

PROFESSIONALISM AND THE IMPACT OF ENGLAND'S FIRST WOMEN JUSTICES, 1920–1950*

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ABSTRACT. *This article examines the impact of England's first women justices of the peace (JPs) on the work of lay magistrates in the period 1920–50. It argues that the early women JPs (many of whom had been active in the women's suffrage campaign), and the organizations that they belonged to, helped to transform the institution of the lay magistracy by adopting a more 'professional' approach, evidenced in their willingness to educate and train themselves for their new role. In consequence, this article challenges conventional definitions of 'professionalism', arguing that, where the work of JPs was concerned, the boundary between 'voluntary' and 'professional' activities was less clear than might be supposed. Furthermore, the willingness of many women magistrates in particular (later followed by some of their male colleagues) to undergo training helped to ensure the survival of the lay element in the criminal justice system to the present day.*

If the big majority of women are, as I believe, still unfitted for the discharge of judicial affairs, yet I think that things are moving very fast in their favour.¹

When these words of Lord Buckmaster's were published in November 1919 women had no formal legal role in Britain's law courts. They were unable to qualify as solicitors or barristers (and therefore unable to be professional judges) and were not even eligible to serve as a justice of the peace (JP), the unpaid volunteers who, in some areas, dealt with over 90 per cent of criminal cases. The Sex Disqualification (Removal) Act, which became law one month after the publication of Lord Buckmaster's opinion, was to change all that. However, whereas it took years for a lawyer to train and even longer to qualify as a judge, women were immediately qualified to become JPs. Indeed, the first appointments were announced on Christmas Eve. Although their numbers were small initially, women JPs had far more opportunity to make an immediate impact upon the system of justice than those women who entered the paid legal professions. The next three decades were to witness that impact, which, this article will

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¹ Lord Buckmaster, *Daily Dispatch*, 9 Nov. 1919.

demonstrate, was out of all proportion to the number of women who were made magistrates.

The introduction of women magistrates, which in many ways may be regarded as a logical outcome of the struggle for women's suffrage and citizenship rights in the early twentieth century, has surprisingly received little attention from historians apart from passing references to the terms of the Sex Disqualification (Removal) Act, itself often regarded as a disappointing measure.² Yet to contemporary suffrage activists, the Act was a reform of the utmost significance where the appointment of women magistrates was concerned, despite its undoubted flaws in other respects. The journals of the main extant suffrage societies in 1919, *The Vote*, published by the Women's Freedom League (WFL) and the *Women's Leader*, the organ of the National Union of Societies for Equal Citizenship (NUSEC), carried regular news items, editorials, and features on the work of women JPs throughout the following decade. Some of the leading figures of these organizations, including Margaret Wynne Nevinson of the WFL and Millicent Fawcett and Eleanor Rathbone of NUSEC, were among the first group of women to be made magistrates and their achievements were justly celebrated.³ The WFL was also vociferous in calling for the number of women magistrates to be equal to that of men through resolutions at its annual conference, while the *Women's Leader* ran a regular feature entitled *The Law At Work* to help inform the JPs among its readers.

This article will examine the impact of the first women JPs and argue that, through their willingness to become 'fit' for the 'discharge of judicial affairs', they helped to transform the institution of the lay magistracy in the early twentieth century by adopting a new, more 'professional' work culture. The article will therefore first analyse some of the complexity of the term 'professional' in relation to both social class and gender and the ways in which it may or may not be applied to the voluntary role of JP. There will follow an examination of the type of person, especially women, appointed to the magistracy after 1920, their social backgrounds, qualifications, and experience. The article will then turn to the efforts of women magistrates to educate themselves and the impact of their initiatives. It will be argued that the introduction of women magistrates was a decisive factor in the events that led to the formation of the Magistrates' Association (MA) as an educative and representative body for justices.

I

The meaning of 'professional' is highly contested and the copious literature on the subject indicates that professions are diverse entities, taking different forms

² For example, Cheryl Law, *Suffrage and power: the women's movement, 1918–1928* (London, 1997), pp. 97, 124.

³ *The Times*, 20 July 1920. For a brief account of Margaret Wynne Nevinson's work as a magistrate, see Angela V. John, 'Margaret Wynne Nevinson: gender and national identity in the early twentieth century', in Kenneth O. Morgan and Geraint H. Jenkins, eds., *From medieval to modern Wales* (Cardiff, 2004), pp. 230–45.

over time and space. Indeed, it is apparent that the very concept of a profession, until recently, 'appeared to be peculiar to the English-speaking world'.⁴ A 'common-sense' English view is of professions as highly paid, prestigious occupations and professional workers are assumed generally to be well remunerated as well as commanding respect. Carr-Saunders and Wilson asserted in their study first published in 1933 that 'Professional men are not philanthropists.' Yet they also conceded that 'the attitude of a professional man to his client ... is characterized by an admirable sense of responsibility; it is one of pride in service given rather than of interest in personal profit'.⁵ Thus, notions of 'ethics' and altruism are often attached to the professional ideal. JPs were (and are) of course unpaid, and would therefore not normally be considered a profession in the strict sense but they did (and do) possess some social status: in the early twentieth century appointment was regarded as something akin to a knighthood. Furthermore, although some may not have taken their responsibilities very seriously, many laymen and women sitting on magisterial benches in this period undoubtedly evinced 'pride in service' and in undertaking unpaid duties on behalf of the community they were surely displaying altruism.

