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### Scotland's First Women Law Graduates

An Edinburgh Centenary

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## SCOTLAND'S FIRST WOMEN LAW GRADUATES: AN EDINBURGH CENTENARY

Hector L MacQueen\*

On Friday 2 April 1909 Eveline MacLaren and Josephine Gordon Stuart became the first women to graduate as Bachelor of Laws (LLB) from the University of Edinburgh. *The Scotsman* next day reported the event under the headline “Edinburgh University graduation: a brilliant ceremonial”, noting that the McEwan Hall, where the graduation took place, “was crowded to its utmost capacity”. Eveline and Josephine were also the first women law graduates in Scotland. This lecture celebrates the centenary of that breakthrough by looking in a little depth, not only at their university careers, but also at their similar social backgrounds, deeply embedded in Edinburgh law, and their rather different subsequent lives and careers.

It is worth noting from the outset that neither Josephine nor Eveline ever entered the Scottish legal profession. But they were or became closely involved in different ways with two still surviving firms of Edinburgh solicitors, respectively Stuart & Stuart and Balfour & Manson. Eveline was closely linked with the latter firm, while, as will emerge in greater detail later, Josephine was not only the daughter, great-niece and great grand-daughter of different partners in the family firm Stuart & Stuart, but also the sister, mother and grandmother of three later partners in the same firm.

The LLB graduations of Eveline and Josephine find their initial context, however, in the general history of the first admissions of women to study and graduate in the Scottish universities, in particular Edinburgh. In 1892 the Court of Edinburgh University, acting under an ordinance made under the Universities (Scotland) Act 1889 that gave it power “to admit women to graduation in such Faculty or Faculties as the said Court may think fit”, enabled the graduation of women in the Faculty of Arts, and in 1894 the Faculty of Medicine was added. There were similar developments in other Scottish universities at the same time. Medicine was critically important, because women thus at last gained direct entry to a profession after long, sometimes violent resistance by the male incumbents.

For our two principals, however, the degree for women of the most immediate significance before they entered their law studies was the Edinburgh Master of Arts, with which both had graduated before taking their LLBs as second degrees. Eveline entered the Faculty of Arts in 1901 and took her MA in 1904, while Josephine first matriculated in 1903 and graduated MA in 1907 (slightly late, for reasons to be discussed later). Medicine was important, however, both in general as an example of a profession open to women and, more specifically, as one in which other members of the families of Eveline and Josephine were or were to become heavily involved.

All this shows, however, that the two law graduations in 1909 were actually remarkably late in the history of women taking their place in Scottish universities. If women

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\* Professor of Private Law, University of Edinburgh. This is the text of the W A Wilson Memorial Lecture 2009, delivered in the School of Law, University of Edinburgh on 2 June 2009. A fuller version will appear in the sixth Miscellany volume of the Stair Society, due to appear in late 2009 or early 2010.

could study and practise medicine from 1894, it is difficult now to see why they could not do the same in law. But in 1909 the Scottish legal profession still consisted entirely of men, and the Scottish judges, all of course men too, had recently affirmed that, this having always been so, so it was in effect a rule of law. The Whole Court of Session had ruled in 1901 that “inveterate custom” precluded women taking the examinations of the Incorporated Society of Law Agents and being admitted as law agents in Scotland; they accordingly refused a petition by 18-year-old Margaret Hall to be allowed to enter the Society’s examinations.<sup>1</sup> This was despite the governing Law Agents (Scotland) Act 1873 expressly referring to “persons” rather than “men” as those entitled to enter the profession by this route. Women, it appeared, were not persons in the eyes of the law; a decision leading to an entertaining squib by Amos Chiseler entitled “Cockie Law! Is a Girl a Person?”, first published in the *Glasgow Evening Times* for 15 July 1901. A reprinted copy of these splendid verses is preserved in the family papers of Josephine Stuart’s descendants, suggesting she probably knew it. Margaret Hall herself set out a coolly reasoned statement of women’s case for entry into the practice of law in an article published in the *New Liberal Review* before the court’s judgment was issued, and this too may have been known in the Stuart family which, as we shall see, had a strong Liberal connection.<sup>2</sup>

Eveline MacLaren and Josephine Gordon Stuart were both born in November 1883 and were daughters of solicitors practising in Edinburgh. Josephine’s father was Joseph Gordon Stuart WS, who had been a partner in Stuart & Stuart WS since 1875.<sup>3</sup> He married Moncrieffe Leitch in 1877, and the couple were to have four children altogether: three girls (of whom Josephine was the youngest) and a boy (born in 1889). Joseph’s father, also Joseph Gordon Stuart, had owned a successful flax-spinning business at Balgonie near Markinch in Fife, and his son was both born there (in 1849) and later owned Balgonie House, where the family spent holidays.<sup>4</sup> The family of Joseph Gordon Stuart II seems to have been a close and mutually supportive one, with affectionate nicknames for each other. Joseph Gordon was “Daisy”, for reasons at which we can only guess; the oldest daughter, Euphemia Paterson Moncrieffe, was a more obvious “Effie”, while the next, Katherine Booth, was “Kitty”. More mysteriously, Josephine was “Bunty”, perhaps suggesting that she was the pet lamb of the family when small, or that she had a lamb-like way of butting in.

Josephine’s father was a member of a legal dynasty founded early in the nineteenth century by his grandfather, Alexander Stuart.<sup>5</sup> His first job was in a law office in Forres, before he moved to an Edinburgh WS office at the age of 16. In 1804 Alexander entered into partnership with Joseph Gordon, admitted WS the same year, to form the firm of

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<sup>1</sup> *Hall v Incorporated Society of Law Agents* (1901) 3 F 1059. Margaret Hall had no university degree and was seeking to be admitted to the Society’s examination in general knowledge which, in the absence of a degree, was a prerequisite of going on to the actual law examinations.

