

## WOMEN IN CORPORATE LAW TEACHING: A TALE OF TWO GENERATIONS

MARGARET V. SACHS\*

For many law professors, law school courses have gendered identities. Corporations and commercial law, for example, are seen as rigorous and technical and thereby “male.” Family law and trusts and estates, on the other hand, are seen as soft and personal-relationship oriented and thus “female.”<sup>1</sup> As a corporations teacher for more than twenty years, I have long been intrigued by my course’s perceived maleness. This in turn has piqued my curiosity about the first women who made careers of teaching it.

With only a guess as to who these women were, I consulted the annual directories of law teachers compiled by the Association of American Law Schools (AALS). I looked for women who began teaching corporations<sup>2</sup> before 1980, continued to do so for at least ten years, and became tenured full professors.<sup>3</sup> I found a grand total of twelve such women who became the focus of my attention.<sup>4</sup>

---

\* Robert Cotten Alston Professor of Law, University of Georgia School of Law. A.B., Harvard University; J.D., Harvard Law School. I am grateful to Professors Miriam A. Cherry, Robert W. Hillman, Alexander M. Meiklejohn, Donna M. Nagy, Olufunmilayo B. Arewa, and Robert B. Thompson for their helpful comments and to C. Brock Brockington and Nicole C. Garsombke, members of the University of Georgia Class of 2006, for their research assistance. Many thanks also to Baylor Law School for permission to include the photograph of the late Professor Margaret Harris Amsler.

1. See Marjorie E. Kornhauser, *Rooms of Their Own: An Empirical Study of Occupational Segregation by Gender Among Law Professors*, 73 UMKC L. REV. 293, 307 (2004) for an elegant differentiation between “boys’ law” and “girls’ law.” See also Michael Ariens, *The Politics of Law (Teaching)*, 13 LAW & SOC. INQUIRY 773, 777 (1988) (describing securities law as “a ‘male’ subject if there ever was one” and referring to family law, sex discrimination, and trusts and estates as “women’s areas”).

2. By corporations, I mean specifically the core law school course on this subject, which is sometimes instead called “business organizations” or “business associations.”

3. This Article does not address those faculty members who abandoned corporations after a few years for another course or who left the legal academy altogether. For an extensive discussion of the latter, see Marina Angel, *Women in Legal Education: What It’s Like to Be Part of a Perpetual First Wave or the Case of the Disappearing Women*, 61 TEMP. L. REV. 799 (1988).

4. Articles examining other subsets of women law professors include Mary Elizabeth Basile, *False Starts: Harvard Law School’s Efforts Toward Integrating Women into the Faculty, 1928-1981*, 28 HARV. J.L. & GENDER 143 (2005); Trina Grillo, *Tenure and Minority Women Law Professors: Separating the Strands*, 31 U.S.F. L. REV. 747 (1997); and Herma Hill Kay, *UC’s Women Law Faculty*, 36 U.C. DAVIS L. REV. 331 (2003).

Discussions of women law faculty generally include Richard H. Chused, *The Hiring and Retention of Minorities and Women on American Law School Faculties*, 137 U. PA. L. REV. 537

These twelve women comprise two distinct generations. The first generation consists entirely of one woman—the late Margaret Harris Amsler of Baylor Law School—who began her law school teaching career in 1941. The second generation consists of eleven women who followed more than twenty-five years later, beginning tenure-track positions between 1968 and 1978. Nine of them remain in teaching (one as a professor emerita) and the other two practice law. Listed in alphabetical order with their present affiliations, they are:

- Barbara Bader Aldave, University of Oregon School of Law;
- Alison Grey Anderson, University of California at Los Angeles School of Law;
- Barbara A. Ash, attorney, Philadelphia, Pennsylvania;
- Barbara A. Banoff, Florida State University College of Law;
- Barbara Black, Pace University School of Law;
- Deborah A. DeMott, Duke University School of Law;
- Marilyn J. Ward Ford, Quinnipiac University School of Law;
- Tamar Frankel, Boston University School of Law;
- Cathy S. Krendl, attorney, Krendl Krendl Sachnoff & Way, Denver, Colorado;
- Lizabeth A. Moody, Stetson University College of Law; and
- Mary A. Siegel, American University Washington College of Law.

To gain insight into these women's professional lives, I consulted a variety of sources. Four of Amsler's former colleagues provided me with highly useful information.<sup>5</sup> Likewise illuminating was the transcript of an interview with Amsler conducted in 1972 as part of Baylor University's Institute for Oral History Project.<sup>6</sup> I also benefited considerably from telephone conversations with ten of the eleven members of the second generation.<sup>7</sup> I assured each of these women that my interest lay only in identifying patterns and thus I would not iden-

---

(1988); Herma Hill Kay, *The Future of Women Law Professors*, 77 IOWA L. REV. 5 (1991) [hereinafter Kay, *Future*]; and Deborah Jones Merritt & Barbara F. Reskin, *Sex, Race, and Credentials: The Truth About Affirmative Action in Law Faculty Hiring*, 97 COLUM. L. REV. 199 (1997).

5. Three of them were colleagues of hers at Baylor: Professor Emeritus Edwin P. Horner; J. Leon Lebowitz, currently the Joseph C. Hutcheson Professor Emeritus at the University of Texas School of Law; and Professor Emeritus and Dean Emeritus Angus S. McSwain, Jr. The fourth, Alan R. Bromberg, University Distinguished Professor of Law, Southern Methodist University Dedman School of Law, served with Amsler on the Texas State Bar Committee on the Revision of Corporation Laws.

6. BAYLOR UNIV. PROGRAM FOR ORAL HISTORY, ORAL MEMOIRS OF MARGARET AMSLER (1972) [hereinafter AMSLER MEMOIRS].

7. One member of the second generation declined to speak with me. See *infra* Part II.D.

tify which of them had a particular opinion or experience that was not already part of the public record.

Much of what I found startled me. I had not previously been aware of Amsler, a trailblazer whose career was truly remarkable.<sup>8</sup> While I already knew the highly accomplished second generation, at least by reputation, I could not have predicted the patterns that emerged as to them, especially with respect to the law schools that granted them tenure<sup>9</sup> and the law journals that published their early scholarship.<sup>10</sup>

This Article is divided into three parts. Part I focuses on Amsler and Part II addresses the second generation. Part III explores a question that was prompted by the second generation and that goes to the heart of this Symposium: Do women corporations professors damage their standing in the academic community by examining the interface between corporate law and gender?

#### I. THE FIRST GENERATION OF WOMEN IN CORPORATE LAW TEACHING—MARGARET HARRIS AMSLER



Margaret Harris Amsler, the third woman in the United States to hold a tenure-track position on a law school faculty,<sup>11</sup> taught at Baylor Law School in Waco, Texas, from 1941 until 1972.<sup>12</sup> Initially hired as an instructor,<sup>13</sup> she was promoted to associate professor in 1947<sup>14</sup> and to full

---

8. Likewise unaware of Amsler was every member of the second generation (save one) with whom I spoke. The exception was Barbara Bader Aldave, who has previously written about Amsler. Barbara Bader Aldave, *Women in the Law in Texas: The Stories of Three Pioneers*, 25 ST. MARY'S L.J. 289, 295-99 (1993). Amsler's career has also received attention from Professor Herma Hill Kay. See Kay, *Future*, *supra* note 4, at 6-7.

9. See *infra* Part II.B.

10. See *infra* Part II.C.

11. Kay, *Future*, *supra* note 4, at 6. This number excludes any institution that was not a member of the AALS as of 1945. *Id.*

12. *Id.* at 7.

13. At the time, the position of instructor was simply that of a beginning teacher. Baylor Law School did not have a "tenure track" until the early 1950s. Telephone Interview with Angus S. McSwain, Jr., Dean Emeritus, Baylor Law Sch. (June 28, 2005) [hereinafter McSwain Interview].

14. The 1947-48 AALS directory of law teachers is the first to list Amsler as an associate professor. See ASS'N OF AM. LAW SCH., DIRECTORY OF TEACHERS IN MEMBER SCHOOLS 1947-1948, at 30 (1947).

professor in 1955.<sup>15</sup> After leaving the classroom, she practiced law in partnership with her husband.<sup>16</sup> Retiring in 1990, she died in 2002 at the age of ninety-three.

