

## 6 The End of an Era

JOAN MIDAY KRAUSKOPF AND  
MARYGOLD SHIRE MELLI

Joan Krauskopf and Marygold Melli began their careers at the end of the 1950s. They shared a specialty in family law, although both also specialized in other subjects. Both were the first female tenure-track professors at their law schools; one was also the first tenured woman professor at her second law faculty. These two women represent the ending of an era when female law professors were largely isolated from each other and not fully accepted as equals by their male colleagues. Both relied on the understanding and support of their husbands and, in all respects except their choice of law as a professional career, acted as traditional wives and mothers toward their families.

JOAN MIDAY KRAUSKOPF

Barbara Joan Miday was born in Canton, Ohio on April 24, 1932, the only child of Clement I. Miday and Elizabeth (Bellinger) Miday.<sup>1</sup> At the time of Joan's birth, her father was out of work, and her mother was working in a boarding house. Her father ultimately became a letter carrier; her mother worked at various unskilled jobs and for years operated the postal unit in

a drugstore. Her parents put a high value on education, and Joan grew up being told that she could do anything. Her parents were loving and supportive, and her childhood was a happy one.

Joan attended grammar school in a small country school with a very homogenous—working-class, all-white, mostly Protestant—student body. Her sixth-grade teacher encouraged Joan to enter a countywide speaking contest, and, later, Joan remembered her teacher's display of confidence in her abilities as an important event in her early life. For high school, her father arranged for her to attend his alma mater in town: McKinley High School. Joan was a star member of the speech and debate team and was active in other extracurricular activities as well. She wrote for the school paper. She was elected vice-president of the student government.

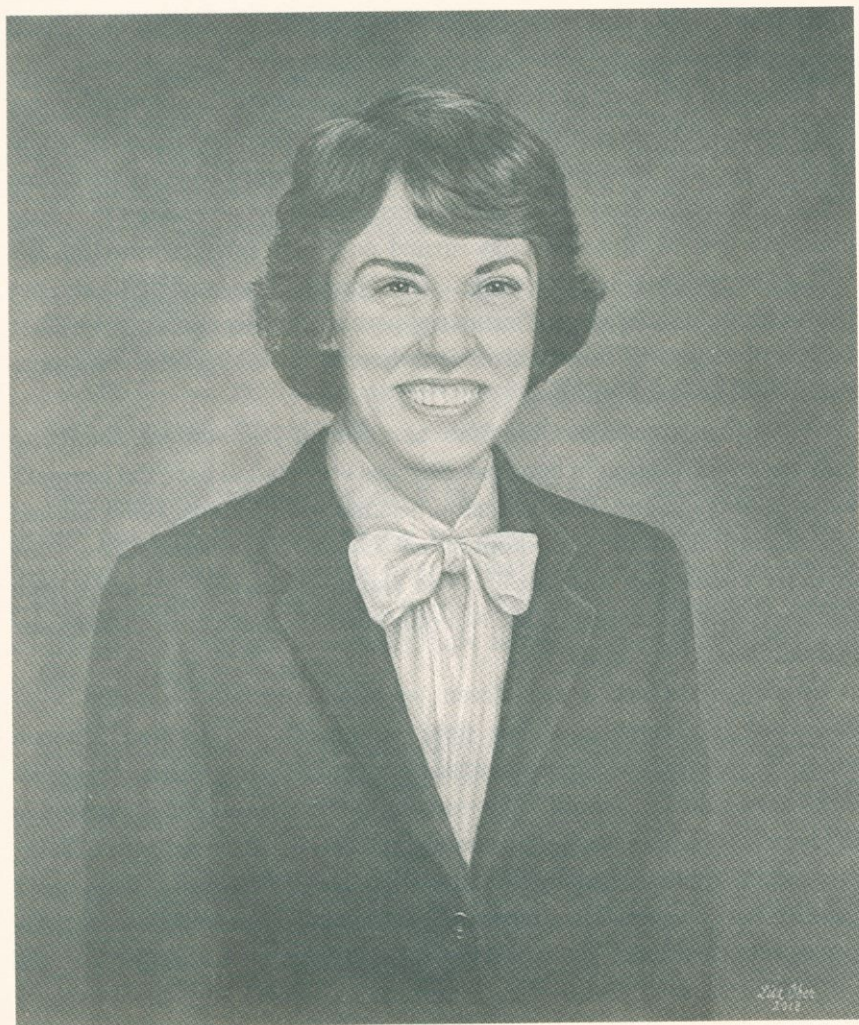
Her family's limited income meant that Joan would have to go to state college, and she chose Ohio University in Athens, Ohio. OU gave her a scholarship—\$90 a year, \$45 a semester—which paid for the tuition. Joan continued to pursue her interests in student government and public speaking, at OU. She was first in the State in both extemporaneous speaking and debate, and majored in speech until her junior year, then switched to history. She was elected to Phi Beta Kappa in her junior year, and was an outstanding student who compiled many additional honors.