<sup>2</sup> “Women as lawyers”, (1901) 1 *New Liberal Review* 222.

<sup>3</sup> See I M Nicoll, M M Stuart and J G S Cameron, *A Stuart Story 1770-1980: As Told by Some Descendants for Their Descendants* (privately printed, 1981, henceforth *Stuart Story*), 42; *Register of the Society of Writers to the Signet* (Edinburgh, 1983, henceforth “*WS Register*”), 310.

<sup>4</sup> *Stuart Story*, 46; *Reminiscences by James Stuart* (privately printed, 1911), 59-60. Balgonie House, which was located in Milton of Balgonie, stands no longer; the overgrown ruins of the former flax-mill lie below its site near the bridge over the River Leven.

<sup>5</sup> *Stuart Story*, 9-20.

Gordon & Stuart.<sup>6</sup> Alexander named his eldest son after his partner, and the name was in turn, as we have seen, handed on to one of the son's sons. Josephine Gordon Stuart's name thus perpetuated her great-grandfather's principal professional connection. Alexander's descendants eventually took over the firm completely and re-formed it as Stuart & Stuart in the 1870s: it was very much a family firm in 1909, with Joseph Gordon II in partnership with his younger cousin George Malcolm.

Eveline MacLaren's father was Duncan MacLaren SSC, who two years before Eveline's birth had been assumed as a partner by the hitherto sole practitioner James Duncan Smith SSC, their firm being thereafter known as Duncan Smith & MacLaren. Born in 1853 at Little Dunkeld in Perthshire, and a Gaelic speaker, Duncan MacLaren's background was like Alexander Stuart's in some ways. He served his initial legal apprenticeship in Perth before coming to Edinburgh to work first in the Town Clerk's office, then in the Leith office of Messrs Boyd Jamieson & Co WS, finally joining James Duncan Smith as an assistant in 1877. He married Mary Smith Dods Vert in 1882.<sup>7</sup> In 1909 the couple and their large family of six daughters and two sons lived in a substantial villa at 8 Abbotsford Crescent between the Merchiston and Morningside areas of Edinburgh. By then MacLaren was a sole practitioner under the firm name of Duncan Smith & MacLaren. On his death in November 1924 he was described as "one of Scotland's oldest and leading lawyers".<sup>8</sup>

In 1909, the offices of both Stuart & Stuart and Duncan Smith & MacLaren were to be found close together at Frederick Street: the former at No 56 as they had been since 1868, the latter two doors downhill at No 62, where the firm had been (in various successive guises) since around 1865.<sup>9</sup> The proximity of the fathers' practices may well indicate social as well as business links between them. The likelihood of this is increased by the Stuart family living in Morningside, near the MacLarens, before they moved to Murrayfield Gardens in 1906.<sup>10</sup> So the daughters' pursuit of the Edinburgh LLB probably enjoyed at least some concerted support within the profession along the west side of north Frederick Street.

The notion that their fathers supported Eveline and Josephine in entering professionally-oriented study is further borne out by considering the careers of their sisters. Here medicine, where the trail had already been blazed for women's education and admission to a profession, re-enters the picture. The emerging pattern is impressive. Two of Eveline's five sisters – Jessie and Gertrude – became doctors, starting their medical

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<sup>6</sup> For Joseph Gordon WS (d. 1855) see *WS Register*, 123.

<sup>7</sup> Information from Eveline MacLaren's birth certificate, accessible on the Scotland's People website, <http://www.scotlandspire.gov.uk/>, '1883 MacLaren, Eveline [Statutory Births 685/01 2044]'.  
<sup>8</sup> Information on Duncan MacLaren's career from an obituary published in 1924 SLT (News) 200. The family gravestone in Grange Cemetery, Edinburgh, brought to my attention by Gillean Hoehnke, grandniece of Eveline MacLaren, also gives details of several of the family members.

<sup>9</sup> See *Edinburgh & Leith PO Directory* from 1865-66 on. In 1865-66 the firm was J B Douglas & Smith; Smith practised alone from around 1875 until 1881, when he assumed Duncan MacLaren as a partner.

<sup>10</sup> The 1901 census shows the Stuart family at 17 Morningside Place, while the MacLarens were at 3 Cluny Gardens. Neither Josephine or Eveline is recorded with their families in the census, however; Josephine appears in the record as a boarder at St Leonards School in St Andrews, Fife (see further below, 000), while I have not traced any record of Eveline: was she at a finishing school abroad?

degrees at Edinburgh in 1906 and 1907 respectively.<sup>11</sup> Another sister, Grizzel, graduated in 1918 at Dartford Physical Education College, which pioneered physical education for women; in 1939 she became Principal of the College, a post she held with distinction until her death ten years later.<sup>12</sup>

Josephine's elder sister Effie was also an early woman doctor, graduating MB, ChB at Edinburgh University in 1904.<sup>13</sup> Further early female doctors can be found amongst Josephine's cousins: Emmeline Marie Stuart, known as Lina, "became one of the first women doctors in Glasgow, where she qualified in 1895,<sup>14</sup> while Eliza Jane Stuart trained first as a nurse in Edinburgh Royal Infirmary about 1900, before later gaining medical qualifications (although not a degree) in Edinburgh.

