

# **Trinity Monday Discourse on Averil Deverell**

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## **Introduction**

Provost, Fellows and Scholars of Trinity College Dublin, ladies and gentlemen; colleagues and friends.

Thank you for the invitation. I am deeply honoured to have been asked to deliver the Trinity Monday Memorial Discourse today in the GMB. It is particularly special to be able to stand here in person as we emerge cautiously through the Covid-19 pandemic, rather than having to deliver this lecture over Zoom.

I am especially honoured to join the highly distinguished line of previous Trinity Monday speakers, dating back to 1895. I am grateful not only to the Provost for her kind invitation, but also to the many friends who have provided me with insights, information and advice in the preparation of this lecture. I am particularly indebted to my dear colleague Professor David Spearman, who himself delivered this discourse on two separate occasions (1981 and 1991) and whose words I am shamelessly borrowing. As he told me, 'Trinity Monday is a very special day for the College, and the discourse is an important element within it, emphasizing our collegiate nature and history by reminding us of, and linking us with, distinguished former members of the college.'

I am delighted to be following in that important tradition by speaking today, as a Trinity Law graduate (1989), about another Trinity Law graduate (1915) – namely Averil Deverell (1893-1979).

Before I begin to delve into the life of Averil, it is worth being reminded that just three years ago in 2019, in pre-Covid times, Dr Anna Bryson delivered the annual discourse on Thekla Beere, noting then that in all the decades of Trinity Monday discourses, only four had been about the lives of women graduates.

I am glad to say that in focusing today upon Averil Deverell, that number will be brought up to six women – out of a total of 122 discourses.

Those six women are: poet Jane Barlow, 1954; law professor Fanny Moran, 1989; Alice Oldham, campaigner for women's admission to university, 2004; historian Annette Jocelyn Otway-Ruthven, 2017; senior civil servant Thekla Beere in 2019; and early Irish scholar Eleanor Knott in 2020.

Of the six, it is notable that three are law graduates. And even more notable that it took over 30 years after the first woman graduate was honoured with a discourse before a second was similarly recognised.

Perhaps some cause for celebration then that over the last five years, the lives of three women and two men have been honoured; Averil will be the fourth woman in six years. Time for more positive action in the selection of the graduates to be recognised over the next six years!

### **The Remarkable Life of Averil Deverell**

Before I begin to speak about Averil Deverell's remarkable life, I would like to say a few words of thanks. First, I am grateful to the wonderful Ursula Quill for her helpful hints; and am also hugely indebted to the leading expert on Averil Deverell, Liz Goldthorpe, whose many writings on Averil I have plundered for today and who generously provided me with some additional insights to which I will return.

I would also like to thank Renate Ni Uiginn from the King's Inns library and Catherine Finnegan at the Law School in Trinity for permission to use certain illustrations.

Who was Averil Deverell? Her full name was Averill Katherine Statter Deverell (1893–1979) and she is famous as one of the first two women to be called to the Bar of Ireland or indeed England; and the first woman to practise here or in England as a barrister. But her story is remarkable for many other reasons too.

She was born on 2 January 1893 in Greystones, Co. Wicklow, the only daughter of Ada Kate Statter Carr and William Deverell of Ellesmere, Greystones, Trinity law graduate and solicitor. She had a twin brother, William Gerenger Statter Deverell (1893-1966). Liz Goldthorpe notes (2018) that Averil's mother was the 'daughter of a wealthy London solicitor' and that both 'maternal and paternal lines included several immediate and extended family members who were lawyers.' This was a 'comfortable Dublin Anglo-Irish Unionist family' (Goldthorpe, 2019, 175). Indeed, Goldthorpe recounts that Averil was presented at court in Dublin Castle in July 1911 during the visit of the English King George V; the last such event in Ireland.

The Deverell twins were taught at home by a governess for some years, following which Averil attended the French School at Bray as a day pupil. In the Dictionary of Irish Biography, Maria O'Brien notes that Averil learnt to drive as a teenager, because her father 'was one of the first men to own a motor car in Greystones'.

Goldthorpe notes that Averil's private papers show she had some interest in the cause of women's suffrage; and indeed she entered Trinity as a law student alongside her twin brother in 1911, only a few years after the College had admitted women on equal terms with men. She graduated with an LL.B. in 1915; she was not the first woman to do so either in Ireland or from Trinity.