In her sophomore year, Joan met her future husband, Charles Joseph Krauskopf. They decided to get married after Joan graduated. Charley graduated in 1953 and entered the regular Navy as an officer. Joan graduated in 1954, and they were married on July 4, 1954. Since Charley's ship was scheduled to be stationed in California in 1954, and Joan wanted to begin law school right away, she would begin her studies at UCLA. After Charley got out of the Navy, the two of them would pick a location where he could get into graduate school and she could finish her legal education.

### *Law School*

Joan Krauskopf entered UCLA Law in 1954, in the school's sixth entering class of approximately 125 students. She was one among twelve women.





*Figure 13.* Joan Miday Krauskopf. Portrait by Lisa Ober. Courtesy of University of Missouri School of Law.

There were no women on the faculty or in the administration. Krauskopf rented a private room in Westwood, and she saw her husband on the weekends until his ship left port in November of her first year. Krauskopf felt that her status as a married woman gave her a measure of protection from the gossip and innuendo of the co-ed law school. This both made her

more comfortable and separated her from the unmarried students, and she participated in the school's social life selectively.

Krauskopf did well at UCLA. Despite a somewhat hectic spring final exam period at the end of the year—Charley Krauskopf's ship had returned to port, and she kept running back and forth from Los Angeles to San Diego between exams to see him—her grades were good enough for her to make law review. But as things turned out, Joan never worked on the UCLA law review. Charley completed his Navy service, and UCLA did not have a graduate program in industrial psychology, his chosen field. They both applied to Ohio State University, where they could get the less expensive in-state resident tuition.

When Joan arrived at Ohio State as a second-year student, she found only one other woman in her class. She was very glad to have the companionship, and she and Joan Wharton became good friends. Wharton had "great admiration" for Krauskopf in law school, remembering her as "one of those people you meet in life who simply strike you as having been endowed with special qualities. Not only was she such a clear thinker, she just had a calm way about her."

Charley embraced Joan's dream of practicing law. However, Joan described the "unwritten—but clear—contract" that formed between them: "I could do anything I wanted to do, as long as it was my responsibility to run the household." The transfer to Ohio State proved disruptive for Joan's law school career. Ultimately, she had to take two terms of summer school to finish. During this time, Joan recalled, "Charley was always helpful, but there was no question that I occupied the traditional 'executive role' in the home."

Despite the second shift, Krauskopf's final years in law school were an "exciting, wonderful, and intellectually stimulating" time in her life. She found her professors "marvelous," and considered some to be master teachers and important role models for her in later years. Dean Frank Strong, who taught Constitutional Law, became her mentor, and remembered Krauskopf as a student who was "just outstanding."<sup>2</sup> Robert Lynn, who taught Evidence, remembered Krauskopf as "highly intelligent, quick, and considerate."<sup>3</sup> Krauskopf became the first woman to be co-editor-in-chief of the law review at Ohio State.