Parental commitment to an ideal of education for women is also apparent in the fact that Eveline and Josephine had attended one of the Scottish girls' schools that had begun to emerge in the latter part of the nineteenth century. Thus Eveline's pre-university education from 1892 to 1900 was at St George's School for Girls at 5 Melville Street in Edinburgh, which was founded in 1888 by a campaigning group of women themselves denied university admission and seeking to provide girls' education up to university entrance level.<sup>15</sup> All of Eveline's sisters went there too.<sup>16</sup> Josephine's schooling and that of her sister Kitty was at St Leonards School for Girls in St Andrews, Fife, founded in 1877 with similar objectives.<sup>17</sup>

Beyond the commitment to the ideal of female education visible in Joseph sending his daughter to St Leonards, the truly clinching point is the important role also played by the Stuart family in setting up the school in the first place. As a young WS Joseph was in 1877 appointed legal adviser to the Council of the St Andrews School for Girls Company, which was then promoting the establishment of what became St Leonards.<sup>18</sup> Joseph's professional services were enlisted for the Council by his brother James, like him a graduate of St

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<sup>11</sup> Gertrude Duncan MacLaren and Jessie Alexandrina MacLaren graduated MB, ChB from Edinburgh in 1912 and 1914 respectively.

<sup>12</sup> Information on Grizzel's career from Sheila Cutler, former Keeper of the Bergman Osterberg Archive held at North West Kent College, Dartford. On the Dartford College see Sheila Fletcher, "Österberg, Martina Sofia Helena Bergman (1849-1915)", ODNB; S Fletcher, *Women First: The Female Tradition in English Physical Education 1880-1980* (1984). The other sisters were Mary Gretchen (1886-1961) and May (b 1898/99). The former married a solicitor, Hugh Herbert Considine WS, who was a pall-bearer at Duncan MacLaren's funeral in 1924. Two of her sons also became lawyers, one in the firm now known as Aberdeen Considine.

<sup>13</sup> *Stuart Story*, 43. Both her matriculation and graduation records in Edinburgh University delete her middle names 'Paterson Moncrieff' and amend her name to "Effie Gordon Stuart".

<sup>14</sup> See *Stuart Story*, 78 (portrait), 79-85. The first Glasgow women medical graduates, Marion Gilchrist and Alice Louisa Cumming, graduated the previous year (see <http://www.gla.ac.uk/faculties/medicine/history/19thcentury/>, "First women medical graduates").

<sup>15</sup> For St George's see B W Welsh, *After the Dawn: A Record of the Pioneer Work in Edinburgh for the Higher Education of Women* (1939); Nigel Shepley, *Women of Independent Mind: St George's School Edinburgh and the Campaign for Women's Education* (2nd edn, 2008).

<sup>16</sup> I am grateful to Nigel Shepley, archivist of St George's School, Edinburgh, for this information.

<sup>17</sup> See generally J M Grant, K H McCutcheon and E F Sanders (eds), *St Leonards School 1877-1927* (1930); J S A Macaulay (ed), *St Leonards School 1877-1977* (1977). Chrystal MacMillan was also a pupil at the school: see Grant et al (eds), 111, for a glimpse of her starring in a production of *Much Ado about Nothing* in 1889.

<sup>18</sup> See Grant et al (eds), *St Leonards School 1877-1927*, 12 ("Mr J Gordon Stuart was appointed legal adviser, and negotiated many purchases for the Council, including the momentous one of St Leonards; we remember with gratitude his sound advice, his shrewd and kindly judgment, his ready and invaluable help.").

Andrews University and from 1875 Professor of Mechanism and Applied Mechanics at Cambridge University.<sup>19</sup> In his time at Cambridge James would play a prominent role in the establishment of the women's colleges at Newnham and Hitchin (later Girton), and was a strong promoter of women's entitlement to the benefits of higher education.

### **MA studies of Eveline and Josephine**

Although Eveline and Josephine were the same age, their MA studies overlapped only in session 1903-04. Eveline's path to the degree was smooth by comparison with Josephine's, who recorded a string of low marks up to 1905. But Josephine's studies may not have received her full attention. She was very active instead in other aspects of the University's corporate life, in particular those concerning women students and social welfare in the city around the institution. By 1903 women formed about 10% of the student body but could not gain admission to the University Students Union.<sup>20</sup> A Women's Student Union was formed in October 1905,<sup>21</sup> and the first Secretary was Josephine Stuart. She would go to become the second President the following year, continuing thereafter as a committee member. The friend who mentions this in a testimonial written in 1910 also says:

Of Miss Stuart's work at the University Settlement Association it is impossible to speak too highly. In addition to starting a most successful boys club in one of the poorest districts of the town she has organised a Savings Bank through which fifteen to twenty students not only collect money but visit and keep in touch with the poor people.

Here the influence of her father is apparent: he had been involved in the Trustee Savings Bank movement, as a member of the Committee of Management of the Edinburgh Savings Bank and Scottish representative on the United Kingdom Statutory Committee of the Savings Banks.<sup>22</sup>

It also appears that Josephine continued in the political traditions of her family, at least as represented by her still-living Uncle James, the former Cambridge professor who had become a Liberal MP in 1884 (he eventually retired from politics in 1906).<sup>23</sup> Josephine was, according to her 1910 testimonial, "member of Committee Vice-President and President of the Women's Liberal Association". This was presumably a university student body and perhaps it shared the commitment of the Scottish Women's Liberal Federation "to secure just and equal legislation and representation for women especially with reference to the Parliamentary Franchise and the removal of all legal disabilities on account of sex and to protect the interests of children".<sup>24</sup> Josephine certainly took "a very zealous share of the work at rectorial elections" in the University. Her commitment to a winning cause must be

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<sup>19</sup> *Stuart Story*, 40; *Reminiscences by James Stuart* (privately printed, 1911); H C G Mathew, "Stuart, James (1843-1913)", ODNB. For James' early contribution to the founding of St Leonards, see Grant et al (eds), *St Leonards School*, 9.

