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Elizabeth Legge\*

On Being a Second: Grace Wambolt,  
Legal Professionalism and 'Inter-Wave'  
Feminism in Nova Scotia

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*Grace Wambolt was the fifth female graduate of Dalhousie Law School and the second woman to practise law in Nova Scotia. She was one of the relatively few female lawyers in Canada (up to the influx of the nineteen-seventies) who practiced law following the push by the first female lawyers for the elimination of formal barriers to practice. This paper examines the similarities and differences between the "firsts" and those who followed them, primarily by looking at the life of Wambolt and her letters and speeches preserved in the Wambolt fonds located in the Nova Scotia Archives and donated by Wambolt herself. The paper concludes with a comparison between Wambolt's efforts to obtain equality and justice for all women and those of the "firsts" who tended, for various reasons, to be less connected to the women's movement.*

*Grace Wambolt est la cinquième femme diplômée de la faculté de droit de l'Université Dalhousie et la deuxième femme à pratiquer le droit en Nouvelle-Écosse. C'est l'une du nombre relativement petit d'avocates au Canada (jusqu'à l'afflux des années mil neuf cent soixante-dix) qui ont pratiqué le droit après la pression exercée par les premières avocates et l'élimination d'obstacles formels à la pratique. L'auteure examine les similitudes et les différences entre ces « pionnières » et celles qui les ont suivies. Elle s'intéresse particulièrement à la vie, à la correspondance et aux textes des discours de Grace Wambolt donnés par cette dernière et conservés aujourd'hui dans le fonds Wambolt aux Archives de la Nouvelle-Écosse. Elle conclut par une comparaison entre les efforts de Grace Wambolt pour obtenir égalité et justice pour toutes les femmes et les efforts des pionnières qui ont eu tendance, pour divers motifs, à être moins proches du mouvement des femmes.*

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*Introduction*

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*Introduction*

Grace Wambolt began law school at Dalhousie in 1921, four years after the Nova Scotia legislature amended the *Barristers and Solicitors Act* to allow women to be called to the bar in Nova Scotia.<sup>1</sup> She was the fifth woman to attend Dalhousie Law School and the second to begin practising in Nova Scotia after being admitted to the bar on 10 July 1925. She practised at the firm of Yeoman and Matheson, and became a partner with Robert Yeoman in 1929 under the name Yeoman and Wambolt. She took over the practice as a solo practitioner in 1940 and remained there until retiring in 1977. In 1950 she was appointed King's Counsel along with Emelyn MacKenzie, and together they were the first two women in Nova Scotia given the honour. In 1951 she was the first woman elected to the council of the Nova Scotia Barristers' Society.<sup>2</sup>

Grace Wambolt was a trailblazer, but she did not face the same kinds of formal barriers as the very first women lawyers; she did not have to break down doors to enter the profession. The "firsts," the women who directly challenged the law societies and legislatures to change the rules barring women from practising law, have received considerable attention from academics. There is comparatively little written on women like Grace Wambolt who followed, the relatively few women who entered the profession after the "firsts," but before the wave of women entering the profession in the 1970s. This paper, based on Wambolt's letters, speeches, and writings, attempts to fill this gap by looking at how she understood her place in the legal profession and situating her career in the broader literature on the legal profession and women's activism in the early to mid-20th

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1. *An Act to Amend Chapter 164, Revised Statutes of 1900, "The Barristers and Solicitors Act,"* SNS 1917, c 41 [*Act to Amend the Barristers and Solicitors Act*].

2. "M. Grace Wambolt," online, Memory NS: <<https://memoryns.ca/m-grace-wambolt-fonds>>.

century.<sup>3</sup> There are several ways in which Grace Wambolt's experiences as a lawyer mirror those of the "firsts" in Canada and internationally: her correspondence with other women lawyers show many of the same concerns and struggles. However, her deep involvement with women's issues is a marked departure from the "firsts," whose struggles often had a tenuous relationship with the first-wave feminist movement.

I have restricted my study to Wambolt's own papers, and so my study of her life will be incomplete. The Grace Wambolt fonds at the Archives of Nova Scotia was donated by Wambolt herself, and represents only what she found significant and worth keeping. They are not representative of her whole professional or personal life. Moreover, only her own perspective will be presented in this paper as my research did not include an investigation of how she was received by the profession at large. Nonetheless, her papers do show what she felt was significant about her career and how she understood her place in the legal profession.

I begin this paper with a brief review of the literature on the history of women in the legal profession in Canada. In the second section, I look at how women came to be accepted to the bar in Nova Scotia. I then consider Grace Wambolt as one of the "seconds" and "thirds": the handful of women practising law after the "firsts." Using the papers she donated to the Archives, I consider how Wambolt's experience in finding a place for herself in the legal profession mirrors or differs from those of women who came before her. In the last section, I look generally at the ways this coterie of early women lawyers interacted with the broader women's movement and, in particular, Grace Wambolt's activist work for women's rights.

### I. *Historiography of early women lawyers*

In Canada, there is a growing literature on the experiences of women in law in the twentieth century. A legal scholar from the University of Manitoba, Cameron Harvey, seems to have published the first article on Canadian women in the law in 1970, "Women in Law in Canada." This is not a history per se, but a sociological study based on a survey sent to practising women lawyers and first-hand accounts from women in law.<sup>4</sup> About forty

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3. Jennifer Servinis wrote a paper on Grace Wambolt as a student at Dalhousie University in 1998. I corresponded with her but was unable to obtain a copy as the electronic file has been lost: email from Jennifer Servinis to the author (12 April 2016); Jennifer Servinis, *The Exclusiveness of the Legal Profession in Canada and how one Nova Scotian Woman Rose to the Challenge: M. Grace Wambolt Q.C.* [unpublished paper, Dalhousie University, 1998].