*Faculty Appointment at Ohio State*

Joan Krauskopf graduated *summa cum laude* in December 1957, tied for first in the class with Jack Evans. By that time, Charley Krauskopf had decided that he wanted to teach after finishing his PhD program, and the couple knew that they would have to leave Columbus once Charley earned his degree in three years. Joan pondered what she would do next:

Robert Nordstrom, the Associate Dean, asked me to come to his office one day. Apparently, he and Dean Strong had talked about this. Bob said, 'Joan, how would you like to work for us next year and run a "How to Study" program for first year students?' I remember saying, 'If I do that, can I run it my way?' He replied, 'Yes, of course.'

Krauskopf started the program in the fall of 1957, before she had her degree but after she had finished her classwork. She designed a very hands-on program. All the first-year students took it, and it was not for credit. She drilled the students in how to read and brief cases, how to take class notes, how to make outlines, how to take final examinations, and how to write briefs.

It was great fun. I had a little hole down in the basement. Somebody had started calling me 'The Chaplain,' and I put a sign out in front that said, 'The Chaplain's Office.'

Dean Strong, in one of his many letters recommending her for positions after she and Charley had left Columbus, praised Krauskopf as the most effective instructor the school had hired in the ten years of the program's existence.<sup>4</sup>

After she had run the program for two quarters, Joan Krauskopf summoned up the courage to ask Dean Strong if she could teach a regular class. He said, "Well, you can teach domestic relations." In 1958, she took it over, and had her first experience in teaching "a real class." She was admitted to the Ohio Bar in 1958.

In the summer of 1959, while Charley was beginning his final year of PhD work, Joan was appointed Assistant Professor of Law at Ohio State. Dean Strong reported to her later that her first appointment in 1958 had

been a tenure-track one, but now she also had the appropriate title to accompany that position. Everyone concerned—including Joan—understood that the appointment would not last beyond one year, because she and Charley would be leaving Ohio. As he recalled Joan's first appointment years later, Strong described the "predominant view" of the era as "the wife follows the husband," and remembered Joan herself feeling that "she must give Charley the first opportunity, and she would follow him."

Despite the expected time limit, Krauskopf's experience in teaching "real courses" at Ohio State was a turning point in her professional life. She liked the intellectual challenge of writing and research. She had always assumed that she would go into private practice, but the experience of teaching at Ohio State made her realize that she wanted to explore academia.

Her colleagues at Ohio State were "incredibly supportive" of her career aspirations. Looking back, Krauskopf recalled her early years at Ohio State as, in many ways, "the best years of my professional life." She reflected that these years were "the only years in which I had a really supportive group of people who were mentors to me."<sup>5</sup>

### *No Luck in Colorado*

By late summer, Joan and Charley were in Boulder. His first academic position was a joint appointment between the psychology department and the university counseling service. Colorado turned out to be a disappointment for both of them. Charley's situation was not what he had expected: the school had "killed" the graduate program, leaving him unable to teach graduate students. And Joan was completely boxed out of teaching law—as Charley remembered it, one of the members of the law school faculty had gone so far as to say that "as long as he was there, nothing in skirts was going to teach in that law school." These developments left Charley "fairly open two years later to listen when Missouri came around and asked whether I would like to go there."

Joan's description of her experience trying to break into Colorado's law school mirrors Charley's recollection: she essentially ran into a brick wall. As she left Ohio State, Dean Strong did his best to help her find a place in Colorado. Strong spoke with Dean Edward C. King, but without much



hope of success, because he knew that “Ed was not sympathetic to women in law.”

When Joan and Dean King met, he hired her as his assistant—partly research assistant, and partly administrative assistant, a position she held from 1960–62. She helped prepare the proposal that Colorado submitted to the Council on Legal Education for Professional Responsibility (CLEPR) for a clinical program, but funding was not made available. She passed the Colorado Bar Examination and was admitted in 1961.