<sup>20</sup> See generally I Catto, *No spirits and precious few women: Edinburgh University Union 1889-1989* (1989).

<sup>21</sup> Catto, *Edinburgh University Union*, 87-88. The Union was located at 53 Lothian Street. It moved to George Square in 1919 and then to Chambers Street in 1964 before the Women's Union amalgamated with the University Union in the early 1970s.

<sup>22</sup> *Stuart Story*, 42.

<sup>23</sup> *Stuart Story*, 39-40 (quotation at 40).

<sup>24</sup> Leah Leneman, *A Guid Cause: The Women's Suffrage Movement in Scotland* (revised edn, 1995), 35.

one of the reasons for the invitation she received from the University in December 1906 to be of the platform party at the address given in the McEwan Hall on 10 January 1907 by the Right Honourable Richard Burdon Haldane, KC, LL.D, Secretary of State for War in the new Liberal Government, and the newly elected Lord Rector of the University.<sup>25</sup> It may also have helped that the new Rector was an old Parliamentary friend of her uncle James.<sup>26</sup> The address was followed by a Student Representative Council luncheon for the Lord Rector in the University Union at Teviot Row, also attended by Josephine.<sup>27</sup>

We know less about Eveline's politics but she was as active as Josephine in good causes. Her obituarist noted:

During her university days, Eveline held many posts that gave her experience of organisation and administration, such as Secretary and President of the Women Students' Union, and Students' Secretary of the Women's Branch of the Edinburgh University Settlement Association. After graduation, she also served for two years as Graduate Secretary for Women's Work, and as the Women's representative on the Council of the said Settlement Association.<sup>28</sup>

It seems highly likely, therefore, that the two women's association with each other extended well beyond the Faculty of Law. But now we must turn to the process by which they gained admission to the Faculty.

In her final MA year (1905-06) Josephine Stuart's subjects included Constitutional History. The significance of this was that the course was taught by Professor John Kirkpatrick of the Faculty of Law and was also a subject which, taken and passed at a higher level as Constitutional Law & History, could be counted towards the degree of LLB. Josephine's academic performance made a leap up in standard compared to previous years. She scored a remarkable 86 in Constitutional History. It must have been the interest and final mark in the subject that made the thought of studying Law an attractive and a real possibility for a politically minded, socially conscious and active woman.<sup>29</sup>

A further stimulus may also have come from the landslide victory of Henry Campbell-Bannerman's Liberal Party at the General Election held on 8 February 1906, opening up the prospect of serious governmental response to women's claims for equality alongside the many other social and welfare reforms projected by the party.<sup>30</sup> The new Prime Minister was known to agree in principle with women's suffrage. In May 1906 he received a deputation of suffragists including representatives from Scotland, in particular the Scottish Women's Liberal Federation. But this led to no commitment from a leader

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<sup>25</sup> The invitation survives among the Cameron family papers.

<sup>26</sup> *Reminiscences by James Stuart*, 253.

<sup>27</sup> The menu with toast list survives in the Cameron family papers.

<sup>28</sup> Lettice Milne Rae, "In memoriam Eveline MacLaren, MA, LLB", [1956] *The Chronicle: St George's School Magazine*, 35 (kindly brought to my attention by Nigel Shepley).

<sup>29</sup> The comments in this paragraph are reinforced by the survival amongst the Cameron family papers of a second class merit certificate for Josephine in an honours half course in Political Science taken in the summer session of 1905-06. This pass is not recorded on the transcript for Josephine's MA in the Edinburgh University Archives, perhaps because she did not need it for graduation.

<sup>30</sup> See F Balfour, *Dr Elsie Inglis* (Edinburgh, 1918), 100 et seq.

presiding over a party and government divided by the issue, although he told the women to keep on “pestering”.<sup>31</sup> Both ahead of and after the election there was indeed a significant increase in activism amongst women’s suffrage groups, notably the formation of the militant Women’s Social and Political Union by the Pankhursts in 1903 (the suffragettes). The Edinburgh National Society for Women’s Suffrage, formed in 1867,<sup>32</sup> was also expanding rapidly in 1906, although, with the great Elsie Inglis a leading figure, its activism took a suffragist, i.e. constitutional and non-violent, form.<sup>33</sup> A female’s application for admission to the Faculty of Law at this time was thus at least as much a political action as an investment in a professionally-oriented qualification that might bear fruit within the foreseeable future.

How Eveline became involved in the application to the Law Faculty we do not know. Two years had passed since her MA graduation. The suggestion has already been made that the MacLaren and Stuart families knew each other, while there is circumstantial evidence that Josephine and Eveline shared interests and may even have worked together in good causes. It also seems quite likely that after her first graduation if not before Eveline became involved in the work of her father’s firm and so saw the law in action, as it were, thus possibly whetting her own appetite for fuller knowledge of the subject and perhaps also contributing to Josephine’s interest. Younger sisters’ ambitions for medical careers may also have stoked the fires of professional as well as political ambition for Eveline.<sup>34</sup> Family tradition has it that she was something of a suffragette; but the link to medicine may suggest that she (and her sisters) leaned more to the suffragist side of the women’s movement.