Another, more conspiratorial, definition of 'professions' is evident in their portrayal as middle-class, self-serving closed shops, restricting and controlling the entry of new members while jealously guarding their intellectual territory and policing its borders, often through the operation of a professional association, in order to maintain power and social status.⁶ In this reading, altruism is replaced by self-seeking opportunism and class privilege as strategies of 'closure' are adopted. The lay magistracy in the period in question may have behaved somewhat like a 'profession', in that existing members had considerable influence over the choice of new recruits. However, they were forced to allow in members of 'new' social categories, such as women and wage-earning men. Thus, although 'professional' is often used as a synonym for 'middle class' (for example by Perkin, who defined the 'professional class' as the non-capitalist 'segment of the middle class') this should not be assumed to be automatically the case when applied to JPs.⁷ Twentieth-century JPs were drawn from a range of occupational backgrounds, although most could very broadly be described as 'middle class'. To what extent their association functioned as a 'professional' body in the maintenance of group power is a moot point, and the broader issue of whether their activities maintained social control in the interest of their own class is clearly germane.

Whereas the social class of those involved in 'professional' work is seldom in dispute, the precise relationship between gender and the professions is more controversial. As Anne Witz has argued, 'the generic notion of profession is also a

⁴ Michael Burrage and Rolf Torsendahl, eds., *Professions in theory and history* (London, 1990), p. 4.

⁵ A. M. Carr-Saunders and P. A. Wilson, *The professions* (London, 1933), p. 471.

⁶ Anne Witz, *Professions and patriarchy* (London, 1992), p. 41.

⁷ Harold Perkin, *The rise of professional society, England since 1880* (London, 1989), p. xii.

gendered one'.⁸ Early studies used 'male' professions as their paradigm: Carr-Saunders and Watson repeatedly used the phrase 'the professional man' even though they included short chapters on nurses and midwives in their survey of professional activities. Interestingly, despite the fact that their work was published only about a decade after the Sex Disqualification (Removal) Act opened many professions, including law, to women, the authors make no mention of this in their historical accounts of individual professions. Perhaps understandably therefore, feminists have sometimes perceived professions as patriarchal and male dominated, admitting women to their ranks only reluctantly, in limited numbers and at as late a stage as possible, in other words as male 'citadels' or bastions to be stormed. This was certainly the attitude of the WFL in the 1920s, in whose paper the achievements of women in 'male' spheres, including the magistracy, police, and legal professions, were celebrated with prominent coverage. These 'citadels' were potentially centres of both political and economic power: Angela Woollacott has pointed out that professionalism and citizenship were intimately connected – 'men's professional authority was linked to middle class men's inclusion in political citizenship and middle-class political ascendancy' – while Witz refers to 'gendered forms of exclusionary strategy ... used to secure for men privileged access to rewards and opportunities in the labour market'.⁹ Conversely, Corfield argues that the emphasis that certain professions placed on merit eventually advantaged 'able women' and that 'the professional virtues of service commitment, expertise and vocational dedication' were by no means harmful to women.¹⁰ These were precisely the virtuous qualities encouraged among women voluntary workers, including JPs, in the late nineteenth and early twentieth centuries, although their labours were not rewarded financially and were therefore likely to be conceptualized as 'amateur' rather than 'professional'. As to the question of male 'bastions', the magistracy undoubtedly qualified as one, effectively having been closed to women for at least 600 years.¹¹ However despite some initial reluctance to admit women JPs, their numbers rose steadily, perhaps reaching 10 per cent of all JPs by the 1930s, a success in stark contrast to the levels of women's participation in the House of Commons or in the financially rewarding legal profession. The magistracy appears to have been a citadel that fell relatively easily.

Finally, and most relevantly to this article, a profession can be defined by a body of knowledge requiring a period of specialized training and the subsequent application of acquired skills and information. Much attention has been drawn to this aspect of professional identity and the relationship between the growth of professional occupations and that of the universities and the competitive

⁸ Witz, *Professions and patriarchy*, p. 39.

⁹ *Ibid.*, p. 46; Angela Woolacott, 'From moral to professional authority: secularism, social work, and middle-class women's self-construction in World War 1 Britain', *Journal of Women's History*, 10 (1998), pp. 85–111, at p. 87.

¹⁰ Penelope J. Corfield, *Power and the professions in Britain 1700–1850* (London, 1995), p. 188.

¹¹ Sir Thomas Skyrme, *History of the justice of the peace* (3 vols., Chichester, 1991), II, p. 233.

examination system, although Leonard Schwarz has recently pointed out that ‘many professions outside the natural sciences were marked by a very considerable reluctance to employ graduates until the 1950s or even later’.¹² However, while professional education did not necessarily take place in academic institutions, it was nevertheless often assumed, as Carr-Saunders and Wilson argued, that ‘special competence, acquired as the result of intellectual training, is the chief distinguishing feature of the professions’.¹³ In this sense the magistracy was definitely not ‘professional’ in its approach when the first women JPs took their place on the bench in 1920, but was to become more so as time went on. It is primarily in this sense that voluntary activities such as the magistracy can be seen to be ‘professionalized’, following this model in their pursuit of perceived competence, efficiency, and modernity. Abbott contends that professions are distinguishable from occupations that are merely skilled by their control of an abstract knowledge system and that this enables them to survive ‘in the competitive system of professions’.¹⁴ In order to consolidate their role in the administration of justice the lay magistrates of the twentieth century had to equip themselves with an understanding of a range of academic disciplines, including law, sociology, and psychology, and, not least, the emerging discipline of criminology, which encouraged the application of diverse perspectives to the work of the courts.

The literature on professions undoubtedly poses as many questions as it answers. Definitions of ‘professional’ are often more implicit than explicit and are frequently arrived at tautologically by examining the characteristics of activities assumed by the author to be ‘professional’. For example, there is a widespread assumption that an activity can be undertaken professionally only if it is (usually, well) financially rewarded. Yet this assumption may be seen as in conflict with another common element of the typology, namely that professionals have ethical standards and act altruistically. It also neglects the work performed by volunteers, often women, who undertook their unpaid activities not only with the enthusiasm of the amateur, but also with the knowledge and expertise of the professional. As Livesey points out in the late nineteenth century ‘women social activists ... had struggled to define themselves as professionals in their chosen field in spite of not holding salaried posts’.¹⁵ As argued below, it was from this very pool of social activists that many of the early women magistrates were drawn into the work of the courts and they brought with them their thirst for education, training, and application.