In February 1962 any hope she had of being hired as a law professor at Colorado was dashed when Jack Evans, her “best friend and greatest competitor from Ohio State,” came to town to interview for a faculty position teaching Torts, a subject Krauskopf had “always wanted to badly to teach.” Howard Klemme, a member of Colorado’s faculty, called her the next day to ask about Evans. Like a true friend, Krauskopf praised Evans’s abilities. There was, however, one final twist of the knife:

Then he said, ‘Joan, I want to tell you that you have no chance of being hired here. We have a blackball system, and we have got one member of the faculty who thinks that no woman can ever engender the proper respect to be a law professor.’ So after that, I gave up that dream.

Krauskopf turned back to the idea of practicing law. She had begun to do a bit of private practice from her home, doing “the kind of things that a woman who is the only woman lawyer in town would do: taking the dog cases that no one else would take.” Finally, she began to get real estate cases, which she loved. She recalled working on places with “abandoned railways that had carried trains to the mines,” and solving “the most intricate title problems, some the result of bad surveying.”

### *The Move to Missouri*

The University of Missouri was one of the few places where Charley’s specialty of counseling psychology was offered jointly by the College of Education and the College of Arts and Sciences. As he described the Missouri program, “We had feet in two academic colleges and then again in the student services area. We needed all three of them to make it run.” Charley Krauskopf eventually became director of the program and the

program's interdisciplinary nature was a source of national recognition for the University of Missouri.

Again, Joan Krauskopf accompanied her husband without having a firm job commitment for herself. Dean Strong once more recommended her in the strongest possible terms to the Missouri Dean, Joseph Covington. As Strong recalled, "Joe called me, and said, 'Hey, I've got a real problem here. I'm all in favor of naming her to the faculty, but I've got opposition, and I don't know what to do.'" He finally asked Strong to "swear an oath in support of this woman that she is outstanding and deserves a faculty position," which Strong readily did.

By the time the couple moved to Missouri in 1962, they had been married for eight years. Their dream had always been to combine their love of the outdoors with their activities as a family: to own a farm, build a house on it, and develop the property into a wilderness preserve. With the move to Missouri and Joan's uncertain employment prospects, she decided the time was right to implement that plan. She spent the fall of 1962 looking for and purchasing two farms—the couple lived in an existing farmhouse on one property while building their own house on the other. Joan described the 250-acre property as "overrun and full of junk and copperhead snakes and rattlesnakes," but proudly noted that the family "built it into a little wilderness paradise," and in the process built themselves a "very wonderful, very satisfying life."

The "very wonderful, very satisfying life" was made even better when Joan discovered she was pregnant. On December 18, 1962, Joan wrote in her journal, "So delighted and flabbergasted can barely believe it." Their first child, Timothy Krauskopf, was born on July 7, 1963, and by that time Joan had taught her first law school class at Missouri, and her world was looking much better.

*Lecturer in Law (Non-Regular), 1963-74*

In November 1963, Dean Covington called to ask, "Joan, someone is going to be on leave in the spring semester. Would you be interested in talking to me about teaching?" They agreed that she would teach Property in the spring. Then she learned that she was pregnant, a fact that she took care to conceal as long as she possibly could, with the "diabolical thought" that



if she could hide the pregnancy for at least six weeks, preferably into mid-semester, there was no way the school would be able to replace her.

Krauskopf jumped eagerly into teaching, and she remembered that semester of property as “absolutely marvelous.” She was able to teach the subjects she was interested in, which included rights in land, rights to support—such as adjacent and sub-supportive land—and easements and profits. In addition, Krauskopf’s scheme to conceal her pregnancy until it was too late in the semester to switch teachers worked perfectly.

Joan Krauskopf was given the title “Lecturer in Law.” The title solved Dean Covington’s problem with his faculty, because as an adjunct lecturer, Krauskopf’s appointment was not put to a vote of the faculty. “Consequently,” noted Krauskopf, “there would be little or no opportunity for someone who didn’t want a woman on the faculty to object, if the Dean had the guts to just hire someone one semester at a time.”