Amsler helped to bring about significant law reform on behalf of women, but said that she had not encountered gender discrimination herself: "I just never ran into any of that . . . . [o]f course, I think you find what you look for."<sup>17</sup>

Amsler's fascinating story is the subject of Sections A and B. Sections C and D attempt to identify factors which, in addition to her intellect and determination, enabled her to flourish in her time and place.

#### A. *Family Background, Education, and Early Professional Activities*

Amsler was born in 1908 into a highly educated family with numerous connections to Baylor University.<sup>18</sup> Both her parents obtained their undergraduate degrees from Baylor.<sup>19</sup> Her father, a graduate of what is now George Washington University Law School, received three master's degrees—one from his law school, another from Baylor (in history), and the third from Yale (in sociology).<sup>20</sup> In addition to practicing law, he taught part-time at Baylor Law School for more than twenty years.<sup>21</sup> The family home was located adjacent to the Baylor campus.<sup>22</sup>

Amsler's professional aspirations appear to have been rooted in her parents' progressive and unconventional social views. She described herself as having been "raised by parents who thought the mind ought to be developed, and sex had nothing to do with making full use of your mind."<sup>23</sup> Her father, a staunch opponent of the Ku Klux Klan, provided free legal assistance to the black citizens of

---

15. ASS'N OF AM. LAW SCH., *DIRECTORY OF LAW TEACHERS* 1971, at 72 (1971).

16. Ellen Moore, *Husband, Wife Lawyers Help McGregor Citizens*, WACO TRIB.-HERALD, Nov. 4, 1974, at 6A.

17. *Id.* It is seemingly impossible to know whether this was a political statement or the truth as Amsler knew it.

18. AMSLER MEMOIRS, *supra* note 6, at 1-4.

19. *Id.* at 2.

20. *Id.* at 3-4. Moreover, Amsler's uncle was a professor of Latin and Greek at Baylor. *Id.* at 1-2.

21. His name was Nathaniel Harris and he taught at Baylor Law School from 1920 until 1943. Baylor Law: A Rich and Proud Tradition, Nat Harris, <http://law.baylor.edu/History/Faculty/harris.htm> (last visited Jan. 9, 2006).

22. Kimberly Garcia, *Making a Mark on Legal History*, 54 TEX. B.J. 1190, 1191 (1991).

23. Moore, *supra* note 16, at 6A. Her high school yearbook predicted that she would become chief justice of the State of Texas. AMSLER MEMOIRS, *supra* note 6, at 15.

Waco.<sup>24</sup> The family kept a shotgun by the front door to protect against possible Klan attacks.<sup>25</sup>

Like her parents, Amsler went to college at Baylor.<sup>26</sup> Graduating summa cum laude in 1929, she obtained a master's degree in English literature in 1931 from Wellesley College and then taught for a year in a Texas public high school.<sup>27</sup> Her two years at Wellesley, as well as her year of high school teaching, were intended in part to help her decide whether to pursue a legal career.<sup>28</sup> Her father had told her that such a career would be difficult for a woman and that therefore she ought to be certain that it was what she wanted to do.<sup>29</sup>

Amsler did of course decide to go to law school. She began in 1932, but left after her first year because she had recently been married.<sup>30</sup> She returned to law school in 1935, finishing in 1937.<sup>31</sup> The only woman in her class, she graduated first in the class.<sup>32</sup> She worked her way through law school by teaching multiple sections of undergraduate French.<sup>33</sup>

Upon graduation from law school, she became her father's law partner.<sup>34</sup> She was her own very first client in a divorce action against her (first) husband, who was ultimately run out of town by a sheriff's posse.<sup>35</sup>

---

24. AMSLER MEMOIRS, *supra* note 6, at 18. Amsler continued the tradition of providing such service. *Id.* Moreover, in 1964, she assisted the president of Baylor in successfully persuading the university's trustees to desegregate the student body. Vince Clark, Baylor Univ., Integrating Baylor, [www.baylor.edu/soe/crossroads/index.php?id=23429](http://www.baylor.edu/soe/crossroads/index.php?id=23429) (last visited Jan. 9, 2006).

25. AMSLER MEMOIRS, *supra* note 6, at 18. Amsler often told the story of an anonymous telephone caller who threatened her father with retribution for a speech that he had made against the Klan. Her father responded with the statement: "I'll be waiting on the front porch for you." McSwain Interview, *supra* note 13.

26. Baylor Law: A Rich and Proud Tradition, Margaret Amsler, <http://law.baylor.edu/History/Faculty/amsler.htm> (last visited Jan. 9, 2006).

27. AMSLER MEMOIRS, *supra* note 6, at 14-15.

28. *Id.* at 15. Her time at Wellesley was also designed to allow her to "know how the other half lives." *Id.* at 45.

29. *Id.* at 15.

30. *Id.*

31. *Id.*

32. Garcia, *supra* note 22, at 1191. One of her professors was her father, who gave her lower grades than did her other professors in order to avoid appearing to favor her. AMSLER MEMOIRS, *supra* note 6, at 56. But "[t]he student body went to my father and told him that he was not being fair to me, so that he felt that, after that, he could give me what he thought I deserved." *Id.*

33. AMSLER MEMOIRS, *supra* note 6, at 53.

34. *Id.* at 15.

35. Aldave, *supra* note 8, at 297.

In 1938, she won a seat in the Texas House of Representatives by defeating seven (male) opponents,<sup>36</sup> thereby becoming one of two women members to serve in the Texas House in the 1939-41 term.<sup>37</sup> Later she had this to say of her election: "I never knew who was more surprised . . . the other candidates, myself, or the rest of the county."<sup>38</sup> Targeted for defeat by the governor because of her opposition to a sales tax amendment to the state constitution, she lost her second election.<sup>39</sup>

In 1942, Amsler became the first woman ever to serve as briefing attorney to the Texas Supreme Court.<sup>40</sup> She was named to this position by the court's chief justice, a former law professor of hers at Baylor.<sup>41</sup> He evidently regarded Amsler as exceptional because as a faculty member, he had been known to believe that women did not belong in law school.<sup>42</sup>

### B. Law Professor

Amsler had a distinguished career both as a classroom teacher and as a law reformer. She also served, albeit briefly, as her law school's acting dean.<sup>43</sup> I begin with her acting deanship because it occurred near the start of her academic career.

1. *Acting Dean.*—Amsler served as the acting dean of Baylor Law School during the spring of 1946. The circumstances were these. In 1944, the law school closed for the duration of World War II.<sup>44</sup> The plan had been to reopen in the fall of 1946, but numerous veterans wished to start ahead of that schedule. Baylor's president (a former law partner of Amsler's father) utilized Amsler to solve the problem. He directed her (a mere instructor) to hire faculty and start the law school a semester early.<sup>45</sup>

---

36. AMSLER MEMOIRS, *supra* note 6, at 20.

37. Legislative Reference Library of Tex., Women Members of the Texas Legislature, 1923-Present, <http://www.lrl.state.tx.us/legis/leaders/women.html> (last visited Jan. 9, 2006). Amsler was known then as Margaret Harris Gordon. Aldave, *supra* note 8, at 297.

38. Karen Wigger, *Lawyer Blazes Trails for Women*, WACO TRIB.-HERALD, June 26, 1978, at B1.

39. *Id.*

40. See Texas Women's Hall of Fame, Margaret Greer Harris Amsler, <http://www.twu.edu/TWHF/tw-amsler.htm> (last visited Jan. 9, 2006).

41. AMSLER MEMOIRS, *supra* note 6, at 56.

42. *Id.*

43. Angus S. McSwain, Jr., Dedication, *From Her Colleagues*, 24 BAYLOR L. REV. 181, 181 (1972).

44. *Id.*

45. AMSLER MEMOIRS, *supra* note 6, at 89.

In recognition of the role that Amsler played in the spring of 1946, Baylor Law School has long referred to her as its "acting dean" during that period.<sup>46</sup> At the time, however, Baylor's president had designated her only as the "chief log roller."<sup>47</sup> Perhaps he did not want to advertise the fact that an instructor was in charge of the law school. Equally possible, he did not want to call attention to the fact that a woman had that authority. In deference to the president's phraseology, Amsler seems not to have referred to herself as the acting dean.<sup>48</sup>

2. *Classroom Teacher.*—In her more than thirty years at Baylor, Amsler taught not only corporations, but also agency, bailments and carriers, commercial transactions, contracts, damages, real and personal property, sales, and suretyship and mortgages.<sup>49</sup> Absent from her repertoire of courses were family law and trusts and estates, those to which most of the few other women law professors teaching before 1970 were relegated.<sup>50</sup>

A highly regarded teacher, Amsler was valued for her "dry wit and tongue-in-cheek humor" as well as for her wide-ranging legal knowledge.<sup>51</sup> In the words of former Baylor Law School Dean Angus McSwain, who had been her student:

She is remembered with affection and respect by a whole generation of graduates. I was in her Sales and Real Property classes in 1947 and her Suretyship class in 1949. All of her classes are marked by a meticulous coverage of the subject matter, and no student may go through them without being exposed to what he needs to know.<sup>52</sup>

To me, the most moving student tribute came from J. Leon Lebovitz, who later became her colleague at Baylor and later still a member of the law faculty at the University of Texas. In my interview with

---

46. *E.g.*, McSwain, *supra* note 43, at 181; Baylor Law, *supra* note 26.