4. This survey was sent to Grace Wambolt, who returned the survey along with a "very complete" letter: Letter from Cameron Harvey to Grace Wambolt (22 July 1970) Halifax, Archives of Nova Scotia (MG 1, vol 1596, file 85).

percent of the women who completed his survey indicated that they had experienced discrimination as a woman in law.<sup>5</sup> Harvey chose not to draw many conclusions, but to present his findings largely without comment.

A number of biographical articles have focussed on particular women lawyers, usually the women who, by virtue of being the first to try to gain admission to the profession, fought the formal boundaries barring women from the bar. Clara Brett Martin, the first woman to be admitted to a Canadian bar and Canada's only woman lawyer in the nineteenth century, has received considerable attention. In 1985, Constance Backhouse first wrote about Martin's struggle to gain admission to the Ontario bar and invited further study from others.<sup>6</sup> A review of the literature on Martin is an interesting topic in itself as the tone of the treatment shifted from Backhouse's first account of Martin's "heroic" struggles to a more critical view after historians began looking in detail at Martin's life and career.<sup>7</sup> Discovery of Martin's bigoted and anti-semitic views upset the original triumphal narrative, and led to a more critical narrative from Backhouse and others.<sup>8</sup> Other women in law who have received scholarly attention include Mabel Penery French, the first woman to be called to the bar in New Brunswick and British Columbia;<sup>9</sup> Gretta Wong Grant, the first Chinese-Canadian woman lawyer;<sup>10</sup> Annie Macdonald Langstaff, the first woman to graduate from McGill law school, who was never allowed to practice law in Quebec;<sup>11</sup> and Francis Fish, the first woman called to the bar in Nova Scotia.<sup>12</sup>

More recently, Mary-Jane Mossman published the very thorough *The First Women Lawyers: A Comparative Study of Gender, Law, and the Legal Professions*.<sup>13</sup> Mossman's monograph is a comparative study, examining the experiences of early women lawyers in the United States, Canada, Britain, New Zealand, the British colonies (particularly British India)

5. Cameron Harvey, "Women in Law in Canada" (1970) 4 Man LJ 9 at 10.

6. Constance Backhouse, "'To open the way for others of my sex': Clara Brett Martin's Career as Canada's First Woman Lawyer" (1985) 1 CJWL 1.

7. See, e.g., Lita-Rose Betcherman, "Clara Brett Martin's Anti-Semitism" (1992) 5 CJWL 280; Robert Martin, "The Meteoric Rise and Precipitous Fall of Clara Brett Martin" (2007) 21 Inroads 166.

8. See, e.g., Constance Backhouse, "Clara Brett Martin: Canadian Heroine or Not?" (1992) 5:2 CJWL 317.

9. Lois Yorke, "Mabel Penery French (1881–1955): A Life Re-Created" (1993) 42 UNBLJ 3.

10. Constance Backhouse, "Gretta Wong Grant: Canada's First Chinese-Canadian Female Lawyer" (1996) 15 Windsor YB Access Just 3.

11. Gilles Gallichan, *Les Québécoises et le barreau: L'histoire d'une difficile conquête 1914–1941* (Sillery, QC: Septentrion, 1999).

12. Barry Cahill, "'Everybody Called Her Frank': The Odyssey of an Early Woman Lawyer in New Brunswick" (2011) 2 J New Brunswick Studies <journals.lib.unb.ca>.

13. Mary Jane Mossman, *The First Women Lawyers: A Comparative Study of Gender, Law and the Legal Profession* (Oxford and Portland: Hart Publishing, 2006).

and Continental Europe (particularly France). Despite the differences in times and places, she identifies several themes and challenges from the shared experiences of the women that she profiles. Mossman looks both at women who were able to challenge and break down formal barriers, such as Clara Brett Martin in Canada and Ethel Benjamin in New Zealand, and at women who were forced to pursue legal careers in law outside the structures of the "gentleman's profession," such as Eliza Orne in Britain. While Mossman emphasizes that the particularities of women's lives, their individual personalities, and the resources available to them are as important as the structures and ideologies they threatened, she spends less time on those aspects of the lives of the women she highlights.

As a comparative study, the work lends itself to identifying patterns and themes over particularities. For example, Mossman identifies three groups of early woman lawyers: those who practised full-time and never married; those who practised law for a time and then left the profession, often to get married; and those who engaged in legal work without formally joining the profession. When she looks at individual lives, it is often to draw comparisons between the women and categorise their experiences. This approach sheds light on how a gendered profession reacts to intrusion. It also reveals how women struggled to reconcile their identities as women and as professionals and how they prioritized those identities differently than their male colleagues or women in other professions.