¹² Gillian Sutherland, ‘Examinations and the construction of professional identity’, *Assessment in Education*, 8 (2001), pp. 51–64; Leonard Schwarz, ‘Professions, elites and universities in England, 1870–1970’, *Historical Journal*, 47 (2004), pp. 941–62, at p. 942.

¹³ Carr-Saunders and Wilson, *The professions*, p. 307.

¹⁴ Andrew Abbott, *The system of professions* (Chicago, 1988), p. 9.

¹⁵ Ruth Livesey, ‘The politics of work: feminism, professionalisation and women inspectors of factories and workshops’, *Women’s History Review*, 13 (2004), pp. 233–61, at p. 249.

II

Outside London, the majority of magistrates sitting in the summary courts of England and Wales were unpaid volunteer justices, very few of whom had any formal legal training. There had already been several changes in the social composition of the magistracy in the decades prior to the appointment of the first women justices in 1920. Before the 1830s the county benches were the exclusive preserve of country gentlemen. From 1836 local entrepreneurs (for example coal and iron masters in industrial areas and tradesmen in towns) were increasingly made magistrates.¹⁶ A more radical change came in 1906 with the abolition of the property qualification, which enabled working-class men, including Labour supporters and trades unionists, to be appointed. According to Skyrme, this resulted in a gradual transformation of the county benches from the social exclusivity of the nineteenth century.¹⁷ From the time of the 1910 royal commission on justices of the peace there was an expectation that the magisterial bench should aim to be a microcosm of society, reflective in particular of the different social classes and, most importantly, political interests.¹⁸ The addition of women to the pool of potential JPs was in itself a fairly uncontroversial addendum to the passage of partial women's suffrage in 1918 and seems to have failed to alter the primacy of political and (to a far lesser extent) class considerations in the selection of magistrates.

In 1920 the process of appointment of JPs was largely a secret matter and no criteria – objective or otherwise – were given. Magistrates were chosen by the lord chancellor (or the chancellor of the duchy of Lancaster in the case of Lancashire) on the advice of local advisory committees chaired by dignitaries, for example the lords lieutenant in the counties. Advisory committee membership was not known to the public and was largely party political in composition, indeed the need to maintain political ‘balance’ was clearly an important criterion. In London three women were added to the lord lieutenant’s committee in 1920: Marion Phillips and Margaret Wynne Nevinson were chosen to represent Labour and the Liberals respectively and the third, a Mrs John Chapman, was ‘understood to have Conservative leanings’ although she and her husband were ‘not active politicians’.¹⁹ Another London JP, Barbara Wootton, aptly described the process of appointment of JPs as a type of co-option: existing magistrates on the advisory committees effectively appointed in their own image and usually from among candidates known personally to them socially and in business or local government.²⁰ Clearly having the right connections and fitting the self-image of existing magistrates were the key qualifications for membership of the club.

¹⁶ David Philips, *Crime and authority in Victorian England* (London, 1977), p. 191.

¹⁷ Skyrme, *Justice of the peace*, II, p. 229.

¹⁸ *Report of the royal commission on justices of the peace*, Cmd 7463 (London, 1948), pp. 4–5.

¹⁹ Lord Crewe to the lord chancellor, 23 Nov. 1920, London Metropolitan Archives (LMA), LCC/LTCY/36.

²⁰ Barbara Wootton, *Crime and penal policy: reflections on fifty years' experience* (London, 1978), p. 71.

No specific qualifications were expected of potential magistrates but life experience was obviously relevant. Often this took the form of business or management experience as well as service in local government. Women candidates were less likely to possess the former, but the latter figured prominently in their CVs. Only a few women seem to have been appointed under the age of forty but as a whole, women magistrates were younger than their male colleagues.²¹ Evidence indicates that the first sizeable group of women magistrates, appointed on the recommendation of Lord Chancellor Birkenhead's women's advisory committee in 1920, were chosen mostly with regard to a need to ensure political balance as well as geographical coverage, although conclusions about the committee's work are necessarily tentative since the relevant public records file is missing (although one of the members, Gertrude Tuckwell, left an account of the committee's activities in an unpublished memoir). The list of nominees shows that most had extensive experience of voluntary work, in political organizations, local government, or philanthropic activity. Of the 172 names put forward in England (excluding Lancashire) 45 (26.2 per cent) are described as poor law guardians, 31 as elected councillors, and many more as co-opted members of local committees. Many had performed voluntary work during the First World War, on agricultural or food committees, in the Voluntary Aid Detachment or the Red Cross, making up food parcels, or assisting refugees. Education or youth work was cited in 22 per cent of cases. Curiously very few of the nominees had any previous interest or experience in the justice system mentioned in their citation. Only four (including Mrs Geraldine Cadbury of Birmingham) were described as prison visitors and only two as members of penal reform groups. Nominees may have gained experience of the legal system in other ways: two, Lucy Deane Streatfield and May Tennant, were former factory inspectors who had conducted prosecutions and at least one – Lady Rhondda, who was on the Welsh list – had broken the law in connection with the suffrage campaign. This activity unsurprisingly was not mentioned in the official citation.²² Most significantly, 22.6 per cent were specifically cited as members of a women's organization, ranging from feminist campaigning bodies such as the WFL to labour women's societies and to more general groups such as the National Council of Women (NCW).

Detailed research on 600 women JPs appointed between 1920 and 1950 suggests that subsequent appointments made on the recommendation of local advisory committees tended to follow a similar pattern to the initial list, albeit with fewer titled ladies. According to information submitted to *The women's who's who* in 1934, many female JPs had experience of philanthropic and voluntary organizations such as the Red Cross, NSPCC, girl guides and other youth movements, and hospital and rescue charities.²³ Involvement in political parties and women's groups, especially the NCW and women's institutes, continued to

²¹ *Royal commission*, pp. 5–6.