47. AMSLER MEMOIRS, *supra* note 6, at 90.

48. *See id.* ("I was not actually dean of the Law School."). *But see id.* ("I've always had a very close connection with the fifty young men who were studying in the Law School when I was dean."). Her entries in the annual AALS directories did not mention her service as acting dean. *E.g.*, ASS'N OF AM. LAW SCH., *supra* note 15, at 72.

49. This list of courses was culled from the AALS's directory of law teachers from the years 1941-1971.

50. Donna Fossum, *Women Law Professors*, 1980 AM. B. FOUND. RES. J. 903, 911-13.

51. H. Wayne Meachum & Glenn Sodd, Dedication, *From Her Students*, 24 BAYLOR L. REV. 182, 182 (1972).

52. McSwain, *supra* note 43, at 181.

him, he said that she “instilled in me a love of corporate law that has lasted my entire life.”<sup>53</sup>

Amsler’s persona was not simply that of able instructor. Nicknamed “Lady A” by her students,<sup>54</sup> she epitomized gracious Southern womanhood, arriving to teach in a hat and gloves.<sup>55</sup>

3. *Law Reformer.*—Amsler played a pivotal role in the reform of Texas law involving corporations and women. Because her law-reform work served as the impetus for her law review articles, I discuss them in this connection.

a. *Corporations.*—The Texas corporations statutes on the books as of 1950 were artifacts of the state’s mid-nineteenth-century agricultural economy. The statutory intent was to limit corporate expansion, which was accomplished by, among other things, limiting corporations to one narrow purpose, requiring them to issue all their authorized stock, and leaving up in the air such important matters as mergers, cumulative voting, and the creation of various stock classes.<sup>56</sup>

In 1950, the Texas Bar responded to this situation by establishing a committee to devise a new corporations code suitable for the twentieth century.<sup>57</sup> The committee included practitioners as well as one faculty member from each of the three Texas law schools that were then members of the AALS—Baylor University, Southern Methodist University, and the University of Texas.<sup>58</sup>

Baylor did not initially send Amsler as its representative. Instead, it sent her colleague (and former student) J. Leon Lebowitz.<sup>59</sup> But Lebowitz soon took a leave of absence to pursue graduate work and Amsler became his temporary replacement.<sup>60</sup> An associate professor at the time, she so impressed the other committee members with her intellect and skills that they insisted that she remain on the committee as a permanent member.<sup>61</sup>

---

53. Telephone Interview with J. Leon Lebowitz, Joseph C. Hutcheson Professor Emeritus, Univ. of Tex. Sch. of Law (Feb. 7, 2005) [hereinafter Lebowitz Interview].

54. Meachum & Sodd, *supra* note 51, at 182.

55. Court of Appeals for the Tenth Dist. & Waco-McLellan County Bar Ass’n, Joint Resolution in Memory of Margaret Harris Amsler (Nov. 8, 2002).

56. *See generally* E.Y. Boynton, *Introduction*, 4 BAYLOR L. REV. 407 (1952) (discussing the corporate law reforms of the 1950s).

57. Alan R. Bromberg, *Texas Business Organization and Commercial Law—Two Centuries of Development*, 55 SMU L. REV. 83, 102 (2002); Paul Carrington, *The History of the Proposed Texas Business Corporation Act*, 4 BAYLOR L. REV. 428, 431 (1952).

58. AMSLER MEMOIRS, *supra* note 6, at 95; Bromberg, *supra* note 57, at 102.

59. Bromberg, *supra* note 57, at 102.

60. Lebowitz Interview, *supra* note 53.

61. *See id.* (observing in this connection that Amsler was “a real pro”).



Serving on the committee with Amsler was Alan R. Bromberg of the Southern Methodist University School of Law, with whom I spoke. Bromberg characterized Amsler as “fully respected, fully participating, highly regarded.”<sup>62</sup> He reported that when a particularly difficult committee assignment fell to Amsler, the other committee members were delighted: not only had they been spared the assignment, but they knew that it would be done well.<sup>63</sup>

The committee’s handiwork culminated in the Texas Business Corporation Act, enacted by the legislature in 1955.<sup>64</sup> That Act, with amendments, is still in place today.<sup>65</sup>

In 1956, Amsler became chair of the subcommittee charged with drafting the Texas Non-Profit Corporation Act.<sup>66</sup> Written virtually single-handedly by Amsler,<sup>67</sup> the Act was enacted by the legislature in 1959. It too is still in place today.<sup>68</sup>

*b. Women.*—Before 1963, a married woman in Texas lacked rights possessed by both men and unmarried women. For example, a married woman could not enter a contract, file a lawsuit, or sell her property without her husband’s permission.<sup>69</sup>

Amsler did much to change the inferior status of married women under Texas law. Collaborating with a colleague who taught family law, Amsler drafted what became the Texas Married Women’s Act.<sup>70</sup> That Act, enacted by the legislature in 1963, amended or repealed the statutes that deprived married women of their rights.<sup>71</sup>

Amsler also took action to protect married women specifically within the corporate context. An 1887 Texas statute allowed married

62. Telephone Interview with Professor Alan R. Bromberg, University Distinguished Professor of Law, S. Methodist Dedman Sch. of Law (Jan. 31, 2005).

63. *Id.*

64. Amsler did not, however, join her fellow committee members when they endeavored to lobby the legislature. *Id.* Apparently she sensed that her presence would not help the committee’s cause. *Id.*

65. TEX. BUS. CORP. ACT ANN. art. 1.01-13.08 (Vernon 2003).

66. See Margaret H. Amsler, *The Texas Non-Profit Corporation: Past, Present, and Prospective*, 10 BAYLOR L. REV. 307, 307 n.\* (1958).

67. See AMSLER MEMOIRS, *supra* note 6, at 97 (noting that after she had drafted the bill, the other members of the committee told her that “they had every intention, one of these days, of reading it. I don’t think they’ve gotten around to it yet”).

68. TEX. REV. CIV. STAT. ANN. art. 1396, § 1.01 (Vernon 2003).

69. Margaret H. Amsler, *The New Married Woman’s Statutes: Meaning and Effect*, 15 BAYLOR L. REV. 145, 149-51 (1963).

70. 1963 Tex. Gen. Laws, chs. 472, 473, 1188-90.

71. Amsler opposed redressing these inequities through an equal-rights amendment to the Texas Constitution. Margaret H. Amsler, *Against Equal Rights Amendment*, 26 TEX. B.J. 1005, 1005 (1963). Her position was that such an amendment would produce confusion and uncertainty and thus it was better to target the specific inequities directly. *Id.*

women to become shareholders, directors, and officers of corporations “as if they were males.”<sup>72</sup> At Amsler’s insistence,<sup>73</sup> the committee charged with modernizing Texas’s corporation statutes adopted a version of the 1887 statute in its new corporations code.<sup>74</sup>

*c. Related Law Review Articles.*—Amsler authored four law review articles, the purpose of which was to inform Texas lawyers about the law-reform efforts in which she was engaged.<sup>75</sup> The three that appeared in the *Baylor Law Review* focused on organic corporate changes,<sup>76</sup> nonprofit corporations,<sup>77</sup> and the Married Women’s Act.<sup>78</sup> The fourth, which appeared in the *Texas Law Review*, addressed the legal status of married women in Texas corporations.<sup>79</sup>

#### *D. Amsler Within Her Social Context*

Amsler had a distinguished academic career at a time when women law professors of any subject were close to non-existent.<sup>80</sup> How did she manage to flourish when and where she did?