The literature on early American women lawyers is extensive. There are a number of monographs and countless articles, focusing on both individual women and the experience of women in the law more generally. Two books by Virginia G. Drachman on the American context were particularly useful for this paper. *Women Lawyers and the Origins of Professional Identity in America*, published in 1993, is an edited collection of letters of the "Equity Club," a correspondence club of 19th century women lawyers in America.<sup>14</sup> The Equity Club was the first all-women professional organisation in law in the United States, and predated a Canadian organisation by about fifty years. Apart from a lengthy introduction, the letters are presented largely without comment. In her 1998 monograph, *Sisters in Law: Women Lawyers in Modern American History*, Drachman argues that law was the most gendered and difficult profession for women to enter. Masculinity was inherent to the

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14. Virginia Drachman, *Women Lawyers and the Origins of Professional Identity in America: The Letters of the Equity Club, 1887 to 1890* (Ann Arbor: University of Michigan Press, 1993) [Drachman, *Origins of Professional Identity*].

legal profession, “fundamental to its principles, values, and culture.”<sup>15</sup> She looks at how women sought to integrate their professional and gender identities, finding that creating communities of women was a significant factor in carving out a niche in the profession.

There is also a small but growing literature on the women who followed the “firsts.” The experiences of women lawyers in Manitoba,<sup>16</sup> Ontario,<sup>17</sup> Alberta,<sup>18</sup> and British Columbia<sup>19</sup> have been considered. Melanie Brunet wrote her PhD thesis on women law students in Ontario, Quebec, and Nova Scotia between 1920 and 1980. Her work focussed on how professional identity was shaped by the law school experience for the “seconds” and “thirds” entering the profession.<sup>20</sup>

## II. *Opening the doors to women lawyers*

In 1917, the Nova Scotia legislature amended the *Barristers and Solicitors Act*, which declared women eligible to be admitted to the bar “upon the same terms and subject to the same conditions and regulations as men.”<sup>21</sup> In the same year the legislature rejected a bill that would have granted women the right to vote in provincial elections. As Barry Cahill points out, these two actions are incongruous. From a citizenship perspective, it is unconventional that a barrister would not have had the right to vote.<sup>22</sup> He suggests that the male legislators approached the two measures differently because of the scope of the change each represented. Only one or two women were expected to be called to the bar, whereas enfranchising women could inundate polling stations.<sup>23</sup>

There was no formal connection between the amendment to the *Barristers and Solicitors Act* and the bill on women’s suffrage. The

15. Virginia Drachman, *Sisters in Law: Women Lawyers in Modern American History* (Cambridge: Harvard University Press, 1988) at 2 [Drachman, *Sisters in Law*].

16. Mary Kinnear, “That There Woman Lawyer: Woman Lawyers in Manitoba 1915–1970” (1992) 5:2 CJWL 411.

17. Cecilia Morgan, “‘An Embarrassingly and Severely Masculine Atmosphere’: Women, Gender and the Legal Profession at Osgoode Hall, 1920s–1960s” (1996) 11:2 CJLS 19.

18. Sandra Petersson, “Ruby Clements and Early Women of the Alberta Bar” (1997) 9:2 CJWL 365.

19. Dorothy Chunn & Joan Brockman, “‘Into the Rough of Things’: Women Lawyers in British Columbia, 1912–1930” in Constance Backhouse & W Wesley Pue, eds, *The Promise and Perils of Law: Lawyers in Canadian History* (Toronto: Irwin Law, 2009) 245.

20. Melanie Brunet, *Becoming Lawyers: Gender, Legal Education and Professional Identity Formation in Canada, 1920–1980* (PhD Thesis, University of Toronto Department of History, 2005) [ProQuest Dissertations Publishing, 2005].

21. *Act to Amend Chapter The Barristers and Solicitors Act supra* note 1, s 2.

22. Barry Cahill, “Legislated Privilege or Common-Law Right? Provincial State Intervention and the First Women Lawyers in Nova Scotia” in Janet Guildford & Suzanne Morton, eds, *Making up the State: Women in 20th-Century Atlantic Canada* (Fredericton: Acadiensis Press, 2010) 79 at 80 [Cahill, “Legislated Privilege or Common-Law Right”].

23. *Ibid.*

Halifax Local Council of Women and the Women's Christian Temperance Union, the most prominent women's groups in Halifax, were proponents of the suffrage initiative but did not promote the cause for women lawyers. Likewise, the aspiring women lawyers made no public indication of support for women's suffrage.<sup>24</sup> Despite this disconnect, the timing of women's enfranchisement often closely coincided with the enactment of legislation allowing women to become lawyers in the provinces.<sup>25</sup> Indeed, women in Nova Scotia were granted the right to vote a year later, in 1918. Mossman suggests a "spirit of expanding opportunity" for women benefited both movements.<sup>26</sup>

Cahill suggests that the Nova Scotia amendment to the *Barristers and Solicitors Act* was unique in Canada in that it was declaratory, having the same force as if it had been included in the original 1899 legislation, rather than substantively amending the law to accommodate women.<sup>27</sup> The amendment had the support of Hector McInnes, the president of the Nova Scotia Barristers' Society whose wife, Charlotte McNeil, was a feminist.<sup>28</sup> The legislature determined such an amendment was necessary for clarity's sake, suggesting the entitlement would not be contested. Indeed, a petition was submitted to the legislature from forty lawyers in the province "praying that women be not enabled to practice law in the province."<sup>29</sup> The petition argued, "such Legislation is not in the interests of the female sex nor of the Public and tends to lessen the proper sphere of the Bar and the action of the Courts before which all practitioners must appear."<sup>30</sup>

Although Cahill dismisses the petition as representing "a mere 13 per cent of barristers resident in NS," the ideas the petition contained echoed the reasons of Justice Barker who had denied Mabel Penery French the right to be called to the bar of New Brunswick a decade earlier. Justice Barker quoted with approval Justice Bradley of the United States Supreme Court in *Bradwell v State of Illinois*:

The civil law, as well as nature herself, has always recognized a wide difference in the respective spheres and destinies of man and woman. Man is, or should be, woman's protector and defender. The natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life.<sup>31</sup>

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24. *Ibid.*

25. Mossman, *supra* note 13 at 88.

26. *Ibid.*

27. Cahill, "Legislated Privilege or Common-Law Right," *supra* note 22 at 85.

28. *Ibid.* at 82.