²² List of women JPs appointed by the lord chancellor, July 1920, NCW papers, LMA, ACC/3613/03/002/B.

²³ *The women's who's who* (London, 1934), pp. 678–749.

feature prominently. After the initial flurry, the pace of the appointment of women was fairly slow and patchy. To the dismay of feminists, male appointees seemed far to outnumber female, for example in the duchy of Lancaster in 1926 when three women and twenty-six men were made magistrates.²⁴ However, in the 1930s the appointment of women was encouraged by Home Office guidelines recommending their presence in juvenile courts and in so-called 'domestic' cases. Thus, by the late 1940s the proportion of JPs who were women was approaching one quarter, a much higher proportion than in comparable activities such as salaried legal work or election to the House of Commons. As will be argued below, even before they were able to achieve a level of 'critical mass', women magistrates had a marked impact on the practice of summary jurisdiction, in particular pushing it in a more 'professional', trained, direction.

Were these women 'professional' in the sense of being middle class? The initial nominees on the lord chancellor's list were predominantly drawn from the upper and middle classes. Over 22 per cent were titled ladies and only a handful (generally members of the Women's Co-operative Guild and/or the National Federation of Women Workers) had working class backgrounds. The social exclusivity of county benches appears to have changed only slowly. As Witz points out, 'women do not have a social class except that derived from their association with a man, as either a father or a husband'.²⁵ The problem of assigning 'class' to women JPs taxed a later royal commission when it conducted a survey on the social composition of the magistracy in the late 1940s. Whereas male JPs were classified according to occupation, females were classified twice, first by 'actual occupation' and secondly by 'section of the community'. The findings indicated that, when women were classified by the second method, overall more women justices than men were derived from the 'professional group' (sic) with 29.6 per cent compared to 21.3 per cent, and a smaller proportion from the 'wage-earning group' (7.7 per cent as opposed to 15 per cent). However, the report admitted that this method meant that results were less reliable for women than for men in view of the fact that over 10 per cent of the women proved to be unclassifiable by 'section of the community'. This first-ever survey of JPs also found women less likely to have 'gainful occupations' than their male colleagues and were therefore likely to have more time to devote to their work on the bench.²⁶

A picture can be drawn of a typical woman magistrate in the 1920–50 period (if there can be said to be one). She was middle aged and middle class, relatively time-rich with considerable volunteer experience, but less acquaintance with the business world or waged labour than her male counterpart. She probably had had little direct experience of the legal system prior to appointment, but was highly likely to be connected in some way to the extensive network of women's political (including suffrage), civic, and philanthropic organizations that criss-crossed interwar Britain. Through this network she would have access to information and education in the operation of the justice system, current statutes,

²⁴ *The Vote*, 25 June 1926. ²⁵ Witz, *Professions and patriarchy*, p. 42. ²⁶ *Royal commission*, pp. 7–8.

and legal practice and the latest thinking on penal methods. There was no equivalent network for men, although both sexes had access to *Stone's Manual*, the journal *Justice of the Peace*, and the MA and no doubt many informal discussions took place. While it is highly unlikely that every woman JP of the period was interested enough to take full advantage of this situation, it is clear that a significant number, who may have already adopted more 'professional' approaches in philanthropic work, did.

Whereas stipendiary magistrates had to be barristers of at least seven years' standing, the main stated qualification for service as a lay JP was apparently the possession of 'common sense', a term frequently used but never defined. Beyond that basic quality, commentators in 1919 were divided on the question as to whether women had the right capabilities to be a magistrate. According to Lord Beauchamp, a supporter of women JPs, they had the necessary 'high moral character, a fair degree of education, business knowledge and common sense, together with an admixture of the milk of human kindness'.²⁷ On the other hand, Lord Walsingham argued that 'Women have not the judicial mind. They cannot approach a matter purely without bias. Their more sensitive souls are always hampered by some sentimental consideration to the doom of justice.'²⁸ This gendered attribution of 'sentiment' to women was placed in opposition to the supposedly masculine traits of 'reason' and 'sound judgement'. Walsingham evidently perceived 'common sense' as in short supply where women were concerned, all too easily overridden by sentiment. There was apparently no higher compliment (although it may have been a back-handed one) for a woman magistrate than to say that she had a 'masculine brain'.²⁹ Legal theory required that a person sitting in judgement should be impartial and unaffected by personal attitudes and experiences except in as much as they informed his/her 'common sense'. Therefore supporters of women magistrates argued that women would bring their maternal expertise and understanding of domestic life, especially to the work of juvenile courts.

III

As far as training was concerned, new magistrates in 1920 received none. They were able to sit in judgement as soon as they had been sworn in and, although in practice they would probably defer to those with more experience, there was nothing in theory to stop them from chairing a court or sitting alone straight away. The more enterprising and dedicated new JP might obtain a copy of *Stone's Manual* and study it but there was no compulsion to do so. The first formal training scheme for lay magistrates – a correspondence course prepared by the MA – was not launched until after the Second World War and compulsory instruction for newcomers was not introduced until the 1960s.

²⁷ *House of Lords debates*, 20 May 1919, cols. 734–5.

²⁸ *Pearson's Weekly*, 3 Jan. 1920.

²⁹ Barbara Wootton, *In a world I never made* (London, 1967), p. 153.

This lack of training was not likely to satisfy many of the new female recruits to the magistracy after 1920. As mentioned above, the new women JPs often had extensive experience of philanthropic work, an activity that itself was undergoing a phase of ‘professionalization’. Since the late nineteenth century there had been an expectation that even ‘lady volunteers’ should be trained to undertake work such as housing management and in 1934 the social worker Elizabeth Macadam drew a contrast between the old and ‘the New Philanthropy’ in relation to ‘delinquency’.³⁰

The philanthropy of the 18th and 19th centuries which sought to ameliorate the lot of ‘prisoners and captives’, or to modify harsh, often brutal punishments, has in our century entered a new phase in which men and women work together to bring about new standards of prevention, early treatment on scientific lines, and more curative methods of punishment.