For the next ten years, Joan Krauskopf taught around the curriculum, filling in for one or another professor. She covered an impressive range of subjects: property, negotiable instruments, civil procedure, legal process, social legislation (encompassing Aid to Dependent Children, Social Security, and Worker’s Compensation), and business organizations (agency and partnership). She drew the line at Remedies, a course that nobody at the school wanted to teach.

Krauskopf got to teach torts, her favorite subject, by accident, when the professor who had been teaching the course died in the middle of the year. While she was teaching the course, she began to write about torts issues in the hope that publication would improve her chances of obtaining a permanent position at Missouri. Her work on a two-part article on *Products Liability* began during those years. She also began to get better acquainted with the men on the faculty, a process she described as a “very incremental” one. Even as she became more comfortable, she still recalled, “It was very much ‘the boys.’”

Krauskopf was excited to learn in 1966 that a faculty vacancy had opened up in torts, and she told Dean Covington that she was very interested. He did not “pull any punches:”

He looked me straight in the eye and said, ‘Joan, I’m going to hire a man to teach that course, someone who can rub elbows with the practicing Bar.’

And that was that. I didn't say anything, because there wasn't any response you could make to that in 1966 or even 1967 or 1968, and I knew that.

Covington and the school's intractability persisted even in the face of Krauskopf's success: she published her two-part article on products liability in 1968 and 1969, and her 1968 article was quoted by the Missouri Supreme Court when it adopted the strict liability approach of section 402A of the Restatement of Torts.<sup>6</sup> In spite of this rare accomplishment, she was not considered for a permanent position, and, in 1969, Krauskopf finally decided she had had enough of her "non regular" status. She wrote in her journal, "I cannot continue my life this way. I am going to become a member of the Bar and give up on this attempt to teach." Rather than study for yet another bar examination, she applied to be admitted on motion. Her application was accepted, and she was admitted to the Missouri Bar in 1969.

Joseph Covington was succeeded as dean by Willard L. Eckhardt. This was not good news for Krauskopf, because Eckhardt was one of the older members of the faculty and apparently had no intention of appointing a woman to a permanent faculty position. He was perfectly willing, however, to continue the temporary arrangement with her that Covington had begun. He asked her to set up the clinical program, a task no regular faculty member relished, and she did that in 1970. She also became the Supervising Attorney for the Legal Aid Clinic. Moreover, Eckhardt offered her a quasi-permanent deal to teach family law on an "indefinite," but still "year-by-year," basis. She noted wryly, "nobody else wanted to teach family law."

In 1972 there were four openings on the faculty. One of Krauskopf's friends on the faculty told her that he and some others had raised her name as a candidate for one of the four slots. The friend then relayed the dean's response—"If I put her on a regular appointment, I would have to pay her as much as a man." To add insult to injury, one of the open positions was to teach torts, Krauskopf's heart's desire. Instead of offering her the position, Eckhardt offered it to one of her former students.

The straw that broke the camel's back—and ended Joan Krauskopf's "non-regular" status at Missouri—became a part of her burden in spring 1974. The struggle for ratification of the Equal Rights Amendment in Missouri was under way, and Joan was very active in testifying in its sup-



port before the state legislature. She twice debated its most prominent female opponent, Phyllis Schlafly, the founder of the National Committee to Stop the ERA, once on TV and once before the St. Louis Press Club.

Dean Eckhardt frequently teased Krauskopf about her involvement with women's issues, in a way that was not entirely friendly. Krauskopf took the ribbing good-naturedly—until Eckhardt told her in the spring of 1974 that the University had begun to require reports from the deans about the number of women faculty in their schools and departments. Eckhardt informed Krauskopf that “he was turning in my name on the reports as ‘his woman,’ to show that the law school was not discriminating against women.”