29. Mossman, *supra* note 13 at 68.

30. Cahill, "Legislated Privilege or Common-Law Right," *supra* note 22 at 86.

31. *Bradwell v State of Illinois*, 83 US 130 (USSC, 1872). *French, Re* (1905), 37 NBR 359, 1905 CarswellNB 53.



It is clear that there was a live controversy over the proper role of women in public life, and whether women could be part of the “gentleman’s profession.”<sup>32</sup> Moreover, the language of the amendment, that women are eligible “on the same terms” as men, reinforces the idea that the law is a fundamentally male profession, even as it professes the formal equality of men and women.<sup>33</sup> The legislation did not mark the end of the debate about women’s place in the legal profession, but was a part of a continuing public debate about contested women’s roles and ideas of legal professionalism.<sup>34</sup>

### III. *Following the Firsts*

Like other early women lawyers in Canada, Grace Wambolt’s career took place in the context of changing conceptions of women’s rights and new ideas about legal professionalism.<sup>35</sup> The ways in which Wambolt understood her role as a woman on one hand and a lawyer on the other sometimes seem contradictory. Like other women lawyers, she seems to have struggled with the burden of “double consciousness,” a kind of continuing difficulty in reconciling an identity as a female lawyer and her identity as a woman.<sup>36</sup> She was involved in and deeply committed to the advancement of women in society. She spoke and wrote on women’s issues and advocated for the advancement of women in society. Yet she had a tendency to downplay the difficulties she herself must have faced as a woman, insisting that her male peers respected her as an equal.

Mossman observes that many of the first women lawyers were “lone voyageurs.”<sup>37</sup> That is, they were the only women practising in their respective jurisdictions and were isolated in their practice of law. Although Grace Wambolt was not the first woman to practice law in Nova Scotia, she certainly can be seen as a lone voyageur. For a portion of her early career, she was the only woman practising law in the province and one of only a handful practising in Canada. In the decades after the court challenges and legislative reform that allowed women to become lawyers, few had followed Clara Brett Martin into practice. In 1921, when Wambolt was attending Dalhousie Law School, there were 64 women practising law in Canada, representing less than 1% of the 7,209 total lawyers. In 1931, when Wambolt was a partner with Robert Yeoman, the total number of lawyers practising in Canada had risen to 8,058, but the number of

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32. Mossman, *supra* note 13 at 98.

33. *Ibid* at 67.

34. *Ibid* at 99.

35. *Ibid* at 9.

36. Drachman, *Sisters in Law*, *supra* note 15 at 3.

37. Mossman, *supra* note 13 at 21.

women practising had dropped to 54. In 1941, when Wambolt took over the practice on her own, there were 129 women lawyers out of a total 7,920 practising lawyers in the country.<sup>38</sup>

The Early American women lawyers were likewise few in number and scattered over a large geographic region, but were able to bridge the distance by creating a community of women lawyers through their correspondence club, the Equity Club.<sup>39</sup> In their letters, the women grappled with their roles in the public arena and forged a sense of professional identity.<sup>40</sup> In Canada, there was no effort to establish a women's lawyer group until the Ontario Women's Law Association was formed in 1923. Perhaps this was because the number of Canadian women lawyers was so small.<sup>41</sup> However, Wambolt did find a community of like-minded professional women through membership in the Canadian Federation of Business and Professional Women (CFBPW). The membership consisted exclusively of career women, and offered such women a personal support network as well as an opportunity to engage in public advocacy.<sup>42</sup>

Through the CFBPW, Wambolt was introduced to other women lawyers within the club, with whom she seemed to find a particular affinity and friendship. In particular, she corresponded with Margaret Hyndman, a prominent Toronto lawyer, on a regular basis.<sup>43</sup> She also had sporadic correspondence with others, such as Helen Blewett in Vancouver. The letters between Hyndman and Wambolt show that they understood themselves as distinct within the club of career women. They spoke somewhat condescendingly of the other women in the federation. In one exchange of letters in which the two discuss the internal politics

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38. *Ibid* at 112.

39. Drachman, *Origins of Professional Identity*, *supra* note 14 at 2.

40. *Ibid* at 2.

41. Mossman, *supra* note 13 at 112.

42. Gail Campbell, "'Are We Going to do the Most Important Things?': Senator Muriel McQueen Fergusson, Feminist Identities, and the Royal Commission of the Status of Women" in Guildford & Morton, *Making up the State: Women in 20th-Century Atlantic Canada* (Fredericton: Acadiensis Press, 2010) 179 at 183.