However, she regretted that ‘the scientific treatment of crime is still ... almost entirely left to volunteer zeal and experiment’.³¹ Macadam’s polemic not only emphasizes discourses of ‘science’ and ‘treatment’ that lay at the heart of the so-called ‘liberal progressive’ penology of the era but also underlines the role of the new woman-citizen in this modernizing project. Only by familiarizing herself with ‘scientific’ approaches to criminal behaviour could a JP undertake successfully her duties in an efficient manner.

Macadam’s assertion that ‘women are new to these duties that have been laid on men for centuries, and have brought to the work fresh interest and enthusiasm’ seems to have credibility.³² Training for women JPs, some of it self-initiated, began as soon as the first were appointed. The first woman sworn in to the commission of the peace in London, the trade union leader Gertrude Tuckwell, later recalled that ‘I felt deeply my own ignorance and procured a large volume of “Stone” from which to educate myself.’³³ The first meeting for women justices, organized by the NUSEC, formerly the National Union of Women’s Suffrage Societies, took place in November 1920 only weeks after the announcement of the lord chancellor’s list.³⁴ Chaired by Mrs Fawcett, suffragist leader and one of those nominated on the list as JP for London, the meeting was addressed by her successor as NUSEC leader, the Liverpool JP, Eleanor Rathbone.

The commitment of NUSEC to magistrate education was ongoing and was related to their central preoccupation with equal citizenship. The opportunity that appointment to the bench offered for practical exercise of citizenship was without parallel and the feminists among the new women magistrates were determined to prepare themselves fully to play an active part. NUSEC organized several summer schools in the 1920s with special lectures for women JPs. The first

³⁰ For details of training in housing management, see Marion Brion, *Women in the housing service* (London, 1995), p. 13.

³¹ Elizabeth Macadam, *The new philanthropy* (London, 1934), pp. 223, 236. ³² *Ibid.*, p. 225.

³³ Unpublished autobiographical typescript, Gertrude Tuckwell papers, TUC Library.

³⁴ *Times*, 1 Dec. 1920.

of these took place in 1922 at St Hilda's College, Oxford, and was judged to be a great success by the organizers. Speakers included the American penologist T. Mott Osborne, and Margery Fry JP (of the Howard League for Penal Reform and the MA) organized informal sessions at which women magistrates could exchange ideas and experiences. According to the NUSEC paper, the *Women's Leader*, participants showed 'an eager thirst for knowledge as evidenced by attendance at lectures, raids on bookstalls and not least by snatches of earnest conversation overhead in the garden or common room'.³⁵ Further summer schools were held in Oxford in 1925 and 1928. In 1925 about 100 women heard speakers including the MA founder, Margery Fry, Eleanor Rathbone of NUSEC, Geraldine Cadbury (who had worked for many years as a voluntary probation officer prior to her nomination as JP), and the pioneering prison psychologist, Dr Maurice Hamblin Smith of Birmingham.³⁶

Not all women JPs were appreciative of the efforts of NUSEC to educate them. One apparently wrote to the press ridiculing the school and claiming that 'common sense' was the only qualification needed for work on the bench.³⁷ NUSEC, however, was undeterred and also published in its paper information of interest to magistrates. In 1923 a column entitled 'The Law at Work' began to appear on a regular basis in the *Women's Leader*. Under the by-line 'under the direction of Mrs C. D. Rackham JP, Miss S. M. Fry JP, with Mrs Crofts as Hon. Solicitor', the 'Law at Work' articles were mostly written by Mrs Rackham, who was a key figure in magistrate training in this period. Mrs Rackham was a Newnham College-educated Labour councillor and Poor Law Guardian with extensive experience of philanthropy and activity in the women's suffrage movement. After her nomination to the Cambridge bench in Lord Chancellor Birkenhead's list she made a special subject of criminology and penal reform while still finding time for council work and to stand as a parliamentary candidate. In addition to penning articles for 'The Law at Work' column, which appeared until 1931, Mrs Rackham gave many talks on the work of women magistrates to meetings and even on the radio, becoming one of Britain's first women broadcasters.³⁸ She was active in the National Council of Women (NCW), the Howard League and the MA, frequently presenting evidence to government inquiries on behalf of one or other of these organizations or sitting on the committees herself.

Despite her prominence, Mrs Rackham can be seen as but one of many feminists promoting an understanding of penal issues amongst women JPs in interwar Britain. Others established clubs and societies for women magistrates in their local areas, for example Mrs Juson Kerr, a member of the WFL in East Kent. In Gloucestershire a group of women justices, inspired by the NUSEC 1922 summer school, set up the Gloucestershire Women Magistrates' Society (GWMS), which continued to function for the following twenty-five years. The

³⁵ *Women's Leader*, 1 Sept. 1922.

³⁶ *Ibid.*, 5 June 1925, 11 Sept. 1925. For details on Hamblin Smith, see n. 54, below.

³⁷ *Ibid.*, 1 Sept. 1922.

