaped by and shaping our presents and futures. The ways in which we analyse and address them thus continue to matter, since 'not only are we writing the event, we are positively reinscribing it, producing it anew, writing it as an opening up to a life that is not exhausted in its pastness.'<sup>82</sup> The temporal relationship between historian and subject is not linear.<sup>83</sup>

Now that so many centenaries have passed, we have little choice but to move beyond 'firsts', and we should be glad to do so. The effort is worthwhile because, as Auchmuty reminds us, 'the struggle is the same, and this makes women's legal biography very much a dialogue between past and present.'<sup>84</sup> First women are a valuable starting point for that dialogue, but it is vital that we continue to expand the conversation. In that process, we are creating fresh timescapes which produce richer histories and thereby open new possibilities for conceivable futures.

<sup>82</sup> *ibid* 1020.

<sup>83</sup> EH Carr famously characterised it as 'an unending dialogue between the present and the past': EH Carr, *What Is History?* (Penguin, 1961).

<sup>84</sup> Auchmuty (n 3) 49.