Indeed, the first woman law graduate in either Ireland or the UK was Letitia Alice Walkington who obtained an LLB from the Royal University of Ireland in 1888. The first woman to graduate with a Dublin University LLB was Edith Badham in 1909, followed by Madeleine Collins and Marion Duggan in 1910 and Helena Morony in 1911.

On the outbreak of World War I, Averil had written with her father's permission to the headquarters of the Queen Alexandra First Aid Nurse Yeomanry offering her services as an ambulance driver; they required her to take a driving test at the Royal Automobile Club in London, which she successfully passed. However, she was then asked to re-assemble a dismantled engine, which she was unable to do; but six months later this requirement was abolished, and she drove an ambulance for the rest of the war. As Richard Cooke later recalled (2000), she 'shortened her skirts by 12 inches and went off to join the ambulance corps in France.'

On her return from the war, the legal position for women had changed greatly. Not only had women in Ireland won the right to vote in 1918, but the passage of the 1919 Sex Disqualification (Removal) Act had removed the legal bar to women being appointed to public office. The 1919 Act is a short statute which begins:

A person shall not be disqualified by sex or marriage from the exercise of any public function, or from being appointed to or holding any civil or judicial post...'

I will return to consider an interesting aspect of the 1919 Act later. But once it had been passed, women in both Ireland and Britain began to apply to enter the legal profession almost immediately. In 1919, Deverell and another pioneer, Frances Christian Kyle from Belfast (1894–1958), were the first women to be admitted to the King's Inns.

Both women were then called to the Bar of Ireland on 1 November 1921, alongside 18 men - including Averil's twin brother, then Captain William Deverell. Frances Kyle was called before Averil, as she had been awarded the John Brooke Scholarship, the top Irish students' law prize, having come first in the Bar examinations.

The event made legal history in Ireland and around the world, Kyle and Deverell were the first women in either Ireland or Britain to become barristers. Headlines about their call appeared not only in Ireland but also in the suffragists' journal *The Vote*, and in the *New York Times* and the *Times of India*. Photographs of both women in the traditional wig and gown accompanied the headlines. The caption below the picture in the *New York Times* read:

‘First Irish Girl Barristers: Misses M. Kyle and A.K.S. Deverell. First colleens to be called to the Bar by the Lord Chief Justice, Their Dignified Wigs and Robes Sitting Lightly on Them.’

This was also an historic occasion because it was the first call of a divided Irish Bar, following passage of the Government of Ireland Act 1920 which created separate jurisdictions on the island of Ireland. Indeed, Frances Kyle did not continue practising in Dublin, returning instead to her family home in Belfast where she practised until 1944. By contrast, Averil Deverell was to continue working at the Irish Bar for over forty years – while she was for a time the only woman barrister, she was joined by Mary Dillon-Leech in 1923.

Initially, like many junior barristers, she had to supplement her Bar earnings by taking in other paying work; in her case, by running a kennel for dogs in Greystones named the ‘Brehon kennels.’ In time however, Averil was to establish a considerable practice and to appear in some high-profile cases, thus earning a highly valued red brief-bag on appearing before the Privy Council.

There is evidence that Averil remained an active campaigner on behalf of women barristers. She mentored and supported more junior women at the Bar; and famously, when the women's dressing room in the Law Library was changed in the 1930s, she organised women colleagues in a campaign to get their room back; when the words 'Lady Barristers' appeared on the door, she insisted that this should be replaced with 'Women Barristers'.

In a nice piece of Trinity history in this centenary year, Averil was also the first secretary of the Dublin University Women Graduates' Association after its foundation in 1922. Susan Parkes writes (2004, 110) that she gave 'long and stalwart service' to the Association.

Averil retired in 1969 aged 76 as the 'Mother of the Bar', regularly driving in from Greystones in a souped-up Triumph Herald car. She lived on in her childhood home until shortly before her death in 1979, aged 88.

### **Researching Averil Deverell – then and now**

Averil's life was highly remarkable in many ways. As Goldthorpe says (2018), she was the first woman to practise as a barrister in the UK as then constituted. She negotiated an identity and sustained a successful career during two world wars, Ireland's partition and civil war, the years of nationalist rebellion, and the fight for suffrage, as well as major constitutional and professional upheaval.

Yet by the time of her death, Averil had received almost no official recognition; Goldthorpe (2018) says that 'her funeral went largely unremarked and there was no formal public obituary. The headstone on her grave, shared with her brother at Redford cemetery, Greystones, is simply marked 'barrister-at-law.'