43. There is a need for further research on Margaret Hyndman, whose career was directly contemporaneous to Wambolt's. Hyndman graduated from Osgoode Hall Law School in 1921 and was called to the bar in 1926. She was the second woman in the British Commonwealth to be appointed King's Counsel, in 1938. She is remarkable among this generation of women lawyers in that she was a litigator who appeared before the highest courts, including the Supreme Court of Canada and the Judicial Committee of the Privy Council. She worked on the famous "Margarine Reference," *Reference re Validity of s 35(a) of the Dairy Industry Act* (1948), [1949] SCR 1, 1 DLR 433 ([1950] 4 DLR 689, [1951] AC 179) as well as *Canada (AG) v Lavell* (1975), [1974] SCR 1349, 38 DLR (3d) 481 ([1974] SCR 1349), which considered the provision of the *Indian Act*, RSC 1985, c 1-5 that stripped women of their status after marrying non-native men. She was also deeply involved with the CFBPW, through which she lobbied for equal pay legislation in Ontario. See: Toronto, Law Society of Upper Canada Archives (Margaret Hyndman Fonds, CA ON00311 PF86).

of the CFBPW, Hyndman remarks: “I agree with you that it would be very unfortunate if we had to try to survive [an executive of] two civil servants.”<sup>44</sup> In a 1966 letter congratulating Hyndman on her appointment to the board of the Canadian Broadcasting Corporation, Wambolt said of Allie Ahern, past president of the CFBPW: “Confidentially Allie’s appointment [to the Citizenship Court] has completely gone to her head. I hear she has given up typing (the one thing she is trained to do) and has hired a secretary to answer her fan mail.” Ahern’s main sin in Wambolt’s eyes was that she had assumed the style and dress of judge, without being a member of the legal profession: “She has adopted a lawyer’s gown and tabs for her public appearances to hand out citizenship certificates and I hear she refers to her visit to Sydney as ‘going on circuit’ and to herself as ‘Judge Ahern.’ ... How amusing!!!”<sup>45</sup>

Many of the same issues as those that had concerned the members of the Equity Club seventy years earlier also concerned Wambolt and her correspondents. In particular, the matter of appropriate courtroom clothes and the issue of marriage were as pertinent for women lawyers in mid-20th century Canada as they had been in the late-19th century United States. In response to a question from Wambolt, Helen Blewett described in a letter how the women lawyers in British Columbia dressed for court: “With regard to the dress of the lady barristers, we wear the man’s shirt with wing collar, tabs, and usually a black suit, but some of the first women and also some of the richer later graduates have the waistcoat, etc., [...] and just wear it with their skirt, of dark color.” She further remarks that her fellow women lawyers “seem to be most emphatic that they like the dress they wear and do not wish to see it changed in any degree whatsoever. They think that they do not want to look too unlike the men and they say that their wing collars are of no discomfort.”<sup>46</sup> Blewett did not think the women “looked too masculine” but tells Wambolt, “do not let that dampen your ardour if you yourself think that an open neck blouse would look and feel better.”<sup>47</sup>

An unknown Toronto correspondent shared with Wambolt the consensus of the Women’s Law Association about how to dress: “[T]hey wear a dark skirt with either a white shirt with a wing collar, or a shirt front

44. Letter from Margaret Hyndman to Grace Wambolt (17 June 1952) Halifax, Archives of Nova Scotia (MG 1, vol 1596, file 13).

45. Letter from Grace Wambolt to Margaret Hyndman (August 8 1966) Halifax, Archives of Nova Scotia (MG 1, vol 1596, file 27).

46. Letter from Helen Blewett to Grace Wambolt (1952) Halifax, Archives of Nova Scotia (MG 1, vol 1596, file 13).

47. *Ibid.*

with a wing collar, tabs and the usual gown and vest. One of the women lawyers wears a soft white shirt and tabs.” The correspondent also notes that Helen Kinnear, a county court judge, was at the meeting in the same dress she wore under her gown, which she made herself “of a heavy black silk finished as the sleeves are in a Judge’s vest” to resemble her male peers’ court attire.<sup>48</sup>

These exchanges suggest Wambolt felt the need to reach out to her female peers in other provinces for perspective and reassurance about her choice of court apparel. Even though she found male lawyers in Nova Scotia helpful and collegial, they could not assist her in reconciling her position as a lawyer and as a woman. Likewise, her peers in the Nova Scotia chapter of the Canadian Federation of Business and Professional Women could offer no insights and she had to find guidance elsewhere in the country. As Drachman points out, this question is at its heart about how to reconcile femininity and professional identity.<sup>49</sup> A 1970 study of women lawyers suggests that how a woman lawyer dressed could affect how the men of the bar treated her; both women who claimed that they had been discriminated against and those who did not indicated that a woman lawyer who “masculinized” herself to gain acceptance by her male peers was “bound to defeat her purpose and suffer rebuffs.”<sup>50</sup>

Equally pertinent to Wambolt and her contemporaries was the question of marriage. Mossman points out many of the “Firsts” in Canada and internationally were willing to forego marriage in exchange for the economic independence of professional work.<sup>51</sup> Those who did marry, such as Mabel Penery French, gave up practice.<sup>52</sup> This pattern persisted into the early 20th century. Dorothy Chunn and Joan Brockman’s study of women lawyers in British Columbia shows that many women practised for a short time and then left the profession after marriage.<sup>53</sup> Those who practised for any length of time were either unmarried, married but childless, or had left legal work for marriage but returned out of necessity after divorce or widowhood.<sup>54</sup> Wambolt herself never married. None of her letters touch on her own decision to remain unmarried, but it is clear from her correspondence that the issue was alive to her. Despite having practised

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48. Letter to Grace Wambolt (13 May 1953) Halifax, Archives of Nova Scotia (MG 1, vol 1596, file 14).