Certainly much of the answer lies in her formidable intellect and determination (as well as in the openmindedness of the law school at which she taught). But various fortuitous features of her social context probably contributed as well.<sup>81</sup> I propose four of them in the paragraphs that follow: (1) her prior familiarity with her law school’s personalities and culture, (2) her failure to symbolize social change, (3) her early seniority, and (4) her law school’s quasi-newness.

*1. Her Prior Familiarity with Her Law School’s Personalities and Culture.*—A faculty member benefits if she begins her teaching career already conversant with her law school’s personalities and culture. Amsler would have known most of her senior colleagues, since they

72. 1887 Tex. Gen. Laws ch. 110, § 1, 103.

73. Lebowitz Interview, *supra* note 53.

74. TEX. REV. CIV. ANN. STAT. art. 1302-2.01 (Vernon 2003) (repealed 2003); *see also* Margaret H. Amsler, *The Status of Married Women in the Texas Business Association*, 43 TEX. L. REV. 669, 678 & n.54 (1965) (noting the codification of the 1887 law into the modern Texas corporations code).

75. AMSLER MEMOIRS, *supra* note 6, at 104.

76. Margaret H. Amsler, *Organic Changes in the Corporation: Amendment, Merger and Consolidation, Sale of Assets*, 4 BAYLOR L. REV. 449 (1952).

77. Amsler, *supra* note 66.

78. Amsler, *supra* note 69.

79. Amsler, *supra* note 74.

80. Kay, *Future*, *supra* note 4, at 5-10.

81. *Cf.* Margaret V. Sachs, *Judge Friendly and the Law of Securities Regulation: The Creation of a Judicial Reputation*, 50 SMU L. REV. 777 (1997) (showing how fortuitous features of the social context affected the career of Judge Henry Friendly).

were colleagues of her father.<sup>82</sup> She also knew many local attorneys and judges, since she accompanied her father to state bar meetings starting at the age of twelve.<sup>83</sup> In addition, she would have assimilated many of Baylor's values and folkways in the course of growing up in a house adjacent to the Baylor campus<sup>84</sup> with parents who were Baylor (college) alumni.<sup>85</sup> She gave expression to those values by being "Lady A" who dressed in a hat and gloves<sup>86</sup> and insisted upon referring to the Civil War as the "War Between the States."<sup>87</sup>

2. *Her Failure to Symbolize Social Change.*—A faculty member may elicit resentment from her colleagues if she symbolizes unwelcome social change. Amsler, however, would not likely have symbolized social change to her colleagues (even assuming for the sake of discussion that they regarded such change as unwelcome). Indeed, with her deep roots at Baylor, Amsler would have personified not change but continuity. In addition, she might well have seemed to some to be the embodiment of her father, who was not only a law school faculty member himself, but also a corporations teacher.<sup>88</sup> Nor would she have suffered from association with the modern feminist movement, since her teaching career largely predated it.<sup>89</sup>

3. *Her Early Seniority.*—When a law school faculty member becomes more senior, her stature at her institution typically increases. Not only does she ordinarily vote on the tenure and promotion of her junior colleagues, but she also knows more than they do about the legal academy in general and their own law school in particular. Amsler would have become senior more quickly than usual by virtue of World War II. Several of her colleagues did not return when the law school reopened after the war and a number of faculty members were

---

82. See *supra* note 21 and accompanying text.

83. AMSLER MEMOIRS, *supra* note 6, at 16.

84. See *supra* note 22 and accompanying text.

85. See *supra* notes 19-20 and accompanying text.

86. See *supra* notes 54-55 and accompanying text.

87. AMSLER MEMOIRS, *supra* note 6, at 13; see also *id.* at 48 (proudly describing having won an argument about the Civil War with someone from Massachusetts), 49 ("[W]hen the Massachusetts native sees a stranger, he is a potential enemy. When a Texan meets a stranger, he is a potential friend.").

88. See *id.* at 57.

89. The modern feminist movement is often said to date from the publication of BETTY FRIEDAN, *THE FEMININE MYSTIQUE* (1963). This was less than ten years before Amsler retired from Baylor. See *supra* note 12 and accompanying text.

hired in the years immediately following the reopening.<sup>90</sup> These new faculty members would have been junior to Amsler. Moreover, likewise no doubt enhancing Amsler's status would have been her service as acting dean.<sup>91</sup>

4. *Her Law School's Quasi-Newness.*—In general, a woman faculty member probably benefits from being at a new law school. Such a school is apt to have fewer constricting traditions than older law schools. To be sure, Baylor Law School opened its doors in 1857, the first law school in the State of Texas.<sup>92</sup> But it shut its doors in 1871 and did not open them again until 1920.<sup>93</sup> When Amsler joined the faculty, only two decades had elapsed since its reopening. In some respects at least, Baylor would have still been a new law school and its quasi-newness may have enabled it to be more receptive to Amsler than it otherwise could have been. Amsler's extraordinary career is of course significant first and foremost in its own right. But it also provides a lens through which to view the careers of the second generation of women in corporate law teaching, who are the subject of Part II.

## II. THE SECOND GENERATION OF WOMEN IN CORPORATE LAW TEACHING

The second generation consists of the following eleven women: Barbara Bader Aldave, Alison Grey Anderson, Barbara A. Ash, Barbara A. Banoff, Barbara Black, Deborah A. DeMott, Marilyn J. Ward Ford, Tamar Frankel, Cathy S. Krendl, Elizabeth A. Moody, and Mary A. Siegel. They became law professors between 1968 and 1978, a time in which professional opportunities for American women were greatly expanding. Of the ten members of the second generation with whom I spoke, only two reported experiencing gender discrimination in the course of their teaching careers.<sup>94</sup>

---

90. See *Baylor Law: A Rich and Proud Tradition*, Baylor Law School Faculty Members, 1849-Present, [http://law.baylor.edu/History/Faculty/faculty\\_table.htm](http://law.baylor.edu/History/Faculty/faculty_table.htm) (last visited Jan. 9, 2006), for a complete list of Baylor Law School faculty members and their dates of service.

91. See *supra* Part I.B.1.

92. See *Baylor Law: A Rich and Proud Tradition*, *Appreciating the History of Baylor Law School*, <http://law.baylor.edu/History> (last visited Jan. 9, 2006), for links to a complete history of Baylor Law School.

93. *Id.*

94. Conceivably at least some may have been reluctant to acknowledge experiencing gender discrimination because of concern that I would identify by name those who did so, my promise of confidentiality notwithstanding. One of the two women who said that she had experienced gender discrimination substantially qualified her answer by maintaining that there had been only one highly circumscribed incident and that the perpetrator was eventually very remorseful. A third woman told me that while she herself had not suffered

I tell the story of the second generation in four sections. A generational overview (Section A) is followed by discussions of the law schools that granted them tenure (Section B); the law journals in which their early articles appeared (Section C); and their views concerning the strategic value of teaching corporations (Section D).

#### A. Overview

This overview presents brief biographical sketches of the members of the second generation in the order in which they began on the tenure track. It then offers some generalizations about their achievements, pre-teaching credentials, and family backgrounds.

In 1968, Tamar Frankel became the first female tenure-track faculty member at Boston University School of Law.<sup>95</sup> She is currently Professor of Law there.<sup>96</sup> Originally from Israel, she went to law school and practiced law in that country as well as here at Ropes & Gray and at Arnold & Porter.<sup>97</sup> She received LL.M. and S.J.D. degrees from Harvard Law School.<sup>98</sup> A member of the American Law Institute (ALI), she is the author of numerous articles and books on corporate and securities law.<sup>99</sup>

Two members of the second generation began their tenure-track teaching careers in 1970. One is Barbara Bader Aldave, who that year became the first female tenure-track faculty member at the University of Oregon School of Law.<sup>100</sup> She currently holds the Loran L. Stewart Chair in Corporate Law there and is the Director of the Law School's Center for Law and Entrepreneurship.<sup>101</sup> Previously she was the Dean of St. Mary's University School of Law as well as a faculty member at the University of Texas School of Law.<sup>102</sup> She received her undergraduate degree from Stanford University and her law degree from

---

gender discrimination, women law professors in general were subject to a "terrible double standard."

There is the additional issue of what is meant by "gender discrimination." See Martha Chamallas, *The Shadow of Professor Kingsfield: Contemporary Dilemmas Facing Women Law Professors*, 11 WM. & MARY J. WOMEN & L. 195, 199 (2005) (identifying forms of gender discrimination operative in legal academia today that might not have been recognized as such by previous generations of women academics).

