

# *IN THE FOOTSTEPS OF ETHEL BENJAMIN* BY JANET NOVEMBER

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Janet November *In the footsteps of Ethel Benjamin, New Zealand's first woman lawyer* (Victoria University Press / Law Foundation, Wellington, 2009) 260 + xi pages, \$50.

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As a New Zealand law student in the early 1990s, I knew nothing about Ethel Benjamin, not even her name. The identity and history of New Zealand's first woman lawyer was not something I encountered during my studies. I doubt very much that I was alone in this.

Fortunately, future generations of law students have been rescued from such an embarrassing ignorance of their legal heritage through the sterling efforts of Janet November. *In the footsteps of Ethel Benjamin* is the biography of this remarkable woman who was not only the first woman lawyer in New Zealand but was also a poster girl (if I may use that term advisedly) for proponents of opening up the legal profession to women in England.

It is a good thing that this book has been written. For, while Ethel Benjamin's achievements were well-known at the time in New Zealand and beyond, the passage of time has perhaps caused us to become complacent about the position of women in law. As women comprise more than half of the intake into law schools, and occupy senior positions of national legal authority, it is tempting to think that, both at the beginning and end of our professional lives, women lawyers are on a par with their male colleagues; we can all sit back and relax while the progression of time delivers us to the Elysian Fields of equality. In thinking that way, it is easy to forget the hard work undertaken by our foremothers in law that has enabled us to be where we are. November's epilogue, focusing on the careers of five twentieth century Otago women lawyers, reminds us of the painstakingly slow progress made by women in law. It should remind us too, that there is still much work to be done, if we are to properly fulfil the promise of women's achievements in law which started with Ethel Benjamin.

What do we learn of Ethel Benjamin from this book? First of all, we have her public achievements which reveal something of who she was. She must have been a very determined young woman to have started her LLB when she was not legally allowed to practise. Her graduation

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speech in 1897 reveals her to be acutely aware of the need for economic independence for women, and not afraid to compare marriage to prostitution, as she quoted the American dramatist Israel Zangwill who said: "all we really want is to make girls economically independent of marriage, able to choose their mates from love rather than selling themselves for a home" (at 59). She knew too, that she was stepping out beyond the confines traditionally set for women at the time, and she was not afraid to be one of the "rebels who extend the boundary of right" (at 60).

From the archives of Ethel's business letters, we gain a glimpse of the sort of lawyer Ethel must have been: diligent on behalf of her clients, plain-speaking in her correspondence and none too shy about chasing up her fees. She was also very aware that she was not part of the legal fraternity and would have to rely on her own efforts to build up her practice – as evidenced by her feisty correspondence with the Wellington District Law Society over her advertising billboards. There is plenty of evidence that Ethel was not wholly accepted by her male counterparts, as they wrung their hands over whether she could use the library, what she should wear in court, who would stand next to her in processions and several times seemed to forget to invite her to the annual Bar dinners. Ethel responded to each of these slights in a calm and persistent manner, never asking for and never accepting a concession to her sex.

From November's investigations into her areas of practice we encounter two sides of Ethel Benjamin. Although she never publically declared herself a feminist, and indeed, had her differences with the National Council of Women, Ethel did much valuable work in improving the position of women.

From one of her two published interviews, to the Christchurch *Press* in 1897, we can see that Ethel saw herself as being able to offer women something male lawyers could not, noting that women "whom modesty has compelled to suffer in silence rather than confide their troubles to one of the opposite sex, will now have the opportunity of going to a woman for legal advice" (at 72–73). Ethel also revealed a strong moral streak, opining that a woman lawyer "may be relied on to hold out her hand to her erring sisters, and to do her utmost to lead them back to the narrow path of virtue" (at 73). This is a considerable responsibility, but it seems that Ethel rose to the challenge of these aspirations. In 1899 Ethel became one of the honorary solicitors of the Otago branch of the Society for the Protection of Women and Children. She acted for women who suffered domestic violence, pursued separations, chased up maintenance payments for those who were deserted by their husbands, arranged adoptions for "fallen women" and acted for servants who had been denied their full wages.

Ethel was also a busy commercial and property lawyer. She had a conveyancing practice and was involved in property management and debt collections. As November observes, it might have been expected that someone who acted in the interests of women to the degree that Ethel did would also align herself with the temperance (or more accurately, prohibition) movement, which saw the problems arising from alcohol abuse at the heart of many women's sufferings. Yet Ethel acted for many hoteliers and even sought (successfully) to overturn a poll in favour of "no licence" in the

Bruce district. In this particular case, she even went so far as to write to the Premier Seddon, arguing for a fresh poll.

Furthermore, Ethel was not only a legal pioneer, she was, as November has uncovered through diligent researches, also quite an entrepreneur, owning property and trying her hand at various endeavours in the hospitality field, including a teashop in Christchurch. The business correspondence makes it clear that Ethel was closely involved in the day-to-day running of her enterprises, right down to adding new dishes to the dessert menu and advising as to who was capable of working in the bar unsupervised.

The private Ethel Benjamin is rather harder to make the acquaintance of from this book. This is not the fault of the author; it seems that the record of Ethel Benjamin's private life no longer exists. There is no diary (if one ever existed), no school reports, no collection of letters to family and friends, no courtship letters or any other papers that might shed light on how Ethel herself felt when she achieved her historic first in the New Zealand legal profession. Or whether she was hurt by her need to struggle to establish her practice, why she married later in life and did not have children, why she left New Zealand for England and did not return, and why she never returned to the law. A small article in *The New York Times* in 1913 records that she was at that time studying jurisprudence and English court procedure<sup>1</sup> but she was never admitted to practice in England.

The reason for this loss is not mentioned by November, but Dame Judith Meyhew commented in the Ethel Benjamin Address of 2001 that Ethel Benjamin's papers were destroyed by her English relatives who simply did not realise their significance.

Occasionally we do see a flash of Ethel coming through: it is clear that she had an eye for detail, and closely managed almost every aspect of her various business interests. She embraced modern technology: she typed her letters and had a telephone in her office. It seems also that she had an eye for fashion and accessories: scattered throughout the book are references to a new blouse (at 138), her delight in a pearl brooch given to her as a wedding present (at 174), her interest in jewellery (at 140), her enjoyment in buying some orange silk (at 186), and from the pictures, it appears that Ethel was not immune to the pleasures of a new hat.

However, these instances are few. Because of this lack of private papers, November has had to reconstruct the personal life of Ethel Benjamin through the technique of a parallel investigation into the society Ethel lived in. So, although we do not know what it was like for Ethel growing up Jewish in Victorian Dunedin, we do learn of the early Jewish community in Otago and Dunedin's history as a growing and important settlement. Likewise, since we have no direct reminiscences from Ethel herself of her schooldays, we learn from Ethel's schoolmates what her teachers were like, the games played in the playground, and what subjects she would have studied. These parallel histories are interesting

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<sup>1</sup> "Lady Lawyer in London" *The New York Times* (30 January 1913).

in and of themselves, but the reliance on them makes startlingly clear the impact of the loss of Ethel Benjamin's personal papers on her biography and our history.

Ethel Benjamin died in London in 1943. She had not practised law for over thirty years. Her passing does not appear to have been marked by the obituary usually accorded to notable figures. In Janet November's book we have at last a fitting testament to the achievements and legacy of Ethel Benjamin. We would do well to remember them.