Whatever the truth of all this, it seems clear that Eveline and Josephine acted together in making application for admission to the Faculty of Law in October 1906. Although they sent separate letters to the Dean of the Faculty, Sir Ludovic Grant, these obviously arrived more or less simultaneously and were couched in similar terms. Josephine’s son wrote later that “it was only after considerable resistance on the part of the university authorities that the two women were admitted” to the Law Faculty.<sup>35</sup> But the records suggest less resistance than cumbersome bureaucracy and governance structures within the University, although of course outright opposition may well have disguised itself in procedural and formal clothing. The records certainly demonstrate a process of referral up from Faculty to the University Senate and Court and then a to-ing and fro-ing running from first consideration by an inquorate Faculty on 12 October 1906 until a decision of the Court to admit the women, notified to Senate by letter on 2 March 1907 – some five months, all told. While this length of time to reach a decision may have felt like resistance to the two applicants, recall that under the ordinance implementing the Universities (Scotland) Act 1889 the University Court had to decide the Faculties to which women were to be admitted, not the Faculties themselves or the Senate as the University’s governing academic body. So seeking the views of Court was the only option for the Law Faculty and Senate to begin with. But it was reasonable for the Court also to consult both Faculty and Senate before taking its decision, and none of the three bodies was meeting at more than monthly

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<sup>31</sup> Leneman, *‘A Guid Cause’*, 40-42.

<sup>32</sup> *Ibid*, 12.

<sup>33</sup> *Ibid*, 39.

<sup>34</sup> See University of Edinburgh Archives, Medical Graduates 1912 and 1914 (DA 43).

<sup>35</sup> Letter from Josephine’s son Joseph Gordon Stuart Cameron WS (partner in Stuart & Stuart WS) published in 1982 SLT (News) 330, presumably reflecting what his mother told him.

intervals in the 1906-07 session. Had the Law Faculty expressed a positive view straightaway the matter might have been short-circuited; but, for whatever reason, it did not do so.

A further point to be borne in mind is the small and close-knit world of Edinburgh law. Eveline MacLaren and Josephine Stuart must already have been known about by, if not actually personally known to, the members of the Law Faculty, many of whom were advocates and solicitors practising as well as teaching law. They would surely have known who the womens' fathers were, given that each man had been a prominent practitioner in a highly reputable firm for thirty years and more. Further, Josephine's roles as student and political activist must have given her personally a certain profile in the University even before she made her application. The same may have been true of Eveline. But none of this suggested that either woman would disrupt the established order beyond simply being allowed to study law and perhaps in due course bringing under renewed scrutiny and through due process, probably legislative in nature, the 1901 court decision denying women admission to the profession. With women forging ahead in the medical profession, that was scarcely a radical notion.

The best evidence that there was no real opposition in the Law Faculty to the admission of women, however, is the fact that, while the University decision-making process ground towards its probably inevitable conclusion, Eveline and Josephine actually spent the session of 1906-07 studying in Law classes which would later count towards their LLB degrees. Moreover, they performed outstandingly well in those classes, making a nonsense of any suggestion that the subject-matter would somehow be beyond or inappropriate for the feminine mind. None of this necessarily constituted a subversion of the University's procedures or optimistic anticipation of their likely outcome; rather all the courses involved were ones which women could already take towards the MA degree. It was possibly for this reason that Josephine did not actually graduate with her MA until April 1907, by when it was clear that her ambition to go on to the LLB would be allowed. Only in June 1907 did she receive from Professor Kirkpatrick the oral (in which however she performed, as Kirkpatrick reported by letter to the Dean, "creditably") that was needed to convert her MA pass in Constitutional Law & History into an LLB one.<sup>36</sup> Presumably if matters had gone otherwise in the Court the already graduated Eveline would simply have had her Law passes counted as Arts ones on a non-graduating basis.

Another family tradition is that the women's first entry into the occasionally rowdy Law classes at Old College was greeted with cheers from their male colleagues.<sup>37</sup> Many of the law students must have been delighted to escape the hitherto unrelieved masculinity of law. One of the male Law students, James Douglas Cameron, was certainly deeply impressed by Josephine, since he would eventually marry her.<sup>38</sup>

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<sup>36</sup> Kirkpatrick's letter is clipped to Josephine Gordon Stuart's record as an LLB student held in the University archives in the collection "Graduates in Law (LLB) 1904-1924".

<sup>37</sup> 1982 SLT (News) 330. For the "possibilities of disorder on the part of a foolish and irresponsible minority" in the Law classes, see James Mackintosh, "Reminiscences of an emeritus Professor of Law", (1939-40) 10 *University of Edinburgh Journal* 14-19.

<sup>38</sup> The best man was William Wilson LLB, who became Professor of Public Law and the Law of Nature and Nations at Edinburgh in 1922: 1982 SLT (News) 330.

The Law examiners were also favourably impressed. The stellar performances of the two women continued throughout their degree studies. In 1907-08 Josephine's greatest triumph was in Professor John Rankine's Scots Law course, where she was ranked second in the class, bested only by John Lillie, later an advocate, university lecturer and author on mercantile law, and sheriff of Fife. In his memoirs, Lillie describes how he borrowed a special revision technique from his banker cousin in order to scale the pinnacles of the Scots Law examination, but ignores the presence of a female rival for the prize.<sup>39</sup> Perhaps he was one of those less enamoured of the presence of women in the law classes. We will never know how much Lillie enjoyed Rankine's dinner party for his prize-winners at home in Ainslie Place on 17 March 1908, to which Josephine and Eveline were invited, the necessary chaperoning being presumably provided by the presence of the bachelor Professor's two nieces.<sup>40</sup>

The Dean of the Faculty of Law, Professor Sir Ludovic Grant, praised his first two female students in somewhat elephantine but nonetheless sincere and glowing terms in a testimonial for Josephine written in June 1909:

As events proved, two ladies better qualified to lead the van could not have been found. They acquitted themselves with signal brilliance and distinction, and made it abundantly evident that if courtesy is ceasing to compel obedience to the old rule "*place aux dames*" merit may still compel it.<sup>41</sup>