95. This was determined by a year-by-year survey of *The AALS Directory of Law Teachers*.

96. ASS'N OF AM. LAW SCH., *THE AALS DIRECTORY OF LAW TEACHERS 2005-2006*, at 485 (2005).

97. *Id.*

98. *Id.*

99. A list of Frankel's publications is available at <http://www.bu.edu/law/faculty/profiles/frankel/scholarship.html>.

100. See *supra* note 95.

101. ASS'N OF AM. LAW SCH., *supra* note 96, at 223.

102. *Id.*

the University of California at Berkeley, after which she practiced law in Eugene, Oregon.<sup>103</sup> She is the author of numerous articles about securities law.<sup>104</sup>

Also in 1970, Lizabeth A. Moody became the second woman member of the tenure-track faculty at Cleveland State University, Cleveland-Marshall College of Law.<sup>105</sup> She is currently Distinguished University Professor at Stetson University College of Law and was previously Stetson's Dean.<sup>106</sup> She is a graduate of Barnard College and Yale Law School.<sup>107</sup> Before entering teaching, she practiced law in Bridgeport, Connecticut as well as in Cleveland, where she was a partner at Metzenbaum, Gaines, Finley & Stern.<sup>108</sup> A member of the ALI,<sup>109</sup> she has authored a number of articles on corporate law.<sup>110</sup>

In 1972, Alison Grey Anderson was one of three women to join the tenure-track faculty at the University of California at Los Angeles School of Law.<sup>111</sup> Presently teaching there as Professor of Law Emerita, she is a graduate of Radcliffe College and the University of California at Boalt Hall School of Law (where she was articles editor of the *California Law Review*).<sup>112</sup> After law school, she clerked for Judge Simon Sobeloff of the United States Court of Appeals for the Fourth Circuit and worked as an associate at Covington & Burling.<sup>113</sup> A member of the ALI,<sup>114</sup> she is the author of a number of articles on securities law.<sup>115</sup>

---

103. *Id.*

104. Aldave's securities law articles include the following: *The Insider Trading and Securities Fraud Enforcement Act of 1988: An Analysis and Appraisal*, 52 ALB. L. REV. 893 (1988); *Misappropriation: A General Theory of Liability for Trading on Nonpublic Information*, 13 HOFSTRA L. REV. 101 (1984); *The Misappropriation Theory: Carpenter and Its Aftermath*, 49 OHIO ST. L.J. 373 (1988); "Neither Unusual nor Unfortunate": *The Overlap of Rule 10b-5 with the Express Liability Sections of the Securities Acts*, 60 TEX. L. REV. 719 (1982).

105. *See supra* note 95.

106. ASS'N OF AM. LAW SCH., *supra* note 96, at 793.

107. *Id.*

108. *Id.* at 794.

109. *Id.*

110. Moody's corporate law articles include the following: *Nonprofit Corporations—A Survey of Recent Cases*, 21 CLEV. ST. L. REV. 26 (1972); *State Statutes Governing Directors of Charitable Corporations*, 18 U.S.F. L. REV. 749 (1984); *Statutory Solutions to Conflicts of Interest in Close Corporations*, 35 CLEV. ST. L. REV. 95 (1987); *The Who, What, and How of the Revised Model Nonprofit Corporation Act*, 16 N. KY. L. REV. 251 (1988).

111. *See supra* note 95.

112. ASS'N OF AM. LAW SCH., *supra* note 96, at 231.

113. *Id.*

114. *Id.*

115. A list of Anderson's publications is available at <http://www.law.ucla.edu/home/index.asp?page=400>.

In 1973, Cathy S. Krendl became the first female tenure-track faculty member at the University of Denver College of Law.<sup>116</sup> She received her undergraduate degree from North Texas State University and her law degree from Harvard Law School.<sup>117</sup> Before becoming a law professor, she practiced law in Alaska.<sup>118</sup> After ten years on the Denver faculty, she left academia to practice law with her husband.<sup>119</sup> Currently a partner at Krendl Krendl Sachnoff & Way in Denver, she is the author of several books and articles on corporate and securities law.<sup>120</sup>

In 1975, Deborah A. DeMott was one of three women to join the faculty at Duke University School of Law.<sup>121</sup> She is currently the David F. Cavers Professor of Law there.<sup>122</sup> A graduate of Swarthmore College and New York University School of Law, she was the articles and book review editor of the *New York University Law Review*.<sup>123</sup> After law school, she clerked for Judge Arnold Bauman of the United States District Court for the Southern District of New York and worked as an associate at Simpson Thacher & Bartlett.<sup>124</sup> She is a member of the ALI, the Reporter for the ALI's *Restatement (Third) of Agency*, and the author of numerous articles and books on corporate and securities law.<sup>125</sup>

In 1976, Barbara A. Ash was one of three women to join the tenure-track faculty at Rutgers University School of Law, Camden.<sup>126</sup> She thereafter moved to Ohio State University College of Law, where she remained until 1991.<sup>127</sup> She received her undergraduate degree from the University of Rochester and her law degree from the University of Kansas School of Law, where she was articles editor of the *Kansas Law Review*.<sup>128</sup> Before becoming a law professor, she was an associate at Cleary Gottlieb, Steen & Hamilton.<sup>129</sup> Currently practicing law in

---

116. *See supra* note 95.

117. ASS'N OF AM. LAW SCH., *DIRECTORY OF LAW TEACHERS 1983-84*, at 423 (1983).

118. *Id.*

119. Krendl Krendl Sachnoff & Way, Cathy S. Krendl, <http://www.krendl.com/csk/htm> (last visited Jan. 9, 2006).

120. A list of Krendl's publications is available at <http://www.krendl.com/csk.htm>.

121. *See supra* note 95.

122. ASS'N OF AM. LAW SCH., *supra* note 96, at 413.

123. *Id.*

124. *Id.*

125. *Id.* A list of DeMott's publications is available at <http://www.law.duke.edu/fac/demott/bibliography.html>.

126. *See supra* note 95.

127. ASS'N OF AM. LAW SCH., *THE AALS DIRECTORY OF LAW TEACHERS 1990-91*, at 144 (1990).

128. *Id.*

129. *Id.*

Philadelphia, she is the author of several articles on corporate and securities law.<sup>130</sup>

In 1977, Marilyn J. Ward Ford became the second female tenure-track faculty member at the University of Bridgeport School of Law (now Quinnipiac University School of Law).<sup>131</sup> She is currently Professor of Law at Quinnipiac.<sup>132</sup> An African American (and the only woman of color in the second generation), she received her undergraduate degree from Southern Illinois University and completed her first year of law school at the University of Iowa College of Law.<sup>133</sup> She graduated from Rutgers University School of Law, Newark, where she was an editor of the *Rutgers Law Review*.<sup>134</sup> After law school, she was an associate at Curtis Mallett-Prevost and an in-house lawyer at Continental Oil Company.<sup>135</sup> She is the co-author of a book as well as the author of various articles about corporate and securities law.<sup>136</sup>

Also in 1977, Mary A. Siegel became an acting assistant professor at American University Washington College of Law.<sup>137</sup> She joined the tenure-track at American in 1978 and is currently Professor of Law there.<sup>138</sup> She graduated from Vassar College and Yale Law School, where she was an editor of the *Yale Law Journal*.<sup>139</sup> After law school, she was a staff attorney at the Enforcement Division of the Securities & Exchange Commission.<sup>140</sup> A member of the ALI, she is the author of numerous articles about corporate and securities law.<sup>141</sup>

The final two members of the second generation joined the tenure-track in 1978.<sup>142</sup> One is Barbara A. Banoff, who that year became

---

130. Her articles include: *Forward: Current Issues in Corporate Governance*, 45 OHIO ST. L.J. 513 (1984); *Reorganizations and Other Exchanges Under Section 3(a)(10) of the Securities Act of 1933*, 75 NW. U. L. REV. 1 (1980); *State Regulation of Insider Trading—A Timely Resurgence?*, 49 OHIO ST. L.J. 393 (1988).

131. *See supra* note 95.