What seems remarkable now is how little attention was paid then, in 1979, to Averil or to any of her contemporary pioneers. It is all the more remarkable given that, as Schultz and Shaw wrote in 2003 (xxxii), the ‘history of women lawyers generally comprises little more than one century’.

Despite the rapid changes that took place for women in law over that century, as in other jurisdictions, it had taken a generation or more for a critical mass of women could emerge in Ireland and to offer the capacity for reflection on the patriarchal culture underlying legal practice.

If I may tell a personal story about this cultural issue – it concerns the wearing of trousers. Having graduated from Trinity in 1989 and taken another year as Students’ Union President here, I went off to study at LSE and in 1992 qualified as a barrister in London. At the time, women at the English Bar were not allowed to wear trousers. There was no formal rule; it just was not done. As a bicycle commuter, it was utterly frustrating to have to navigate my way to court-houses around London wearing a formal black jacket and skirt. So it was a great relief to return home to Ireland to practise here, and to learn that women had been wearing trousers at the Bar since Mary Robinson had broken the mould years earlier.

But I soon discovered that her pioneering trouser-wearing had met real opposition – even among her female colleagues at the Bar. In her biography, she later recalled how she had been wearing a smart pin-striped trouser-suit around the Law Library, and then in the women’s toilets one day she saw a notice up saying ‘At a meeting of the ladies of the Bar, it was decided that trousers would not be worn.’ She took out a pen and amended that to read ‘At a meeting of SOME OF the ladies of the Bar...’

And that is how women came to be wearing trousers routinely around the courts in Ireland, much earlier than our sisters in England and Wales.

Indeed, even in the 1990s, the Irish Bar was still a bastion of patriarchal culture—with few senior women role models other than Mary Robinson. This was because for many years after Averil’s entry to legal practice, only a trickle of women had

followed her. Goldthorpe (2019, 180) notes that ‘Just 12 women in total were called to the Bar between 1921 and 1950.’ By the mid-1970s, there were still less than 40 women at the Bar in total. By the time I started studying law in Trinity in 1985, half of our class were female; but there had still only ever been two women appointed as judges - Eileen Kennedy to the District Court in 1963; and nearly 20 years later, Mella Carroll to the High Court in 1980.

This only began to change in the late 1990s, as more women qualified as barristers and solicitors and came to realise just how outnumbered we were. In November 2000, a group of us came together at the instigation of the late Frances ‘Twinkle’ Egan, to organise a major conference in Dublin Castle, ‘Women in Law 1919-2000: From Pioneers to Presidents’. This was the first time that women in law in Ireland, both North and South, had come together.<sup>1</sup>

Following the success of that event, we established a new Irish Women Lawyers’ Association in June 2002, affiliated to the European Women Lawyers’ Association – a number of us had been involved in getting it off the ground for some time before that. Indeed we drafted the first constitution of IWLA around a meeting room table in the Trinity Law School here in House 39!<sup>2</sup>

Ironically, when we set up IWLA first and put up posters around the Law Library inviting women to attend our first organising meeting, some delightful wit wrote graffiti on the posters asking ‘what about the men?’ To which of course we were able to reply ‘what about them?’ The conference was also the catalyst for our 2003 study on women in law (Bacik, Costello and Drew), funded by the Department of Justice published under the title: *Gender InJustice – Feminising the Legal Professions?*

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<sup>1</sup> Speakers included President Mary McAleese, Cherie Booth QC, Helena Kennedy QC, and then Judges Susan Denham, Catherine McGuinness and the late Mella Carroll.

<sup>2</sup> Among those who were involved in the early days of IWLA were: Jenny Aston, Maura Butler, Maureen Clarke, Aoife Goodman, Irene Lynch Fannon, Patricia McNamara, Sinead Ni Chulachain, Madeline Reid, Mary Ellen Ring and Pauline Walley. Two founders have sadly died; Circuit Court Judge Miriam Reynolds who died in 2009 and had been our Chairperson and a champion of the organisation from the beginning; and barrister Twinkle Egan, who died in 2006 and was a real inspiration to many of us.



