

Memorandum by the Minister of Justice

Disqualification of Women from serving as Jurors.

History.

1. The intervention of the people in judging the accused dates back to the tribunals of ancient Athens. An appeal to the public was also made in the days when Rome held its sway over Europe and the Mediterranean littoral.
2. Gradually the "mixed" judgment found its way to modern and more civilised tribunals.
3. The jury, as is generally understood nowadays, was founded in a stable form in England wherefrom it migrated to other European and Transatlantic countries.
4. Formerly the most reputed and respectable persons used to be empanelled to perform their duties under oath (Jurati) and they were asked to pronounce themselves on the charge (verdictum).
5. From the United Kingdom the jury system found its way to America and with the French Revolution in 1789 it became established in practically all European Countries. Where absolute monarchies still held the reins of Government the jury system was squeezed in following hard fought debates.
6. In Italy it made a short appearance in Naples in 1820 under Napoleon I. The jury system saw the light of day in Piedmont in 1848, originally only for press offences, it was subsequently extended to all the provinces between 1859 and 1861.
7. Broadly speaking trial by jury was introduced in Malta in 1854. It is with a sense of pride that one is in a position to state, now that the jury system has been through the mill and withstood the test of time that the Maltese jurymen have established an untarnished record of sobriety and integrity in their deliberations.

Policy on the principle.

8. The question arises here to probe into the question whether women should be empanelled on the local jury. Although at certain periods of history in certain places women - or rather some women have achieved something approaching equality with men, it remains generally true that in the past woman has been, if not man's slave, at least his subservient mate, a thoroughly domesticated, child-bearing drudge.
9. The female emancipation took some time to reach recognised proportions. The first woman to be placed on the British medical register was Dr Elizabeth Blackwell (1821-1910) and the first woman solicitor and the first woman barrister in England were admitted in 1922. Today women are doctors and lawyers, teachers, members of parliament, diplomats, stenographers and business chiefs, and I think the time has come for them also to be styled jurywomen.

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10. The advantage of the veredictum of the jury (popular judgment) consists in the approach of penal justice to the reality of life and public sentiment. To the masses the justice which emanates from the response of the jury is more acceptable rather than the pronouncement of the official judge who is bound by the terse text and ties of the law. The "mixed" judgment of law and fact, the former applied by the official judge and the latter weighed and estimated by the popular judge is definitely more acceptable to society.

11. Crime is an abnormal phenomenon, but it is also essentially human and social. It is a product of unregulated sentiments and circumstances, partly subjective and partly objective. Crime indicates certain unbalanced attitudes of individual and social life pertaining to all classes of society. Perhaps the best factual judge in the matter is society itself. Once women are nowadays participating in all spheres of life, academical, administrative, political and so on and so forth why should they be excluded from participating in representing society when society intervenes to judge and examine those who offend and transgress the provisions of the law laid down to safeguard society against unwarranted encroachments.

12. It appears to me that the female outlook may in certain circumstances throw its lot to make the deliberation more sober and perhaps even more objective. The participation of women in juries may even alleviate the hardship of men, especially of foremen, who year in and year out have to serve repeatedly on jury panels owing to the limited number of jurors available.

Other points.

13. In order to safeguard the smooth running of family life I venture to suggest that the participation of married women should be made to operate on a voluntary basis. A married woman wishing to serve as a juror should make an application to the Court thereby necessitating the intervention and assistance of her husband.

14. I would make it compulsory for all spinsters having attained the age of 25 years the Board being satisfied that the female juror has attained a secondary school education. Unmarried women in possession of a University degree should be able to serve on attaining the 21 years of age limit. This initial precaution should be adopted with a view to checking the impact of an innovation which might bring in its wake far-reaching effects. A degree of maturity is important where the administration of justice is concerned.

15. The exclusion of female jurors from trials involving corruption of minors and sex offences may also be considered. If the principle is agreed upon one must probe also into the necessity of appointing women court ushers to accompany women jurors when the trial is prolonged beyond a day's sitting with the result that jurors will have to sleep in.

As a start perhaps ministers might wish to recommend that jury service should be introduced on a voluntary basis whether the female juror is married or not.

Honourable Ministers are, however, invited to recommend.

23rd September, 1965.