Further testimonials for Josephine from her professors and lecturers, all handwritten in the first few months of 1909 as she approached graduation, likewise sing her praises. Probably Eveline collected a number of similar documents as well. What we do not know is whether these testimonials procured any appointments. That may not have mattered for Eveline, who in all probability was working contentedly enough under her father in Duncan Smith & MacLaren at 62 Frederick Street. But Josephine may have been looking for something other than a place with Stuart & Stuart at No 56, to judge from the existence of a further testimonial to her qualities written in October 1910 by her friend and co-worker for women students in Edinburgh University, Isabel Mitchell BSc. Isabel, incidentally, could proudly design herself as "of the Research Laboratory of Messrs Duncan, Flockhart & Co, Manufacturing Chemists and Druggists, Edinburgh; formerly Demonstrator Physics and Carnegie Demonstrator in Physiology School of Medicine for Women Edinburgh".<sup>42</sup> Photographs survive of Josephine on holiday in Egypt in January 1912, visiting the Sphinx, Luxor, Heliopolis and Aswan, and while this need not connote that she was living a life of idleness, no evidence of any sustained employment between her graduation and her marriage appears now to exist.

### **What happened next**

The Liberal Government failed to fulfil any implicit promise it may have been thought to offer on legislative moves towards equality for women. Campbell-Bannerman's resignation

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<sup>39</sup> J A Lillie, *Tradition and Environment in a time of change* (Edinburgh, 1970), 36-37.

<sup>40</sup> Letter to Josephine from Rankine dated 17 March 1908 preserved in the Cameron family papers.

<sup>41</sup> See *Stuart Story*, 48, for the full text of this testimonial, the original of which appears to be no longer extant.

<sup>42</sup> The testimonial survives in two copies in the Cameron family papers; one handwritten, the other a typed copy.

as Prime Minister in April 1908, and his replacement by “an implacable opponent to women’s suffrage”, Henry Asquith, who would remain in office until 1916, ensured the embittered prolongation of the struggles of the women’s movement.<sup>43</sup> The ultimate success of the pressures exerted by the suffragists and suffragettes came only after World War I. The Sex Disqualification (Removal) Act 1919 provided that “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 office or post ... or from entering on any civil profession or vocation”. Madge Easton Anderson, who was the first female law graduate at Glasgow University (in 1919), became also the first woman to be admitted as a Scottish law agent in 1920, having already served a three-year apprenticeship with a qualified master.<sup>44</sup> Aberdeen’s first woman law graduate, Elizabeth Barnett, took her LLB in 1921, having previously graduated MA in 1917, and she then qualified as a law agent in 1924.<sup>45</sup> The first woman to enter the Faculty of Advocates, in 1923, was Margaret Kidd MA (1920), LLB (1922) of Edinburgh University.

The breakthrough of the 1919 Act may have come just too late, however, for the pioneer women law graduates of ten years before. As already noted, Josephine Gordon Stuart had in 1915 married one of her LLB class-mates, James Douglas Cameron (by then a solicitor), and in 1919 they had a son, named after his father. A second son, Joseph Gordon Stuart Cameron, was born in 1927, when Josephine must have been 43 or 44. She “occasionally help[ed] her father in his firm”,<sup>46</sup> but if so, it must have been before his death in 1925. She never completed the professional qualification available after 1920, and as a wife and mother the option was probably never really open. Her husband did not return to legal practice following service as a Major in the Royal Artillery in the First World War, “after which he successively became a civil servant, poultry farmer and latterly District Clerk at West Linton, Peeblesshire”.<sup>47</sup> One has a sense of lives unsettled in the aftermath of war, not helped by harsh times economically. Tragedy overtook the couple in 1942 when their older son, serving in the RAF, was shot down over Germany and killed at the age of 23. The couple retired to Edinburgh in 1950, and Josephine died at the age of 71 in October 1955. She thus did not live to see her surviving son, by then a partner in Stuart & Stuart, distinguish himself with the 1966 publication of the Scottish Universities Law Institute volume on *Landlord and Tenant*, co-authored with G Campbell H Paton.

In contrast, Eveline MacLaren did not marry and instead became deeply involved in legal practice in her father’s firm, Duncan Smith & MacLaren SSC at 62 Frederick Street,

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<sup>43</sup> For the story in Scotland see Leneman, *A Guid Cause*, 56 et seq. On Asquith see H C G Mathew, “Asquith, Herbert Henry (1852-1928)”, ODNB. Given the Stuart family’s strong Fife and St Andrews connections, that Asquith was MP for East Fife is somewhat ironic.

<sup>44</sup> See the Glasgow University website (<http://www.universitystory.gla.ac.uk/biography/?id=WH1693&type=P>); and *Anderson Petitioner* 1921, 1 SLT 48, the main issue in which was whether the period of the indenture of apprenticeship served before the 1919 Act came into force could count. The court held in favour of the petitioner.

<sup>45</sup> T Watt (ed), *Roll of the Graduates of the University of Aberdeen 1901-1925* (1935), 26. See also N Shepherd, “Women in the University fifty years: 1892-1942” (1941-42) 29 *Aberdeen University Review* 171-181 at 178. The further comment here, that Elizabeth was “not the first Aberdeen graduate to have taken Law, Edith Morrison being already a Barrister-at-Law”, is explained by the fact that Edith was an Aberdeen MA of 1909 who was admitted as a barrister-at-law in Gray’s Inn in 1923 (Watt, *Roll of Graduates*, 434).

<sup>46</sup> *Stuart Story*, 45, 49.