49. Drachman, *Origins of Professional Identity*, *supra* note 14 at 23.

50. Harvey, *supra* note 5 at 14.

51. Mossman, *supra* note 13 at 107.

52. Yorke, *supra* note 9 at 4.

53. Chunn & Brockman, *supra* note 19 at 252.

54. *Ibid* at 254.

with her husband for a time, Helen Blewett wrote that her marriage “more or less put an end to [her] hoped for career.”<sup>55</sup> Later she separated from her husband and returned to legal work in Vancouver.<sup>56</sup> In a letter to Blewett, Wambolt wrote that “two husband and wife teams recently graduated from Dalhousie Law School and one pair of them is now practising in the Province. I understand that the wife is keener mentally than the husband.”<sup>57</sup> She also remarked in a letter to Professor Cameron Harvey that her sole female classmate, Olive Maddin, “would have made a good lawyer if her marriage had not intervened.”<sup>58</sup>

Wambolt believed that the Victorian “separate-spheres” ideology persisted and held women back. The attitudes of men towards women had to be changed, but more importantly, it was necessary to change women’s opinions about themselves and other women. In a speech to the Dartmouth University Women’s Club in 1951, she argued the “great task yet to be performed” in order for women to achieve full political, civil, and economic rights was to overcome the belief many women held “in the idea that in some way the larger responsibilities outside their homes do not concern them and are in conflict with their duties as a wife and mother.”<sup>59</sup>

Wambolt’s own understanding of the challenges of a woman lawyer seems to have been ambivalent. In public speeches and writings she often deemphasises difficulties she faced as a woman in law. She contributed to the December 1977 special issue of *Ansul*, dedicated to a series of reminiscences from graduates and friends of Dalhousie Law School, with an account of her time in law school and her early career. Her comment was that she sensed “a bit of scepticism on the part of the lecturers” toward the five women in the law school, but “most made us very welcome.”<sup>60</sup> The Dean during part of her time at the law school was Donald MacRae, whom she recalled saying, “No woman would make salt for her porridge as a lawyer,”<sup>61</sup> but his successor, John E. Read, she believed “had no

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55. Letter from Helen Blewett to Grace Wambolt [nd] Halifax, Archives of Nova Scotia (MG 1, vol 1596, file 13).

56. Letter from Helen Blewett to Grace Wambolt (1952) Halifax, Archives of Nova Scotia (MG 1, vol 1596, file 13).

57. Letter from Grace Wambolt to Helen Blewett (27 August 1952) Halifax, Archives of Nova Scotia (MG 1, vol 1596, file 13).

58. Letter from Cameron Harvey to Grace Wambolt (22 July 1970) Halifax, Archives of Nova Scotia (MG 1, vol 1596, file 85).

59. Grace Wambolt, “Legal and Economic Status of Women” (Speech delivered at the Dartmouth University Women’s Club, 17 May 1951) Halifax, Archives of Nova Scotia (MG 1, vol 1596, file 55).

60. “Grace Wambolt,” *Ansul* (Dalhousie Law School), special ed, vol 2 (December 1977) 17 at 18, Halifax, Archives of Nova Scotia (MG 1, vol 1596, file 75).

61. *Ibid* at 17.

'hang-up' in regard to women in the legal profession.<sup>62</sup> Indeed he helped her obtain articles at Yeoman and Matheson when none of the Halifax firms would hire her.<sup>63</sup> Wambolt also found the male law students to be courteous and helpful.<sup>64</sup> However, the bill she put forward in a session of mock parliament in 1924, as "minister of domestic relations," that called for a tax on bachelors was strongly opposed and soundly defeated as a "predominately male atmosphere prevailed."<sup>65</sup> She also recalled that there was no robing room or woman's washroom at the law courts when she began practice, forcing her to robing in the law library "behind the more remote book shelves" where she had placed a mirror and hook.<sup>66</sup>

Wambolt undoubtedly understood that women had a more difficult time in law than men, but believed it was up to women to persist to make a place for themselves in the profession. Thus, in 1968, she responded to a letter from Faye Campbell, a grade ten student who wrote to her asking whether there were any disadvantages to being a woman in law. Wambolt replied, "a woman can do quite as well as a man if she has the ability and the drive necessary."<sup>67</sup> In a later letter to Margaret Hyndman in 1987, however, Wambolt remarked, "sex is no longer an issue," with two women on the Supreme Court, and "I look back at the difficulties I encountered in my early years at the Bar and I am a bit envious."<sup>68</sup> Mossman argues that the first women who wished to become lawyers were expected to embrace the same professional identity as men and that the profession's culture and the small number of women practising made the early women lawyers invisible as women.<sup>69</sup> Wambolt seems to have believed that the breakthrough in numbers in the highest level of the profession, through their own hard work, finally rendered women as a group visible in the profession.

#### IV. *Women lawyers and the women's movement*

Grace Wambolt's career bridged two peaks of the women's movement. She began law school shortly after the Nova Scotia legislature granted women the right to practice as lawyers and retired from law in 1977,

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62. *Ibid* at 18.

63. *Ibid* at 19.

64. *Ibid* at 18.

65. *Ibid*.

66. *Ibid* at 19.

67. Letter from Grace Wambolt to Faye Campbell (16 February 1968) Halifax, Archives of Nova Scotia (MG 1, vol 1596, file 29).