When I learned that he was using me to meet his Affirmative Action requirements, it was all I could take. I had asked him a number of times to be allowed to teach full time, and there was never enough money to put me on full time. I said, ‘This is it.’

Krauskopf leveraged the reputation she had built in twelve years of teaching and “let the word out” that she would be willing to relocate within Missouri. “Within a week,” Krauskopf noted, “I had a call from Dean Tad Foote at Washington University in St. Louis offering me a visiting professorship in the fall of 1974.” Offer in hand, Krauskopf gave Eckhardt her ultimatum:

I walked into Eckhardt's office at eleven o'clock on a Friday morning, and said, ‘Bill, I have been offered a position at Wash U., and I am going to take it.’ At four o'clock in the afternoon, he had the money and the offer of a permanent tenure-line regular appointment.

Krauskopf remembered that Eckhardt “wanted all the terms of my employment worked out very carefully. Eventually the two of them hammered out an agreement. But there remained one last important item to discuss:

Finally, he leaned forward and said, ‘Joan, is menopause going to be a problem?’ It was the last shot of a cornered man from another era. In retrospect, you could think of a million sharp cracks you could have made. But I just said, ‘Oh, no, Bill, there are medications for that now. I don't think you need to worry about it.’

Ironically, Joan Krauskopf came in as a tenure-track faculty member in 1974, a full sixteen years after her first tenure track appointment at Ohio State. She was appointed with the title "Professor." Dean Eckhardt had gratuitously conferred the title on her before she was given a regular appointment in order to be able to list her name on the University's affirmative action reports.

### *Family Life*

Joan and Charley's second son, David, had been born on November 21, 1965. They also had a fifteen-year old foster son who lived with them through high school. Joan relied on neighbors for babysitting. In 1969, Joan's mother retired on minimal social security from her job running the postal unit in a drugstore, and they put up a little house for her on their farm. She was very helpful with the children and was always there when they got home from school.

Charley's career was already well established by the time Joan stepped up her efforts, so as he put it, "I could afford to do less." The family lived together in the house Joan and Charley had built on their farm. In front of the house, they put in a two-acre pond, which they stocked with fish. As the children grew, there was fishing and swimming every day as soon as the weather was warm, ice skating in the winter, and canoeing on Missouri's clear, spring-fed streams. Joan recalled with satisfaction, "It was a wonderful life."

### *Pro Bono Advocacy*

During the years she was teaching part-time at Missouri, Joan Krauskopf was also getting pro bono practice experience. In 1969, Krauskopf began advising the local chapter of the ACLU, which was beginning to focus on prison reform. In *State v. Green*, she represented a nineteen-year-old youth who claimed that he had escaped from the Missouri State Training Center for Men in order to avoid a threatened rape in his cell by five prisoners.<sup>7</sup> The case was tried in Moberly, a small town north of Columbia where the prison was located, and Krauskopf noted, "I certainly did not endear myself to the local prosecutor." She argued a defense of necessity,



but her theory was rejected by the Supreme Court of Missouri in 1971 in a 6 to 1 decision. But Judge Seiler's dissenting opinion, which accepted the proffered defense, was cited favorably four years later by the California Court of Appeals in *People v. Lovercamp*, when it upheld the defense of necessity under similar circumstances.<sup>8</sup>

The ACLU used *Green* to create publicity about prison conditions in Missouri, and the case's notoriety caused something of a stir. After *Lovercamp* was decided in California and validated the idea of a necessity defense for a prison escape, Krauskopf "felt okay about the case," even though she had lost it. Krauskopf's performance in the *Green* case led to her appointment as counsel for another prisoner in the same training center on a state habeas corpus challenge to his conviction for stabbing a fellow inmate. The result, she recalled, was that "Everybody in that town hated my guts," with the predictable result that her habeas motion was denied by the trial court. Undeterred, she took the case to the Missouri Supreme Court and won, reversing her client's conviction. Krauskopf proudly noted that *Kern v. State*, in 1974, "was one of the first such challenges which the movant won in Missouri."<sup>9</sup>