³⁸ *Cambridge Independent Press*, 11 Apr. 1930.

example of the GWMS inspired a similar association to be formed in Hampshire in 1932 and another was promoted in Sussex. There is also fragmentary evidence of women magistrates' societies in north-east England, Middlesex, and possibly London. The GWMS was the most active and in the 1930s it promoted conferences attended by JPs from across the west midlands and south-west of England.³⁹ In addition to these specialist clubs, interwar local women's citizens' associations, branches of the NUSEC, the Women's Co-operative Guild, and the NCW all regularly promoted meetings about and for women JPs as well as putting forward candidates for the commissions of the peace in their locality. The NCW also had a national committee, the Public Service and Magistrates' Committee (PSMC), which met in London on a regular basis. In the 1920s, under the leadership of another Cambridge feminist (and mother of J. M. Keynes), Mrs Florence Keynes JP, magistrate work began to take up an increasing proportion of the PSMC's agenda. In the late 1920s the committee had over 500 members, and while by no means all of them could attend meetings, they were all sent printed minutes containing verbatim reports of addresses given to the PSMC by acknowledged 'experts' in the legal and penal fields.⁴⁰ For example, speakers encouraged members to follow up the cases of individuals brought before them, especially in the juvenile courts. The committee also surveyed its members, gathering reports on a range of matters and circulating information about best practice. The PSMC was undoubtedly a vital part of the network by which useful guidance on judicial matters was disseminated to women magistrates.

The early women JPs also played an important role in the MA, a body whose birth followed shortly after the first appointments of women to the bench. The timing was not co-incidental: as Macadam pointed out, 'it is significant that an association of magistrates of both sexes came into existence shortly after they [women] became eligible for office'.⁴¹ The organization was initially promoted by Cecil Leeson, secretary of the Howard Association in 1919, but little progress was made until the following year when he wrote jointly with Margery Fry of the Penal Reform League to all the women on Lord Chancellor Birkenhead's list (the two penal reform bodies were at that time on the point of merging).⁴² A meeting was held in October 1920 to launch the MA attracting 'a large attendance, which included several women' according to *The Times*, although the inaugural meeting did not occur until the following autumn. The association's stated objectives were educative: 'the collection of information calculated to promote the efficiency of the work of magistrates and the diminution of crime and the maintenance of a permanent office for collating and disseminating such information'.⁴³ The MA can also be viewed in some ways as a symptom of the lay magistracy's

³⁹ Gloucestershire Women Magistrates' Society (GWMS) minute book, Gloucestershire County Record Office (GCRO), D6156/2.

⁴⁰ Minutes of the Public Service and Magistrates' Committee of the NCW, 15 May 1927, NCW papers, LMA, ACC/3613/1/77.

⁴¹ Macadam, *New philanthropy*, p. 225.

⁴² Howard League papers, Warwick University Modern Records Centre, MSS16C/4/2.

⁴³ *Times*, 27 Oct. 1920.

‘professionalization’ in that through it lay magistrates formed an interest group that was eventually capable of lobbying government as part of what Richard Titmuss termed ‘the pressure group state’.⁴⁴ However, the MA was not a fully professional body in the sense that it had no direct control over entry to the office of JP.

The new women magistrates played a significant part in the MA’s development. In the early years they made up nearly a third of the association’s individual membership, despite the fact that only a tiny proportion of JPs were female at the time. The MA may not have been a very significant body in this period, but it would have been feebler still without the financial and moral support of its women members. They were prominent in its mixed meetings and, until the outbreak of the Second World War, annual women-only conferences were also organized by the MA. Women played a less obvious but noteworthy part in the association’s hierarchy: in 1934 they held over a quarter of MA executive places (six out of twenty).⁴⁵ Prominent members included Margery Fry, Gertrude Tuckwell, Geraldine Cadbury, Elizabeth Haldane, Mrs Rackham, and Miss Kelly (Mrs Keynes’s successor as PSMC chairman). Moreover, these redoubtable campaigners were not content merely to let the men make the policy: their activism was reflected in the generally pro-feminist stance adopted by the MA in the 1920s and 1930s, for example in advocating the appointment of more women magistrates and supporting the drive for women police.⁴⁶

It is important to stress that the network of organizations described above was unparalleled by any similar arrangements for the vast majority of JPs who were men. When the 1922 NUSEC summer school was announced in the press the attorney general was asked in the House of Commons if a similar course could not be mounted for men.⁴⁷ The GWMS and the Hampshire Women Magistrates’ Association opened some of their meetings to male colleagues but few turned up. When the GWMS held their second ‘school’ for magistrates in 1935 the *Birmingham Evening Dispatch* speculated ‘whether magistrates of the opposite sex have ever felt the need of such a school’.⁴⁸ However, J. Robertson Scott, the Oxfordshire JP and editor of the *Countryman*, clearly did see a need as he was so impressed by the GWMS in 1935 that he launched the Quorum Club for all magistrates in his home county. Of course the MA was open to men, but as already stated, female JPs were heavily over-represented in its early membership, which was largely made up of lay magistrates. In 1963 a barrister, J. P. Eddy, summarized the history of the MA thus:

The aim of the Association has been fundamentally to keep magistrates well informed on matters connected with their duties and from the earliest days it has been the women

⁴⁴ Quoted in Perkin, *Rise of professional society*, p. 14.

⁴⁵ Magistrates’ Association annual report, 1934, p. 4.

⁴⁶ *Ibid.*, 1928, p. 10; 1930, p. 14.

⁴⁷ *Women’s Leader*, 11 Aug. 1922.

⁴⁸ Cutting from *Birmingham Evening Dispatch*, 28 Sept. 1935, in GWMS minute book, GCRO, D6156/2.

magistrates who took the lead in organizing conferences for this purpose ... In due course, but not without discussion, the men who throughout the centuries had not seemed to regard themselves in need of particular training to fulfil their duties as magistrates, joined in these meetings, but it is noticeable that while only twenty-five per cent of active magistrates are at the present time women, they are commonly in a majority attending conferences.⁴⁹

It is evident that the introduction of women JPs helped push the magistracy into forming its own representative, 'professional' body. However, the significance of the MA in the period before 1939 should not be exaggerated. Until the post-war era the MA remained a relatively small organization. With a few notable exceptions, the entirely male (until 1945) ranks of stipendiary magistrates (paid justices who had legal training and not less than seven years' experience as a barrister) held aloof from MA activities and some lay magistrates were apparently put off joining by the cost of a subscription. Similarly the association's correspondence courses were criticized as 'expensive', suggesting that it may have been a club for the wealthier members of the bench.⁵⁰ In 1939 only a tiny minority of the country's JPs were MA members and its journal complained that 'the majority remain[ed] cut off from any opportunities of hearing fresh ideas or comparing their methods with those of other courts'.⁵¹ No doubt this applied to many women magistrates, as well as men. It seems that, as a 'professional' body, the MA was slow to get off the ground.