<sup>47</sup> *Ibid.*, 45.

both before and for long after his death in 1924. But Eveline was never formally admitted to the profession either. Immediately before Duncan MacLaren's death in 1924 there were two other partners in Duncan Smith & MacLaren: his son Alasdair Iain WS, and one Alexander Nisbet, who had been admitted as a law agent in 1921 and joined the firm around 1923. But Alasdair Iain emigrated in 1924 to become President of the Court of First Instance in Baghdad, where he remained until 1929.<sup>48</sup> He did not re-engage with his former firm on his return, perhaps because of the ill-health that may have led to his early death in 1933 at the age of only 44. The only certificated practitioner listed in Duncan Smith & MacLaren from 1925 on was therefore Alexander Nisbet. But he disappears from all lists from about 1940, and thereafter, although the firm continued to occupy its office in 62 Frederick Street, no individual name is mentioned in it. Possibly Nisbet's exit, for whatever reason it occurred, was a crisis from which the firm was rescued by its near neighbour, Balfour & Manson, which had moved into 58 Frederick Street in 1932. William Balfour and Peter Manson, who had founded the firm in 1888,<sup>49</sup> were still in practice at the outbreak of World War II, and probably had known Eveline's father long before his death. There is some recollection amongst former Balfour & Manson partners that Eveline linked Duncan Smith & MacLaren with them so that documents and other transactions needing the signature or participation of a qualified solicitor were lawfully executed. Certainly the connection between the two businesses was facilitated by knocking a passageway through a dividing wall between their respective offices.<sup>50</sup> Duncan Smith & MacLaren continued a shadowy existence until as late as 1969, when it was finally absorbed in Balfour & Manson.<sup>51</sup> Today the latter's premises at 54-66 Frederick Street still embrace what were the offices of Duncan Smith & MacLaren as well as the 1909 home of Stuart & Stuart at No 56.

Those still living who knew Eveline recall a very secure and happy person. She was in essence the manager of Duncan Smith & MacLaren, and ran what seemed at the time a rather old-fashioned office in which many of the unqualified staff were very loyal retainers, probably from before 1924. The firm also kept many good-quality clients. Eveline's circle was by no means limited to the practice of law in Edinburgh. With her medical sisters she took an active interest in public health issues. She had connections with the London publisher Victor Gollancz and his solicitors in the City, Rubenstein Nash. The famous historian Lewis Namier was one of her friends and admirers.<sup>52</sup> It sounds like a life which

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<sup>48</sup> *WS Register*, 205.

<sup>49</sup> See H L MacQueen, "Edinburgh lawyers 1908-2008", *Book of the Old Edinburgh Club*, vol 10 (forthcoming).

<sup>50</sup> Information from Miss Ethel Houston and Messrs Ian and William Balfour (all retired partners of Balfour & Manson). The passage connected the two offices under the steep stairs leading up from the front door of No 60 to the flats above.

<sup>51</sup> Ethel Houston thinks that the firm may latterly only have existed on Balfour & Manson notepaper, as one "incorporated" in the firm. At the lecture William Windram shrewdly observed that the ownership of 62 Frederick Street may have underlain the firm's continuing existence. If Duncan and Eveline MacLaren had successively held the title to the building, it may have passed in 1955 to sister Jessie, who did not die until 1969, the year when Duncan Smith & MacLaren finally ceased to exist. Further research on this point is certainly required.

<sup>52</sup> Ethel Houston thinks that Namier may have wished to marry Eveline. He certainly had a chequered matrimonial and sexual career before finally marrying eventual biographer, Julia, in 1947. Eveline is not mentioned in Julia Namier, *Lewis Namier: A Biography* (Oxford, 1971), but Scottish connections and visits in the 1920s and 1930s are referred to at 189-193, 199, 232-235; see also photograph opposite 238. Other treatments of Namier's life (Linda Colley, *Namier* (London, 1989); John Cannon, "Namier, Sir Lewis Bernstein (1888-1960)" ODNB) make no reference to any Scottish links.

was not without its difficulties, crises and sadnesses, but which was also full and rounded. She too died in 1955, just a month or so after Josephine.

The initiative seized in 1906 by Eveline MacLaren and Josephine Gordon Stuart has led on to a situation today where the majority of modern law students in Scotland, by a considerable margin, is female. This has been true more or less since the early 1980s, (in 1978 the presence of girls amongst law graduates could still excite a press photographer). The pattern is also reflected in figures about entrants to the profession. In September 2008 the number of women beginning the Faculty of Advocates' training course was for the first time greater than the number of men, while the most recent available annual statistics for admission as a solicitor in Scotland show 353 women being admitted as against 199 men.<sup>53</sup>

But despite this, the feminisation of Scottish law since 1920 outside its classrooms and training places has actually not been headlong. Acceptance of women by the profession itself was extremely slow. No further females after Margaret Kidd were admitted to the Faculty of Advocates until 1949. The professional societies of solicitors remained men-only clubs until even later. The Society of Advocates in Aberdeen led the way when it admitted Elizabeth Barnett as its first woman member in 1964, but the same step took until 6 December 1976 for the WS Society,<sup>54</sup> and the Solicitors to the Supreme Court followed suit only on 3 July 1979.<sup>55</sup> In the world of public office, the first female judge in the Court of Session was appointed in 1996;<sup>56</sup> the Law Society of Scotland elected its first (and so far only) woman President in 2005.<sup>57</sup> The first female Lord Advocate was appointed to her post in 2006, having been previously the first woman (and non-advocate) to be Solicitor General for Scotland (appointed in 2001). The first woman law professor in Scotland was Sheila McLean of Glasgow, appointed in 1990; but the first woman law professor to take up an appointment in the Edinburgh Law School – Anne Griffiths – did so only in 2004. In 2008 female partners in solicitors' firms are not unusual; but the ratio of women to men still tilts strongly in the latter's favour, just as there are still only five female judges in the Court of Session,<sup>58</sup> five women amongst 17 permanent sheriffs in Edinburgh,<sup>59</sup> 15 female QCs out of 96 altogether at the Scots bar,<sup>60</sup> and three women law professors (out of 18 altogether) in the Edinburgh Law School.<sup>61</sup> The Faculty of Advocates has never had a female Dean.