68. Letter from Grace Wambolt to Margaret Hyndman (1987) Halifax, Archives of Nova Scotia (MG 1, vol 1596, file 48).

69. Mossman, *supra* note 13 at 88.

when second-wave feminism caused a “revolution in numbers”<sup>70</sup> in the profession. Wambolt advocated for women’s rights in the “inter-wave” period. Her involvement with the movement distinguishes her from the “firsts” in Canada, who remained at arm’s length from organised feminism.

Mossman argues that unlike early women doctors, who were often leaders in the women’s movement, early women lawyers had a tenuous relationship with the organised women’s movement. She suggests that the “maternal feminism” of the first-wave feminists was at odds with the aspirations of women seeking admission to the legal profession.<sup>71</sup> While women doctors could draw on the separate spheres ideology to further their cause and explain their desire to enter the medical profession as an extension of their natural nurturing capabilities, a role they filled in the private sphere, women who sought to become lawyers had to fight against the “separate spheres” ideology.<sup>72</sup>

The first women lawyers in Canada sought admission to the bar in the late 19th and early 20th century, at the end of the first wave feminist movement. When women first started seeking entrance to the legal profession in the United States in the 1860s, the women’s movement had several wide-reaching goals, including furthering women’s access to paid work and the professions.<sup>73</sup> By the end of the 19th century however, when Clara Brett Martin became the first woman lawyer in Canada, the women’s movement had narrowed to be largely a single-issue campaign. Suffrage was the main goal, and suffragists drew on the predominant gender ideology of the day to argue women should have the right to vote. The suffragists argued that women would have a “purifying” influence on the state, that the vote would allow women to extend their role as moral guides from the private to the public sphere without challenging what was considered the traditional relationships between men and women.<sup>74</sup> In this context, the claims made by the aspiring women lawyers were outside the mainstream.<sup>75</sup> Their claims, which were based on ideas of justice and equality and their desire for economic independence, undermined the suffragists’ arguments, which were premised on women’s roles as wives and mothers.<sup>76</sup>

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70. See Constance Backhouse, “‘A Revolution in Numbers’: Ontario Feminist Lawyers in the Formative Years 1970s to the 1990s” in Backhouse & Pue, *supra* note 19, 265.

71. Mossman, *supra* note 13 at 80.

72. *Ibid* at 14.

73. *Ibid* at 19.

74. *Ibid* at 80.

75. *Ibid* at 81.

76. *Ibid*.

While the earliest women lawyers “only existed at the margins of the women’s movement,”<sup>77</sup> Wambolt was deeply involved in the “inter-wave” women’s activist movement in Canada through her involvement with the CFBPW. The feminist movement is generally categorised into two or three “waves”: the first wave, the “maternal feminist” movement that the early women lawyers had such an ambiguous relationship with, crested in the late 19th and early 20th centuries with the fight for women’s suffrage; the second wave arose in the late 1960s and early 1970s in the women’s liberation movement; and some suggest a third wave arose in the 1990s, with a new feminist focus on identities and intersectionality of oppressions.<sup>78</sup> There remains a question of whether these “waves” were actually “crests of activity or crests in the publicity accorded the movement,” as the time between the identified waves was certainly not devoid of women’s activism.<sup>79</sup> While these waves are useful in understanding broad trends in the women’s movements, they also serve to obscure nuance and difference within each wave, as well as erase activism that occurred outside those periods.<sup>80</sup> Indeed, between the first and second waves, there was a generation of activists, “middle-class club women, usually characterised as liberal feminists,” who worked towards equality and justice for women.<sup>81</sup> These women have been called “institutional feminists” for their focus on reforming the institutions and the legal and institutional frameworks of society.<sup>82</sup> Their activism did not consist of public protests or public meetings, which was perhaps the reason for their relative invisibility in the public narrative, but they did protest and they did meet.<sup>83</sup> They were “prudent revolutionaries” who conducted “determined but relatively low-profile activism.”<sup>84</sup> Within voluntary organisations, they conducted research and disseminated their findings to each other and conducted behind-the-scenes public advocacy.<sup>85</sup>

The CFBPW was one voluntary organisation at the vanguard of inter-wave women’s activism. The Federation was founded in 1930, operated in the context of the human rights revolution marked by the United Nations’

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77. *Ibid* at 112.

78. Margaret Conrad, “Remembering Firsts: Female Politicians in the Atlantic Provinces in the 20th Century” in Guildford & Morton, *supra* note 22, 57 at 70 [Conrad, “Remembering Firsts”].

79. Campbell, *supra* note 40 at 179.

80. Conrad, “Remembering Firsts,” *supra* note 78 at 70.

81. Campbell, *supra* note 42 at 179.

82. *Ibid* at 180.

83. *Ibid*.

84. Conrad, “Remembering Firsts,” *supra* note 78 at 70.

85. Campbell, *supra* note 42 at 180.



Universal Declaration of Human Rights<sup>86</sup> in 1948.<sup>87</sup> The organization, and through it, its activist members, couched its demands through an equal rights framework.<sup>88</sup> Members wrote formal letters and briefs and operated within traditional structures and organizations, seeking improved status for women within those structures.<sup>89</sup>

These women may not all have considered themselves “feminists,” but they were deeply committed to women’s equality.<sup>90</sup> I can find no evidence of Grace Wambolt either using or explicitly rejecting the term “feminist” in the speeches or letters she chose to keep. It seems unlikely she would find such a label useful. Her letters and papers show a deep belief in the fundamental equality of men and women, yet at the same time she tends to downplay discrimination women faced in the public sphere. This indifference to feminism was shared by other career women in this period.<sup>91</sup> Margaret Conrad suggests the term “feminist” was not useful for these women entering politics, as it drew opposition.<sup>92</sup> For a woman in a male profession, language that drew attention to difference had the potential to alienate male peers.<sup>93</sup> Nonetheless, they were engaged in activist work and advocated for women’s rights.