In that report, we asked the question whether the progression of women lawyers was inevitable – would it simply be a matter of time before women came to equal men and then overtake them in career progression? Some of our male colleagues had suggested this would be the case; if so we remarked that if this became true, we would be delighted to write a report on ‘the remarkable and successful feminisation of the Irish legal professions’ and spend the rest of our careers promoting the Irish model to the world!

Obviously that did not come to pass – although it was a lovely idea. Instead, we found significant instances of discrimination and evidence of real obstacles for women’s progress to senior positions in the law. It seemed that women were not even hitting a ‘glass ceiling’; rather, they were relegated to a ‘sticky floor.’

To find out why women were not making more career progress, we surveyed a large number of lawyers, both male and female - and found that over one-third of women lawyers had experienced the use of sexist or inappropriate language; 30 per cent felt excluded from social networks essential to furthering their careers; and 14 per cent had been harassed or bullied in the workplace. Many women referred to serious difficulties with balancing work and childcaring roles. We might sum up the difficulties we found as ‘the Four C’s’; women in law lack Childcare; Cash; Confidence; and face a really entrenched old boys’ Culture. This cultural obstacle is particularly difficult to challenge.

Over the nearly 20 years since our report was published, there has been substantial progress numbers of women, who make up a majority of practising solicitors; more than one-third of barristers and about one-third of judges. Women have been represented at every senior legal position in the land; Susan Denham as our first woman Chief Justice in 2011; women serving as Chief State Solicitor, Director of

Public Prosecutions, Minister for Justice, Garda Commissioner and of course two women lawyers as Presidents.

But there is a danger in complacency; women continue to face real cultural obstacles, and to be outnumbered by men at senior ranks in the profession. Progress for women has not been inevitable; nor has it even been. It is a 'pipeline fallacy' to think it ever could be. Change has always been hard-fought and hard-won – especially cultural change.

This brings us back to consider the 1919 Act; the Sex Disqualification (Removal) Act, the passage of which had enabled Averil Deverell to qualify as a barrister.

Over many decades before its passage, courageous individual women had challenged their exclusion from the professions and from public office.

But the main legal obstacle to their progress across the common law world was not any specific law; indeed much of the legislation was gender-neutral. Rather, the obstacle was rooted in Culture; in custom, tradition and judicial precedent, particularly the concept of 'personhood' which was invented by judges to exclude women. In England, for example, an Oxbridge graduate, Gwyneth Bibb and three colleagues had challenged the refusal of the Law Society to allow them to practice as solicitors in the *Bibb* case in 1914, but the Court of Appeal held that women were not 'persons' within the meaning of the Solicitors Act 1843 and so could be excluded from legal practice.

This followed from earlier cases including that of the US Supreme Court in 1894, which denied Belva Lockwood the right to practice law in Virginia, because she was not a 'male person'. The Court held that due to divine ordinance, the domestic sphere belongs to womanhood; and the harmony of interests belonging to the family institution is repugnant to the idea of a woman adopting a distinct career from that of her husband'. This case was one of many in which judges, confronted with gender-neutral language, decided that the nature of lawyering and the nature of women were incompatible.

As such, the concept of 'person' in the legislation was declared to mean 'man'.

It was not until 1930 that the 'persons cases' phenomenon was finally put to rest, in the famous Persons Case, *Edwards v. Attorney-General of Canada* [1930] AC 124, a case taken by the 'Famous Five' women led by Henrietta Edwards, a feminist and indigenous rights activist. The judgment by the Privy Council in their favour enabled women to stand for election to the Canadian senate. Lord Justice Sankey warned against adhering to customs and tradition, concluding 'to those who ask why the word [persons] should include females, the answer is why not?'. The judgment was given on 18<sup>th</sup> October 1929; every year in Canada, 18<sup>th</sup> October is celebrated by feminists as 'Persons Day'.

We should have our own 'Persons Day' every year in Ireland too! On such a day we could honour our own pioneers. Women like Georgie Frost from Sixmilebridge in Co Clare, who took a case before the House of Lords more than 100 years ago seeking the right to be appointed as a Clerk of Petty Sessions - a case which paved the way for the 1919 Act to be passed. Women like Mary Dorothea Heron who in 1923 became the first woman solicitor admitted in Ireland. And of course women like Averil Deverell.