It is worth considering briefly the type of training offered through the opportunities described above. Some of the approaches coincided with government thinking, others had less official sanction, emanating instead from penal reformers or even academics. All the organizations mentioned used their conferences, meetings, and publications to disseminate information about the latest government thinking. The Home Office regularly sent out circulars to benches, but the evidence suggests that they were often ignored. For example, there was a failure by many benches to elect a special panel of justices with 'special qualifications' to deal with juveniles as recommended by the Home Office in 1921.⁵² These proposals were often discussed by groups of women magistrates, as were other recommendations, such as the use of probation in place of birching for young offenders. The Home Office line on such matters was often very similar to that of the newly merged penal reform group, the Howard League, whose influence in official circles in this period has been characterized as 'discreet and modest'.⁵³ New psychological and psychoanalytic approaches to offenders also received some attention at gatherings of women magistrates and in feminist publications. These were especially utilized in Birmingham, where the justices established the country's first permanent scheme to have adult offenders clinically examined.

⁴⁹ J. P. Eddy, *Justice of the peace* (London, 1963), p. 181.

⁵⁰ GWMS minute book, 25 Feb. 1947, GCRO, D6156/2. ⁵¹ *The Magistrate*, Jan.–Feb. 1939.

⁵² Home Office circular to magistrates' clerks and JPs, the National Archives, HO45/13402/12.

⁵³ Mick Ryan, *Penal policy and political culture in England and Wales* (Winchester, 2003), p. 19.

Both the doctors employed, Hamblin Smith and W. A. Potts, addressed gatherings of JPs and, according to David Garland, Smith was ‘Britain’s first authorized teacher of “criminology” and the first to go under the title of “criminologist”’ as well as ‘one of the first ... to profess an interest in psycho-analysis’. Crucially, he rejected ‘general theories’ favouring instead the ‘study of the individual’.⁵⁴ This case-by-case approach may well have appealed especially to women magistrates with a background in philanthropic social work, but it was not officially accepted. A less controversial, broader approach to the psychology of the offender could be found in the pages of Cyril Burt’s *The young delinquent*, which was recommended to women magistrates by the feminist press when it was published in 1925.

Finally, in this brief survey of training, it is important to mention the encouragement that women magistrates received to go and view conditions in penal institutions. Prisons received official visits from a small, named group of JPs after they were effectively ‘nationalized’ in 1877, but penal reformers encouraged all magistrates to go on fact-finding tours. The GWMS and HWMA arranged regular outings for their members to penal institutions, including approved schools and borstals. Undoubtedly there were parallels between this advocacy of prison visits and the encouragement an earlier generation of women had received for workhouse visiting, with a similar emphasis on women’s command of house-keeping matters. For example, at the 1922 NUSEC summer school Margery Fry recommended to her fellow women JPs that they be ‘thorough’ in their inspection, right down to domestic details such as seeing and tasting the food in the prison kitchens. She also recommended that women justices provide books for the library and organize concerts.⁵⁵ Significantly, an early project of the GWMS was the provision of a piano for Gloucester gaol. Some women magistrates went further and got involved in penal initiatives: Mrs Dowson, a Nottingham suffragist, set up a rehabilitation scheme in her local gaol called the ‘league of honour’.⁵⁶ Visits to penal institutions later became a compulsory element of lay magistrates’ training.

Evidence from the memoirs and other writings of early women magistrates suggests that they took their duties on the bench very seriously, viewing them as ‘work’ that could be quite onerous at times. Many were insistent that appointment as a JP should not be viewed merely as an honour. Lady Reading, founder of the Women’s Voluntary Service emphasized that appointment ‘is an honour which can only be won by personal merit and can only be retained by hard work’.⁵⁷ Elizabeth Andrews, whose social milieu in a Welsh mining community could not have been much more different from Lady Reading’s, agreed. ‘Being a magistrate brings great responsibility’, she wrote. ‘Many seem to look upon this appointment more as a personal honour than as an opportunity for service.’⁵⁸

⁵⁴ David Garland, ‘British criminology before 1935’, *British Journal of Criminology*, 28 (1988), pp. 1–17, at p. 8.

⁵⁵ *Women’s Leader*, 8 Sept. 1922.

⁵⁶ *The Magistrate*, Apr. 1925.

⁵⁷ Baroness Swanborough (Lady Reading), *It’s the job that counts* (Colchester, 1973), p. 134.

⁵⁸ Elizabeth Andrews, *A woman’s work is never done* (Glamorgan, 1937), p. 41.

Former Cheltenham Ladies' College headmistress, Lillian Faithfull, similarly described 'the office [of JP] as an opportunity for social service of the highest kind', while conceding that the routine work was 'somewhat wearying'.⁵⁹ Louisa Martindale, a member of the medical profession, found the work on the Brighton bench 'heavy', as 'it sat on four or five mornings a week and if the case was not finished by one o'clock we had to return after lunch and sit on until it was ended'.⁶⁰ It is evident that, in some areas at least, the duties of a JP were not to be undertaken lightly or by people who were easily bored.

IV

It seems that in 1920 the magistracy was very far from being a 'profession', except in the limited sense that its membership was largely self-selected and oligarchic. When women first became JPs there were no significant arrangements for the training of lay magistrates and attempts by central government to impose some standardization of practice through circulars were often ignored or resisted by JPs more conscious of their local power base than any need for uniformity. However, by the late 1930s groups of women magistrates and the Magistrates' Association had begun incrementally to transform that situation, spreading news of new initiatives and of 'best practice' and increasing their knowledge of conditions in prisons. After some initial disruption caused by the outbreak of war, many of their meetings and conferences continued to function in the 1940s.