132. ASS'N OF AM. LAW SCH., *supra* note 96, at 480.

133. *Id.*

134. *Id.*

135. *Id.*

136. MARILYN J. WARD FORD & SAMUEL S. CROSS, *CONNECTICUT CORPORATION LAW & PRACTICE* (2d ed. 2000); *see also, e.g.*, Marilyn J. Ward Ford, *The Aftermath of Daniel: Private Pension Plans, ERISA, and the Federal Antifraud Provisions*, 46 MO. L. REV. 51 (1981); Marilyn J. Ward Ford, *Pension Benefits: Statutory Claims, Jury Trials and Limitations Periods*, 14 COLUM. HUM. RTS. L. REV. 75 (1982).

137. ASS'N OF AM. LAW SCH., *supra* note 96, at 983-84.

138. *Id.*

139. *Id.* at 983.

140. *Id.* at 984.

141. A list of Siegel's publications is available at <http://library.wcl.american.edu/facbib/profbib.php?ProfID=54>.

142. *See supra* note 95.



a faculty member at the University of Minnesota Law School.<sup>143</sup> Currently Professor of Law at Florida State University College of Law, she has been on the faculties of Rutgers University School of Law, Camden; the University of San Diego School of Law; and the University of Louisville School of Law.<sup>144</sup> She graduated from Radcliffe College and Santa Clara University School of Law, where she was editor-in-chief of the *Santa Clara Law Review*.<sup>145</sup> After law school, she was an associate at Sullivan & Cromwell and staff counsel on the Senate Select Committee on Intelligence Activities.<sup>146</sup> She is the co-editor of a book as well as the author of a number of articles on corporate and securities law.<sup>147</sup>

The other member of the second generation to start in 1978 is Barbara Black. One of two women to join the tenure-track faculty of Pace University School of Law that year,<sup>148</sup> she is currently Professor of Law there.<sup>149</sup> She graduated from Barnard College and Columbia University School of Law, where she was articles editor of the *Columbia Journal of Law and Social Problems*.<sup>150</sup> After law school, she was an associate at Kaye, Scholer, Fierman, Hays & Handler and at Rogers & Wells.<sup>151</sup> She has authored a book as well as numerous articles about corporate and securities law.<sup>152</sup>

My first generalization about the second generation is that it is a highly accomplished group. Six of its members are book authors (Banoff, Black, DeMott, Ford, Frankel, and Krendl) and several have written multiple books (DeMott, Frankel, and Krendl). Three are chaired professors (Aldave, DeMott, and Moody), five are ALI members (Anderson, DeMott, Frankel, Moody, and Siegel), and two are former law school deans (Aldave and Moody).

My second generalization involves their institutional affiliations before becoming law professors. Each had an affiliation with at least one, and sometimes two or three, elite institutions (be it a college, law

143. ASS'N OF AM. LAW SCH., *supra* note 96, at 254.

144. *Id.*

145. *Id.*

146. *Id.*

147. A list of Banoff's publications is available at <http://www.law.fsu.edu/faculty/bbanoff.html>.

148. *See supra* note 95.

149. ASS'N OF AM. LAW SCH., *supra* note 96, at 287. In the fall of 2006, she will become Professor of Law at the University of Cincinnati College of Law and Director of its Corporate Law Center.

150. *Id.*

151. *Id.*

152. A list of Black's publications is available at <http://www.law.pace.edu/facbios/black.html>.

school, or law firm).<sup>153</sup> Consider first their colleges. Five are alumnae of one of the “seven sisters”—Barnard (Black and Moody), Radcliffe (Anderson and Banoff), and Vassar (Siegel).<sup>154</sup> In addition, one (Aldave) went to a top-ranked research university (Stanford) and another (DeMott) attended a top-ranked liberal arts college (Swarthmore).<sup>155</sup> Consider next their law schools. Eight are alumnae of one of the ten law schools which together generated almost half the full-time law teachers listed in the 1975-76 *AALS Directory of Law Teachers*.<sup>156</sup> These ten law schools include Berkeley (Aldave and Anderson), Columbia (Black), Harvard (Frankel and Krendl), New York University (DeMott), and Yale (Moody and Siegel).<sup>157</sup> Finally, their law firms<sup>158</sup> are among the best known in the United States, including Arnold & Porter (Frankel); Cleary Gottlieb, Steen & Hamilton (Ash); Covington & Burling (Anderson); Curtis Mallett-Prevost (Ford); Kaye Scholer, Fierman, Hays & Handler (Black); Simpson, Thacher & Bartlett (DeMott); and Sullivan & Cromwell (Banoff).

My generalizations about family backgrounds derive from my telephone conversations with the second generation. I asked each of the ten with whom I spoke whether she had a parent who had been a lawyer or an academic. Only two did (both fathers)—one a lawyer and the other an adjunct professor of medicine. Thus, no member of this generation followed a parent’s career path to the extent that Amsler did.<sup>159</sup>

---

153. See generally Howard A. Glickstein, *Law Schools: Where the Elite Meet to Teach*, 10 *NOVA L.J.* 541 (1986).

154. The other “seven sisters” colleges are Bryn Mawr, Mount Holyoke, Smith, and Wellesley.

155. A degree from an elite college may matter more for women faculty candidates than for men. Cf. Deborah J. Merritt & Barbara F. Reskin, *The Double Minority: Empirical Evidence of a Double Standard in Law School Hiring of Minority Women*, 65 *S. CAL. L. REV.* 2299, 2344 (1992) (observing that an elite college benefits minority women in obtaining law school teaching jobs but not minority men).

156. Donna Fossum, *Law Professors: A Profile of the Teaching Branch of the Legal Profession*, 1980 *AM. B. FOUND. RES. J.* 501, 507 tbl.2.

157. The other schools were Chicago, Georgetown, Michigan, Texas, and Virginia. *Id.* at 507 tbl.2. Many studies have connected the rank of the law school from which a law faculty member graduated to the rank of the law school at which he or she teaches. See Deborah Jones Merritt, *The Status of Women on Law School Faculties: Recent Trends in Hiring*, 1995 *U. ILL. L. REV.* 93, 102-03 & n.32 (referencing such studies). Recall that Amsler also had an affiliation with an elite institution in the form of a master’s degree from a seven sisters college (Wellesley). See *supra* note 28 and accompanying text.

158. The only member of the second generation who did not work at a law firm before entering teaching was Siegel, who worked at the Securities & Exchange Commission. See *supra* note 140 and accompanying text.

159. See *supra* note 21 and accompanying text.

My question about parents prompted other disclosures indicating that numerous members of this generation, possibly the majority, came from very modest backgrounds.<sup>160</sup> For example, one woman described her family as “very poor” and observed that she had never met a lawyer before going to college. Yet another described herself as the first in her family to go to college. Still another told me that her father could not read or write. One said that her father worked as a busboy. These women would have had to have been highly motivated to go to college and law school and their motivation may in turn have enabled them to prevail despite social pressures hostile to feminine achievement.<sup>161</sup>

### B. *The Law Schools That Granted Them Tenure*

The law schools that tenured the second generation are set forth in the following chart.

#### LAW SCHOOLS AT WHICH THE SECOND GENERATION RECEIVED TENURE

Tamar Frankel	Boston University
Barbara B. Aldave	Texas
Lizabeth A. Moody	Cleveland-Marshall
Alison G. Anderson	UCLA
Cathy S. Krendl	Denver
Deborah A. DeMott	Duke
Barbara A. Ash	Ohio State
Marilyn J. Ward Ford	Bridgeport
Mary A. Siegel	American
Barbara A. Banoff	San Diego
Barbara Black	Pace

160. This conclusion contrasts with the view articulated in Jeffrey L. Harrison, *Confess'n the Blues: Some Thoughts on Class Bias in Law School Hiring*, 42 J. LEGAL EDUC. 119, 119-20 & n.4 (1992) (expressing the opinion that there are relatively few law professors from working-class backgrounds while noting that the matter warrants “a more serious look”).

161. See Lani Guinier et al., *Becoming Gentlemen: Women's Experiences at One Ivy League Law School*, 143 U. PA. L. REV. 1, 33 n.86 (1994) (comparing working-class and upper-middle-class women law students with respect to the drive to succeed).