During her time as a member of the Federation, Grace Wambolt advocated for several causes, ranging from the local to the international. She wrote a brief in 1949 on behalf of the Halifax Club of Business and Professional Women to the Halifax city council advocating that wives of taxpayers be enfranchised in city elections.<sup>94</sup> As chairman of the CFBPW’s Legislation Committee, she prepared a resolution urging the federal government to ratify the Convention on the Political Rights of Women.<sup>95</sup>

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86. *Universal Declaration of Human Rights*, CA Res 217A (111), UNGAOR, 3rd Sess, Supp No 13, UN Doc A/810 (1948) 71.

87. *Ibid* at 183.

88. *Ibid*.

89. *Ibid*.

90. Conrad, “Remembering Firsts,” *supra* note 78 at 70.

91. See, e.g., Margaret Conrad, “‘Not a feminist, but ...’: The political career of Ellen Louks Fairclough, Canada’s first female federal cabinet minister” (1996) 33:2 *J Can Studies* 5; Conrad, “Remembering Firsts,” *supra* note 78 at 57.

92. Conrad, “Remembering Firsts,” *supra* note 78 at 70.

93. Founders of the Equity Club also struggled with this balancing act in choosing a name for their organization. They wanted to create an organization to address the unique needs of women in the legal profession without offending their male colleagues because they were dependent on their good will and appreciated their fair treatment. See Drachman, *Origins of Professional Identity*, *supra* note 14 at 14.

94. Brief of the Halifax Club of Business and Professional Women in support of their Resolution of 9 May 1949, Halifax, Archives of Nova Scotia (MG 1, vol 1596, file 82).

95. CFBWC, “Report of Legislation Committee, M Grace Wambolt, QC—Chairman,” Halifax, Archives of Nova Scotia (MG 1, vol 1596, file 82).

The cause Wambolt fought hardest and longest for was the inclusion of women on juries in Nova Scotia. She gave numerous speeches, wrote articles, memoranda, and briefs over a ten-year period in her crusade for women to be included.<sup>96</sup> In her writings on the topic of women jurors, she articulated a civic republican conception of liberalism, rather than an individualist rights-based conception. That is, she presents a vision of citizenship that requires certain contributions from individuals, not just the right to share in the benefits of society or to be treated equally by the state.<sup>97</sup> Wambolt sought to bring women into full citizenship by insisting that the same obligations of citizenship be shared by both men and women.

Wambolt's arguments for women on juries were consistent across this period, although she would tailor her remarks to the audience. Broadly speaking, her argument for a woman's right to serve on juries had three parts: (1) that where a woman is on trial or a party to a proceeding, women should be represented on the jury; (2) that women's perspectives would be particularly valuable in cases involving crimes against women and children; and (3) that women must accept the full responsibilities of citizenship, "that men assume as a matter of course," in order to be granted the full rights of citizenship, such as equal pay for equal work.<sup>98</sup>

### *Conclusion*

I have only skimmed over the surface of Grace Wambolt's life and career in this paper; there are several further avenues for research. I was not able to study Wambolt's work on the council of the Nova Scotia Barrister's Society, because the Nova Scotia Archives were insufficient on this area of her career. Wambolt also had a strong regional identity, often expressing pride in her province although some of her papers and letters seemed to indicate a lack of support for Quebec nationalism and French-language rights.

The struggle for full acceptance as lawyers did not end with the formal acceptance of women into the profession on the same terms as men. Grace Wambolt faced many of the same challenges as the first women to enter the

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96. The earliest mention of the topic in the archives is in a letter from a letter confirming Wambolt was scheduled to speak on the CBC radio program "Points of View" on the topic, "Should Women Serve on Juries?": Letter from Dorthea Cox to Grace Wambolt (28 April 1948) Halifax, Archives of Nova Scotia (MG 1, vol 1596, file 10). See also "Memorandum on behalf of the Business and Professional Women's Clubs of Nova Scotia in Regard to Bill 76, Prepared by Grace Wambolt, KC" Halifax, Archives of Nova Scotia (MG 1, vol 1596, file 82). She continued to advocate on the issue until women began to be called for service in 1960.

97. Shirley Tillotson, "Relations of Extraction: Taxation and Women's Citizenship in the Maritimes, 1910-1949" in Guildford & Morton, *supra* note 22, 93.

98. Grace Wambolt, "Provincial Council of Women, Women for Jury Service," 17 April 1953 Halifax, Archives of Nova Scotia (MG 1, vol 1596, file 58).

profession, whose very presence challenged the gendered precepts of the legal profession. In this context, the personal was political; what to wear and whether to get married were directly relevant to their professional lives. This was equally true for Grace Wambolt and her contemporaries. However, for this group of “seconds,” the political was also political. Grace Wambolt understood that women in the profession could only be accepted on the same terms as men if women embraced the full responsibilities of citizenship and were given full political, civil, and economic rights. She used her education and position as a professional woman to advocate for these rights on behalf of all Nova Scotian women.