Nevertheless, attitudes changed only slowly: on one hand there was still some resistance to the ideas that anything more than 'common sense' was required to undertake the duties of JP. The need for acquaintance with prison conditions was by no means generally accepted: one justice was told by a stipendiary magistrate in London that approved schools and remand homes were the responsibility of the Home Office and none of his business.⁶¹ Membership of the MA was small before the Second World War compared with later in the century and its effectiveness as a 'professional' lobby may have been somewhat limited, despite the many invitations its leaders received from the Home Office.

Furthermore, criticism of the lay magistracy mounted during the interwar period, thanks in large part to the appearance of the middle-class motoring offender in the petty sessional courts. The pressure was on justices to become more professional and less idiosyncratic in their behaviour. Harold Laski canvassed for their replacement with 'proper' professionals, meaning legally qualified stipendiaries, significantly arguing that 'the average justice has neither the knowledge nor the training for the position he fills', and a correspondent to *The Times* in 1935 likewise argued that 'the case for stipendiaries is

⁵⁹ Lillian M. Faithfull, *The evening crowns the day* (London, 1940), p. 24.

⁶⁰ Louisa Martindale, *A woman surgeon* (London, 1951), p. 201.

⁶¹ John A. F. Watson, *The child and the magistrate* (3rd edn, London, 1965), p. 265.

overwhelming'.⁶² Such a thorough 'professionalization' was not undertaken, probably because of the huge cost involved (each stipendiary would have cost about £2,000 in salary alone in the early 1940s) and was explicitly rejected by, among others, Robertson Scott and Leo Page, an adviser to the lord chancellor. Instead, they called for training in order that lay volunteers should become more 'professional' in their approach. It was simply no longer adequate, according to Page, that JPs should be ignorant of the law, the rules of evidence, and penology.⁶³ The first step was the introduction of compulsory retirement for JPs after 1948 to eliminate the elderly and out-of-touch, an imposition that strongly hints of 'professionalism'. Significantly, this move was supported strongly by several leading women magistrates, despite (or because of?) their own advancing years, although not all agreed with it: one JP in Gateshead complained bitterly that she had not retired or resigned, but 'been taken off'.⁶⁴

The template for the effective, modern, trained, 'professional' magistrate that had been advanced initially by a network of women's organizations and their male allies in the MA, penal reform groups, and the government in the interwar period became adopted more generally after 1945. At first all new justices were simply offered training by correspondence course (for which they paid themselves) and were sent Leeson's *Notes for New Magistrates* but by the 1960s residential courses at provincial universities were available.⁶⁵ Prison visits became mandatory for newcomers to the bench. Yet it was not essential for there to be formal education for the process of 'professionalization' to start. As Torstendahl contends, the identification of a body of knowledge is the key to professional definition, rather than 'institutional education'.⁶⁶ Knowledge can be transmitted in a variety of ways, including through voluntary institutions such as those highlighted in this article.

As bastions go, the all-male Commission of the Peace crumbled relatively quickly, and with little noise. The initial legislation passed its parliamentary stages fairly uncontroversially, and although many traditionalists had reservations, including Lord Birkenhead, who promised the House of Lords that the country's benches would not be 'flooded' with women, the proportion of women justices rose steadily thereafter.⁶⁷ In part, by allowing enthusiastic female volunteers to become JPs, the government shored up the bastion by accessing the energy and talent of educated women, who were often barred by social convention from lucrative professions. The proportion of JPs that were women rose to about a

⁶² Harold Laski, *A grammar of politics* (London, 1925), p. 562; *Times*, 5 Feb. 1935. The Left Book Club publication, *Justice in England by A Barrister* (London, 1938), also contains a vigorous denunciation of 'amateur' magistrates, at pp. 13–20.

⁶³ *Times*, 19 Jan. 1935; Leo Page, *Justice of the peace* (London, 1936), pp. 30–1.

⁶⁴ Article dated 18 May 1950 in newspaper cuttings book (paper unknown), Gateshead Public Library, p. 19.

⁶⁵ Watson, *The child and the magistrate*, pp. 357–8.

⁶⁶ Rolf Torstendahl, 'Essential properties, strategic aims and historical development: three approaches to theories of professionalism', in Burrage and Torstendahl, eds., *Professions in theory and history*, p. 54.

⁶⁷ *House of Lords debates*, 20 May 1919, col. 737.

quarter in the 1960s, and to roughly half today. Nowadays there are different selection procedures for lay magistrates as well as compulsory retirement and training but the position is still voluntary and unpaid, saving the government at least £30 million in salary costs alone.⁶⁸

Pat Thane argues that many Girton College graduates made careers in voluntary work: 'without such women, the magistracy ... and many other organizations could not have functioned so effectively'.⁶⁹ The early women JPs seem to have played a vital part in ensuring the survival of the lay magistrate in England and Wales to the present day, not only by volunteering themselves for an increasingly arduous and demanding role but also by rejecting the dilettante's approach and demonstrating how 'professional' a lay person could be. Eager to appear competent in order to fend off criticism that women were 'unfit' for judicial office and to prove their right to citizenship, the early women magistrates succeeded in blurring the boundaries between amateur and professional, and voluntary and professional. In the process they initiated the modernization of the administration of justice in England's lowest – and busiest – courts of law, while retaining the essential voluntarism of the JP's role. Their efforts suggest that definitions of 'professionalism' can be broad and fluid, and should not necessarily be confined to a narrow, gendered category of highly paid occupations dominated by men.

⁶⁸ *Guardian*, 23 Jan. 2001.

⁶⁹ P. Thane, 'Girton graduates, earning and learning, 1920's–1980's', *Women's History Review*, 13 (2004) pp. 347–61, at p. 353.