These schools do not appear to be a random assortment. Rather, with one exception, they fall into two categories—new law schools and law schools that were ranked highly by the 1980 *Gourman Report*.<sup>162</sup>

Consider first the new law schools—Pace University School of Law, founded in 1976,<sup>163</sup> and the University of Bridgeport School of Law (now Quinnipiac University School of Law), founded in 1977.<sup>164</sup> It is not surprising that new law schools would be among the first to tenure women corporations professors. At least as a general matter, a new law school is positioned to be hospitable to women faculty because it has fewer constricting traditions than other schools.<sup>165</sup>

Consider next the law schools ranked highly by the 1980 *Gourman Report*. The *Gourman Report* assigned a numerical rank to 166 law schools.<sup>166</sup> As the following chart shows, seven of the second generation's tenure-granting institutions are within Gourman's top fifty and eight of those institutions are within Gourman's top fifty-five.<sup>167</sup> This pattern runs counter to the pattern that has been found to exist for women law professors in general—namely, that we teach disproportionately at lower-ranked law schools than do our male counterparts.<sup>168</sup>

---

162. JACK GOURMAN, *THE GOURMAN REPORT: A RATING OF GRADUATE AND PROFESSIONAL PROGRAMS IN AMERICAN AND INTERNATIONAL UNIVERSITIES* 54-57 (1980). The *Gourman Report* is the precursor to today's *U.S. News & World Report*.

163. Pace Law Sch., About Pace Law School, <http://www.law.pace.edu/aboutpace/index.html> (last visited Jan. 9, 2006).

164. U.S. News & World Report, America's Best Graduate Schools 2006, Quinnipiac University School of Law, [http://www.usnews.com/usnews/edu/grad/directory/dir-law/brief/glanc\\_03025\\_brief.php](http://www.usnews.com/usnews/edu/grad/directory/dir-law/brief/glanc_03025_brief.php) (last visited Jan. 9, 2006).

165. See *supra* Part I.D.4 (noting that the quasi-newness of Baylor likely benefited Amsler).

166. See GOURMAN, *supra* note 162, at 54-57.

167. *Id.* at 54-55. The concentration of highly ranked schools might have been even more pronounced if two members of the second generation had not declined offers to teach at law schools with a considerably higher rank than the schools whose offers they accepted. One declined because of her perception that she could not "be happy" at the law school in question. The other did so to accommodate her husband's career. This information comes from my telephone conversations with the second generation. Specific names are not revealed in accordance with my agreement with them.

168. See, e.g., Deborah Jones Merritt, *Are Women Stuck on the Academic Ladder?*, 10 *UCLA WOMEN'S L.J.* 241, 244 (2000) (comparing men and women who began law school teaching in the mid-1980s).

1980 *GOURMAN REPORT* RANKINGS OF LAW SCHOOLS GRANTING  
TENURE TO SECOND GENERATION WOMEN CORPORATIONS PROFESSORS

<u>Distinguished Schools (1-14)</u>	<u>Rank</u>
Duke	9
UCLA	14
<u>Strong Schools (15-41)</u>	
Boston University	15
Ohio State	23
Texas	25
American	40
<u>Good Schools (42-70)</u>	
Denver	43
Santa Clara	45
San Diego	55
<u>Acceptable Plus Schools (71-120)</u>	
<u>Adequate Schools (121-166)</u>	
Cleveland State	127
Pace	164 (founded 1976)
Bridgeport	not ranked (founded 1977)

Why would the second generation do better in this regard than women law faculty in general? I speculate that this generation benefited from two converging advantages.

The first advantage was simply that of timing. When the second generation was under consideration for tenure, their law schools had few, if any, tenured women faculty members.<sup>169</sup> With gender discrimination in law school hiring prohibited by the AALS in 1970<sup>170</sup> and by Congress in 1972,<sup>171</sup> and with a nationwide upsurge in enrollment of women law students, law schools were keen, if not desperate, to add women to their faculties.<sup>172</sup>

169. Note in this regard that Aldave, Frankel, and Krendl were the first women on the law school tenure track at, respectively, the University of Oregon, Boston University, and the University of Denver. Furthermore, Ford and Moody were the second such women at, respectively, the University of Bridgeport and Cleveland State University. *See supra* Part II.A.

170. ASS'N OF AM. LAW SCH., 1970 PROCEEDINGS 160 n.2 (1971).

171. That year, Congress amended Title VII of the Civil Rights Act of 1964 to apply to employees of academic institutions. *See* Equal Employment Opportunity Act of 1972, Pub. L. No. 92-261, § 2, 86 Stat. 103, 103 (codified as amended at 42 U.S.C. § 2000e(a)-(b) (2000)).

172. Aldave has written that the University of Texas School of Law hired her in response to pressure from the Department of Health, Education, and Welfare to add a woman to its

The other advantage was the second generation's willingness, if not eagerness, to teach corporations. At the time, this core course was nowhere near so appealing to law professors and candidates for teaching positions as it has since become.<sup>173</sup> Its enhanced appeal can be traced to developments that occurred largely only after the second generation received tenure—such as the transformation of the course by the “law and economics” movement along with the popularization of corporate law issues by the national news media.<sup>174</sup>

Questions remain, however. Even assuming that the second generation benefited from the confluence of gender and subject matter at higher-ranked law schools, what accounts for the dearth of women corporations professors at lower-ranked law schools (that were not also new)? Conceivably some of these schools hired women to teach corporations, but then did not grant them tenure.<sup>175</sup> It is also possible, however, that at least some lower-ranked schools (and for that matter some highly ranked schools as well) regarded even the hiring of women corporations professors to be a risk that they were not willing to take.<sup>176</sup>

It would be instructive to look at tenured women law professors from the same era who taught what were then other relatively un-

---

faculty. Barbara Bader Aldave, *Affirmative Action: Reminiscences, Reflections, and Ruminations*, 23 S.U. L. REV. 121, 123 (1996).

173. Compare Merritt & Reskin, *supra* note 155, at 2351 (referring, in 1992, to the difficulty that law schools encounter in finding corporations teachers), with Merritt & Reskin, *supra* note 4, at 219 & n.59 (acknowledging, in 1997, the perceived difficulty in finding corporations teachers, but refuting this perception based on preferences expressed by teaching candidates participating in AALS Faculty Appointments Register during 1992-93 academic year).

174. Another factor contributing to the enhanced prestige of the corporations course since the tenuring of the second generation is the increase in the amount of federal law relevant to the course. Cf. Edward O. Laumann & John P. Heinz, *Specialization and Prestige in the Legal Profession: The Structure of Deference*, 1977 AM. B. FOUND. RES. J. 155, 179 (noting that greater status attaches to legal specialties that involve mainly federal law rather than state law). This increased amount of federal law includes, among other things, Supreme Court decisions on insider trading, the Private Securities Litigation Reform Act, and the Sarbanes-Oxley Act.

175. It is also possible that at least some lower-ranked schools regarded corporations as a course that could be taught by virtually anyone, thereby causing those schools not to hire people with a special interest and expertise in it.

176. One member of the second generation told me that upon being hired, she was told point blank by her dean that law students would not respond well to a woman corporations teacher. Despite having extensive experience in corporate law, she was not initially allowed to teach in the area. Her situation changed soon, however, when the school developed an emergency need for a corporations teacher. She agreed to take over her colleague's class on the condition that she be allowed to teach corporations on a permanent basis. The condition was accepted.

glamorous business subjects, such as commercial law or tax. Did they also tend to be found at more highly ranked schools?

### C. *The Law Journals That Published Their Early Articles*

The second generation published twenty-five sole-authored law review articles outside their home journals through the year 1985.<sup>177</sup> Strikingly, eleven of those twenty-five articles appeared in the same five journals. Consider the following chart.