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<sup>53</sup> *The Times*, 26 September 2008; Law Society of Scotland Annual Report and Accounts 2007, 8.

<sup>54</sup> *WS Register*, xxv, 311. This Miss Stuart was so far as I know unrelated to the Stuart family who have been at the centre of this paper.

<sup>55</sup> J B Barclay, *The SSC Story 1784-1984: Two Hundred Years of Service in the College of Justice* (Edinburgh, 1984), 221. Barclay notes that the issue had been under discussion in the Society for the previous 27 years. Rather a late start to a then remarkably prolonged debate, one feels.

<sup>56</sup> She took the judicial title Lady Cosgrove and retired in 2006.

<sup>57</sup> The Society's first female (and non-solicitor) chief executive, Lorna Jack, took up office in January 2009.

<sup>58</sup> Ladies Paton, Smith, Dorrian, Clark of Calton and Stacey. See the Scottish Courts website for a current list of the Court of Session and High Court of Justiciary judges (<http://www.scotcourts.gov.uk/session/judges.asp>).

<sup>59</sup> For a current list of sheriffs see the Scottish Courts website, <http://www.scotcourts.gov.uk/sheriff/sherifflist.asp>.

<sup>60</sup> *The Times*, 26 September 2008, also noting that 110 of the 462 practising members of the Faculty were women.

<sup>61</sup> Professors Jo Shaw (2004), (who was actually appointed before Professor Griffiths but took up her post later) and Charlotte Waelde (2008) in addition to Anne Griffiths. More women professors can be found at other Scottish law schools.

Enough has now been said to make clear the significance of Eveline MacLaren and Josephine Gordon Stuart and their LLB graduations in the history of Scottish legal education and the Scottish legal system, in particular the history of the legal profession. It is also apparent that their story fits into a general background of the contemporary pursuit of women's rights. But were they 'feminists'?<sup>62</sup> Apart from the point that outside France women in the early twentieth century would probably not have understood the word, the issues involved include the extent to which they challenged the gendered premises of the legal system and the legal profession, or simply sought a place for themselves in that masculine world.

Challenge there must certainly have been; but more probably for the women concerned than for law or the legal profession. A man may find it impossible to realise fully what it must have been like for a woman to find her way in law lecture halls, solicitors' offices, courts or professional societies constructed and controlled entirely by and for men. Moreover the law itself forbade women to enter these places with professional intent.

Yet Eveline and Josephine did not seek to change or feminise these masculine spaces. All they wanted was access and opportunity to have what men already had. They began their law studies with courses they were entitled to take in the MA degree. Only Margaret Hall challenged the status quo directly, but even her argument was essentially that the law did not prohibit the admission of women to the law agents examinations, not that it *should* be permitted regardless. Again, unlike medicine, there was never any separate education or training in law for women in Scotland. In this, the position was the same as elsewhere around the western world; but while that "arguably promoted gender equality", it "may also have ... subtly undermin[ed] their sense of connection to the goals of the women's movements".<sup>63</sup> Nor is there apparent much overt motivation from an idea that was certainly important in medicine, that women in general would prefer to receive professional services from other women.<sup>64</sup> Lastly Eveline's decision (for such it must surely have been) not to take up professional qualification after 1920, while being effectively a principal in private practice, may to some extent have cocked a snook at the authorities, but also shows that she was by then content with the accommodation already achieved between her sex and her professional standing and practice.<sup>65</sup> Only around 1940, when Alexander Nisbet disappeared from the firm of Duncan Smith & MacLaren, may she have had occasion to regret past opportunities missed.

The graduations of 1909 did initiate important change for Scots law, but not quite an immediate revolution; indeed the process of change is still working itself out, especially in

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<sup>62</sup> Mary Jane Mossman, *The First Women Lawyers: A Comparative Study of Gender, Law and the Legal Professions* (Oxford and Portland, Oregon, 2006), 287.

<sup>63</sup> *Ibid*; also 283.

<sup>64</sup> The idea is mentioned by Margaret Hall in her "Women as lawyers", 226 ("many women, if they had the opportunity, would much prefer to consult a member of their own sex more particularly in matters pertaining to social relationships").

<sup>65</sup> See Mossman, *First Women Lawyers*, 9 ("the experiences of women who worked in law without formal admission reveal how the boundaries of legal professionalism sometimes shifted, and how gender was sometimes accommodated without ever being formally acknowledged").

the world of legal practice.<sup>66</sup> In legal education and training, women predominate amongst the consumers but are still under-represented at the upper levels of the suppliers' staff hierarchy, just as they are at the higher levels of the practising profession. Sociologists might however find it an interesting study to explore the effects of a significant feminine presence in the contemporary cultures of the academy and the profession, and to compare it, as far as that is possible, with those prevailing in 1909 and since. I suspect more change in the last thirty years than in the preceding seventy. But even now the pace of change is not one on which we moderns should congratulate ourselves at the expense of our predecessors a century ago.

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<sup>66</sup> See U Schultz and G Shaw (eds), *Women in the World's Legal Professions* (Oxford and Portland, Oregon, 2003), which remarks of Scotland only the absence of data: "the profession has all but refused to take any steps to recognise that discrimination may be a problem" (at 140 note).