

# SOUTHWEST 2d LAW REVIEW



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# SPOUSAL CONTRIBUTIONS TO LEGAL LITERATURE: A SOCIO-PHILOSOPHICAL STUDY<sup>1</sup>

by Peter Winship<sup>2</sup>

Most writers of legal literature are human.<sup>3</sup> Most humans are male or female. Some males and females marry. Some writers of legal literature marry. Indeed, some writers of legal literature are probably married when they write their legal literature. The influence of the spouse on the writing of legal literature has never been explored. This article addresses this question.

## A. Date Sample

The author examined the Prefaces and Dedications in books reviewed in the *Harvard Law Review* in three one-year periods. These periods are 1954-1955, 1964-65, and 1974-75<sup>4</sup>. The number of books in the sample for each period and the number of books actually examined are indicated in the following table:<sup>5</sup>

Period A (1954-55)	26 books in sample 19 books examined
Period B (1964-65)	36 books in sample 26 books examined
Period C (1974-75)	13 books in sample 9 books examined

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1. After reading this article you will know who is responsible for any of its shortcomings.
  2. Married.
  3. This author has, however, heard some writers of legal literature described as "horses' asses." Surely such comments cannot be taken literally.
  4. *Harvard Law Review*, vols. 68, 78, 88.
  5. The difference between the number of books reviewed and the number of books examined is explained by the books being checked out of or never acquired by the SMU Law Library.

## **.B. The Data**

The data is reproduced below verbatim.

### **Period A.**

1. Graveson, *Status in the Common law* xvi:

"My thanks go also to my wife for her assistance in the tedious task of proofreading."

2. Hamilton, *Anglo-American Law on the Frontier* ix:

"Mary Elizabeth Boyd Hamilton shared ten years of laborious effort to arrive at an accurate translation of Rodney's MSS."

3. Keeton, *Trial Tactics and Methods*:

(Dedication) "To Betty who, substituting intuition for legal training, read the manuscript and caused me to rewrite every sentence she thought she did not understand. If you find the meaning of any passage obscure, seek the explanation of another intuition."

### **Period B.**

1. Fuller, *The Morality of Law* vi:

"Finally, in acknowledging the very real contribution of my wife, Marjorie, I shall borrow a conceit from another writer: she may not know what it means, but she knows what it means."

2. Lockhart, Kamisar & Choper, *Constitutional Law* ix:

"Finally, we express love and appreciation to our wives without whose patience and understanding this book could not have been completed."

3. Nimmer, *Nimmer on Copyrights* ii:

"To my children, Becca, Larry, and David, whose memory almost runneth not prior to the injunction, 'Don't bother Daddy. He's working on the book.' I am grateful for their thoughtful forbearance, as well as for their acceptance on faith that weekends devoted to the book took priority over visits to Disneyland and other family excursions.

"The judge who issued the above injunction, my wife Gloria, has an importance in the writing of this book far beyond what I can express here. I can, however, gratefully record not only the fundamental fact of her constant encouragement, but also the vital if more mundane contributions of efficient management of the household so as to permit my devotion of untold hours to research and writing, as well as her tireless and cheerful assistance in proofreading and typing of manuscript."

4. Post, *Studies in Medieval Legal Thought: Public Law and the State, 1100-1322*:

(Dedication) "To My Wife"

### **Period C.**

1. Allen, *The Crimes of Politics*, viii-ix:

"And then there is my wife. Authors commonly profess in prefatory statements an appreciation for their spouses, often in phrases such as: 'I have been working on this volume fourteen hours a day for the past ten years.

Never once during that long and arduous labor did I hear a word of complaint pass the lips of my wife.' I have often suspected that such statements are to be taken as evidence more of the author's fictional powers than of factual reporting. In any event, June is not like that. After I have been for some time in the semicomatose state that writing produces in me, she is very likely to say, 'That's enough.' John Milton may have been right when he wrote, 'They also serve who only stand and wait,' but it is an observation that produces no resonance in my wife's Irish soul. The time has come to acknowledge that, again and as usual, she is correct. It is not necessary to spend every waking hour thinking about the next sentence. In fact, the final product may be improved if one is a little less compulsive about his work. I should also acknowledge her remarkably accurate and rapid understanding of the human impact of complex social problems. To the extent that my work has failed to grasp this human dimension, the failure is my own. When it has revealed such perception, the contribution is largely hers. There are, of course, other acknowledgements owed to her, but I had best find other ways to express them."

2. Lazarus, *The Genteel Populists* ix:

"Joseph Obek also offered extensive comments, as did my wife, Rosalind Avnet Lazarus."

3. Tunkin, *Theory of International Law* (Butler trans.) v: "The image of a translator working in seclusion with his typewriter and dictionary, warding off his family with diverse manifestations of ill humor, is only partially accurate in this case."

4. Wigdor, *Roscoe Pound-Philosopher of Law* xi:

"As a full partner in this project, my wife, Alexandra Kent Wigdor, deserves a line of her own."

**C. Commentary on the Data**

1. The spousal reference function<sup>6</sup> for each period is as follows:

Period A	15.8%
Period B	15.4%
Period C	44.4%

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6. The "spousal function" is defined by computing the number of books with references to spouses as a percentage of the books examined in a sample. Example: 5 books have references to spouses in a sample of 20 books; the spousal reference function is 25%.

Obviously spouses are gain greater recognition.

2. In each period there is one case of co-authorship by spouses. In Period A one can explain co-authorship by reference to the foreign nationality of the authors<sup>7</sup>. In Period B the spouse is named Associate Editor.<sup>8</sup> In Period C the spouse is not only a full co-author but flaunts this by adopting a hyphenated surname<sup>9</sup>. The trend appears to be to give spouses greater recognition.

#### **D. Conclusions**

Great work remains to be done. The influence of parents, children, colleagues, secretaries, editors and others should be explored. Eventually we will find out who is responsible for the essential dullness of legal literature.

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7. Tunc & Tunc, *Le Systeme Constitutionnel des Etats-Unis d'Amerique*.

8. Goebel (ed.), *Law Practice of Alexander Hamilton: Documents and Commentary*, Volume I.

9. Ackerman & Rose-Ackerman *et al.*, *The Uncertain Search for Environmental Quality*.

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