---

177. This group of articles, which excludes those appearing in practitioner journals, those not involving corporate and securities law, and those written as a law student, consists of the following: Barbara Bader Aldave, *Misappropriation: A General Theory of Liability for Trading on Nonpublic Information*, 13 HOFSTRA L. REV. 101 (1984); Alison G. Anderson, *Fraud, Fiduciaries, and Insider Trading*, 10 HOFSTRA L. REV. 341 (1982); Alison G. Anderson, *The Disclosure Process in Federal Securities Regulation: A Brief Review*, 25 HASTINGS L.J. 311 (1974); Alison G. Anderson, *The Meaning of Federalism: Interpreting the Securities Exchange Act of 1934*, 70 VA. L. REV. 813 (1984); Barbara A. Ash, *Reorganizations and Other Exchanges Under Section 3(a)(10) of the Securities Act of 1933*, 75 N.W. U. L. REV. 1 (1980); Barbara A. Banoff, *Regulatory Subsidies, Efficient Markets, and Shelf Registration: An Analysis of Rule 415*, 70 VA. L. REV. 135 (1984); Barbara A. Banoff, *The Securities Commission's Takeover Proposals: A "Law and Economics" Perspective*, 2 CANTERBURY L. REV. 298 (1985); Barbara Black, *Application of Respondeat Superior Principles to Securities Fraud Claims Under the Racketeer Influenced and Corrupt Organizations Act (RICO)*, 24 SANTA CLARA L. REV. 825 (1984); Barbara Black, *Fraud on the Market: A Criticism of Dispensing with Reliance Requirements in Certain Open Market Transactions*, 62 N.C. L. REV. 435 (1984); Barbara Black, *Is Stock a Security? A Criticism of the Sale of Business Doctrine in Securities Fraud Litigation*, 16 U.C. DAVIS L. REV. 325 (1983); Deborah A. DeMott, *Current Issues in Tender Offer Regulation: Lessons from the British*, 58 N.Y.U. L. REV. 945 (1983); Deborah A. DeMott, *Defending the Quiet Life: The Role of Special Counsel in Director Terminations of Derivative Suits*, 56 NOTRE DAME L. REV. 850 (1981); Marilyn J. Ward Ford, *The Aftermath of Daniel: Private Pension Plans, ERISA, and the Federal Antifraud Provisions*, 46 MO. L. REV. 51 (1981); Marilyn J. Ward Ford, *Pension Benefits: Statutory Claims, Jury Trials and Limitations Periods*, 14 COLUM. HUM. RTS. L. REV. 75 (1982); Tamar Frankel, *Corporate Directors' Duty of Care: The American Law Institute's Project on Corporate Governance*, 52 GEO. WASH. L. REV. 705 (1984); Tamar Frankel, *Fiduciary Law*, 71 CAL. L. REV. 795 (1983); Tamar Frankel, *Implied Rights of Action*, 67 VA. L. REV. 553 (1981); Tamar Frankel, *Regulation of Variable Life Insurance*, 48 NOTRE DAME L. REV. 1017 (1973); Tamar Frankel, *The Maloney Act Experiment*, 6 B.C. INDUS. & COM. L. REV. 187 (1965); Cathy S. Krendl, *The Progeny of Santa Fe v. Green: An Analysis of the Elements of a Fiduciary Duty Claim Under Rule 10b-5 and a Case for a Federal Corporation Law*, 59 N.C. L. REV. 231 (1981); Lizabeth A. Moody, *Nonprofit Corporations—A Survey of Recent Cases*, 21 CLEV. ST. L. REV. 26 (1972); Lizabeth A. Moody, *State Statutes Governing Directors of Charitable Corporations*, 18 U.S.F. L. REV. 749 (1984); Mary Siegel, *Tender Offer Defensive Tactics: A Proposal for Reform*, 36 HASTINGS L.J. 377 (1985); Mary Siegel, *The Implication Doctrine and the Foreign Corrupt Practices Act*, 79 COLUM. L. REV. 1085 (1979); Mary Siegel, *The Interplay Between the Implied Remedy Under Section 10(b) and the Express Causes of Action of the Federal Securities Laws*, 62 B.U. L. REV. 385 (1982).

Law Journal

Hastings Law Journal  
 Hofstra Law Review  
 Notre Dame Law Review  
 North Carolina Law Review  
 Virginia Law Review

Faculty Member

Anderson, Siegel  
 Aldave, Anderson  
 DeMott, Frankel  
 Black, Krendl  
 Anderson, Banoff, Frankel

Why would the journals publishing these articles have overlapped in this fashion? There are at least two possibilities which are not necessarily mutually exclusive. One is that these journals were more receptive to articles about corporate law than were other journals. Another is that these journals were more receptive to women authors, either as a matter of affirmative policy or as the result of so-called “blind reads” or other procedures that discouraged or prevented gender bias.

#### D. *The Strategic Value of Teaching Corporations*

My conversations with the members of the second generation revealed that corporations is more than a subject that holds their interest. For many of them, it also has a strategic value which, while originating at the start of their teaching careers, remains deeply felt.

The strategic value is this. By teaching (and writing about) corporations, they demonstrate their ability to handle a demanding and technical subject and thereby their entitlement to be taken seriously. They show that they do precisely what their smart male colleagues do. The flip-side of this strategy is the imperative of steering clear of traditional “female” subjects such as family law and trusts and estates.<sup>178</sup> Several had mentors who explicitly told them to avoid such subjects.<sup>179</sup>

Not surprisingly, therefore, various members of the second generation were troubled by, if not also somewhat mystified by, the fusion of corporate law and gender taking place at this Symposium. Why use a gender lens to look at corporate law, one woman asked me at least three times. Another told me that she did not consider herself a minority—she was interested in substance. Yet another told me that she found the very idea of a feminist approach to corporate law “hysterically funny.”

---

178. See *supra* note 1 and accompanying text.

179. Cf. Judith Resnik, *Gender Bias: From Classes to Courts*, 45 STAN. L. REV. 2195, 2195 (1993) (noting that in the 1970s legal academia, the “‘big time’ . . . did not include issues associated with women”).



Likewise relevant here is the one member of the second generation with whom I did not speak. She declined to speak with me on the ground that her experiences were “indistinguishable” from those of her male colleagues. She evidently regards herself as mainstream and seems to think that this Symposium would marginalize her. I thus find myself in the ironic position of celebrating a generation of women numerous members of which would not themselves participate in a symposium like this.

### III. OUR OLDER SISTERS AND US

Many members of the second generation are leery of the very idea of infusing gender into the study of corporate law. Having built successful careers doing “boys’ law,” they balk at what they regard as an attempt to turn their subject into a species of “girls’ law.”<sup>180</sup> In contrast, the third and later generations of women corporations professors have, so far at least, been considerably less squeamish. Theresa A. Gabaldon has authored a landmark article applying a feminist approach to corporate law.<sup>181</sup> Moreover, a number of us meet annually for corporate law discussions at which interfaces with gender and race are welcome.<sup>182</sup>

How should we, the third and later generations, respond to the concerns of our older sisters? Clearly, we should not dismiss them cavalierly. Nor will all of us necessarily reach the same conclusions.

My own response takes the form of a middle ground, a yellow and green light. The cautious side of me says that to the extent that we become obsessed with gender, or are perceived as being obsessed with it, we run the risk of being seen as not doing “real” corporate law. This is an especially damaging perception to generate in a universe in which the percentage of women teaching corporations is declining, even as the overall percentage of women law professors has increased.<sup>183</sup>

I hesitate to push the worry about gender obsession too far, however. Indeed, that worry may be something of a straw man (woman?), since it is not my impression that anyone at this Symposium intends to make the gender/corporate law nexus her full-time specialty.

---

180. See *supra* note 1 and accompanying text.

181. Theresa A. Gabaldon, *The Lemonade Stand: Feminist and Other Reflections on the Limited Liability of Corporate Shareholders*, 45 VAND. L. REV. 1387 (1992).

182. See Claire Moore Dickerson, *Feminism and Human Rights*, 22 WOMEN’S RTS. L. REP. 139, 139 & n.1 (2001).

183. See Kornhauser, *supra* note 1, at 306, 310.

My cautious side also takes me in another direction entirely. With the percentage of women corporations professors in decline, along with the “tenuring gap” between male and female law professors becoming larger,<sup>184</sup> it is essential that we develop a comprehensive understanding of our social context. Like the second generation, are we tenured at a non-random assortment of law schools?<sup>185</sup> Is there for us as well a curious overlap with respect to the journals in which our early (or for that matter our later) articles appear?<sup>186</sup> Are we truly more advantageously positioned than our female colleagues who teach “women’s” subjects such as family law and trusts and estates? Do they resent us?<sup>187</sup>

The optimistic side of me has no qualms about the wisdom of continuing to study the relationship(s) between gender and corporate law. One reason for my optimism is the many important insights that have emerged from this wonderful Symposium. Another is the inspiration that I take from Margaret Harris Amsler, who combined corporate law with her commitment to women’s rights more than half a century ago.<sup>188</sup>

---

184. Richard K. Neumann Jr., *Women in Legal Education: What the Statistics Show*, 50 J. LEGAL EDUC. 313, 337 (2000).

185. *See supra* Part II.B.

186. *See supra* Part II.C.

187. *Cf.* Ariens, *supra* note 1, at 777 (speculating that a woman law professor whose professional interests depart from those identified as women’s specialties “might be branded as a traitor to the feminist cause”).

188. *See supra* Part I.B.3.b.