## **Concluding Comments**

When we started researching our study of women in the Irish legal professions 20 years ago, I and my co-authors commented on how little research had been done to date on the history of Irish women legal pioneers (Bacik, Costello and Drew, 2003, 55).<sup>3</sup> We included a chapter in the book on 'pioneers' in which we wrote about Averil, Frances Kyle and others; but we had great difficulty accessing any source

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<sup>3</sup> We titled our history chapter in that book 'From Pioneers to Presidents'; the book includes a preface from the then President of Ireland Mary McAleese, whose strong links with Trinity College and the Law School are well known; and who had of course succeeded another Trinity lawyer, Mary Robinson, as President.

material, and relied upon personal reflections by colleagues who had known her, notably a memoir of Averil written in 2000 by Richard Cooke SC. We could not establish her year of birth precisely and there was some debate about the spelling of her first name.

Since then, it has been greatly uplifting to see how much more interest now exists in the pioneering women who paved the way for so many more. Liz Goldthorpe has done a great deal of work in establishing a more detailed picture of Averil's life. Within Trinity, her immense contribution to furthering women's progress in law is noted on the Law School website. Upon her death in 1979 she had left a bequest to Trinity Law School, and the first appointee as an Averil Deverell Lecturer in 1981 was Fidelma Macken – later to become judge of the European Court of Justice. The current holder is Dr Patricia Brazil.

At the Law Library and in King's Inns too, there has been greatly renewed interest in Averil's life, both around the centenary of the 1919 Act and more recently the centenary of her call in November 1921. Averil's archive was acquired by King's Inns in 2018;<sup>4</sup> in November 2021, a special centenary issue of the *Bar Review* was published; huge portraits of Frances Kyle and Averil now displayed on the front of the Law Library building on Church Street; a room in the Law Library has been named after her; and Emma Stroude has now been commissioned by King's Inns to carry out portraits of Averil Deverell and Frances Kyle.

There is even an entertaining video on YouTube from 2019 in which local Greystones historian Rosemary Raughter discusses Averil's life as part of the 'Our Wicklow Women' project – from outside Averil's childhood home, Ellesmere house on Church Road in Greystones.

Thus, the tide has turned for interest in Averil Deverell's remarkable life, and that is very welcome. However, while her breakthrough and successful legal career were most unusual for a woman of her time, it is noteworthy that, along with the other pioneering women who continued in practice, as Margaret Ó hÓgortaigh notes, they were from 'comfortable backgrounds' and often with family legal connections (1999). Liz Goldthorpe suggests that Averil's own legal background must have helped support her career, along with what was clearly a resilient personality and of course her wartime experience.

But other aspects of Averil's life and career should also lead to reflections on the context in which her call to the Bar took place, just 101 years ago this November. As Schultz and Shaw remind us (2003, xxxii), the short history of women lawyers is 'closely linked with the emergence of nation states and their interest in creating uniform professional profiles.' While the late nineteenth century feminist campaigners paved the way for the abolition of the 'persons' doctrine, the passage of the 1919 Act and entry to the professions, another contributing factor was the 'unstoppable progress of professionalisation, as social status lost its significance and a rational system of formal qualifications became the key to access to the professions and public office. Women soon demonstrated that they were perfectly capable of meeting these new criteria....' Further, following the upheaval of the First World War and the achievement of women's suffrage in most European states, 'egalitarian views became more acceptable and women began to be appreciated in the new social order as a valuable human resource.'

Despite these factors, however, it was to take many decades before any substantial breakthrough for a critical mass of women was to be achieved within the professions and public life in any jurisdiction. Ireland is no different. Averil Deverell was for a long time the only real example of a successful practising woman at the Bar – and she never became a Senior Counsel.

It was to be 1941 before any woman took Silk; that was Fanny Moran, whose primary career was that of a legal academic and who had a long and distinguished career here in Trinity Law School. She is also one of the five other women whose careers and lives have been the subject of a Trinity Monday discourse (by Robert Heuston in 1989).

Averil's life and career were truly remarkable, and undoubtedly she 'stands as an important landmark in the history of women lawyers in Ireland and beyond' (Goldthorpe, 2019, 180). But for far too long her achievements remained unrecognised, and for far too long her career stood in contrast to the absence of other women in practice. While her belated acknowledgement and honouring is very welcome, there is a salutary lesson for us all in learning of the context in which she lived and worked. It is that change to culture never comes by default. It is always hard-fought and hard-won – whether in law, in politics or elsewhere. With women still constituting less than one-quarter of our TDs, we owe it to Averil and the early pioneers to keep fighting – and to win cultural, social and political change for greater equality.

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