Krauskopf's pro bono activities were not limited to criminal law cases. In the early 1980s, she took on the daunting task of persuading the Missouri Supreme Court to reverse itself in *Kuchta v. Kuchta*, a case in which it had held that a husband's TWA retirement pension benefits were not marital property subject to division in a divorce proceeding.<sup>10</sup> She described the case as perhaps "the most challenging task of my career to get at least one judge who had been in the majority to vote for rehearing and then to convince enough of them to reverse themselves." She continued, "It was a long and difficult task, but we succeeded: a most gratifying victory for me and an important one for the law of Missouri."

### *Tenure*

In 1974, Ohio State University School of Law was in the midst of a dean search, and Krauskopf was invited to interview for the position. The school ultimately chose Orin Slagle. Immediately after he became dean, he reached out to recruit Krauskopf and offered her a permanent full professorship with tenure. He had taken the precaution of checking with the

psychology department and knew they would hire Charley. After much consideration, Joan and Charley "decided that we could not give up our lifestyle and move our children to a city."

Joan Krauskopf went to Missouri's Dean Eckhardt and said, "I'm not going to play games. I will tell you that we have decided to stay here." However, she added, "I have been given an offer of tenure at Ohio State, and I want tenure here." The faculty voted for Krauskopf to be given tenure, and she became the first woman to hold a tenured professorship at the University of Missouri-Columbia School of Law.

### *Early Research and Publications*

Joan Krauskopf began publishing scholarly articles early in her career. As a student at Ohio State, she had published a law review comment, "The Law of Dead Bodies: Impeding Medical Progress," in 1958.<sup>11</sup> In her first year of full-time teaching she wrote an article dealing with the practical problem of how to avoid the effects of the statute of frauds. Krauskopf designed her article to "serve the practicing attorney as a check-list of available theories by which a remedy can be obtained."<sup>12</sup> Her next article analyzed the conflict of laws between different states interested in regulating various aspects of marriage and divorce. It was published in 1963 and was cited with approval.<sup>13</sup>

In 1965, Joan and Charley Krauskopf collaborated on an article published in *The Journal of Counseling Psychology* designed to inform psychologists about the possibility of tort liability for professional malpractice.<sup>14</sup> In 1970, Krauskopf wrote a solo article for the *Journal of the Missouri Bar* on the Proposed Uniform Adoption Act. In 1971, she published an article on criminal procedure, analyzing the historical origins and modern justification for the right of a criminal defendant to be free of physical restraints while in court.<sup>15</sup> The article was cited in 1973 by the 6th Circuit Court of Appeals in *Kennedy v. Cardwell* for its treatment of the historical development of the rule that a defendant should be unfettered except in extraordinary circumstances. It was also cited in 2005 as a general reference by the United States Supreme Court in *Deck v. Missouri*.<sup>16</sup>



In the early to mid-1970s, Krauskopf turned to writing about sex discrimination when she began to advocate for the ratification of the Equal Rights Amendment in Missouri. Krauskopf's own experiences with Missouri's law faculty and hiring practices helped spark her interest in the legal issues of sex discrimination. Her first article on the subject, "Sex Discrimination: Another Shibboleth Legally Shattered," presented a comprehensive survey of an emerging field, published a year and a half before the first law school casebook on the subject appeared in January 1974.<sup>17</sup> All of these articles were written and published before she was ever offered a full-time position in Missouri.

Krauskopf "first began to think about the Equal Rights Amendment" in the course of doing research for her "Sex Discrimination" article. She published an article in the *Journal of the Missouri Bar* in March 1973, in which she shared her "contemplation" of how the ERA would be likely to change familiar provisions of the law, noting that her investigation had "changed an originally mildly negative bias to a positive bias."<sup>18</sup> She also provided a summary analysis of the likely impact of the ERA on various specific areas of the law, including the military; criminal law; civil or governmental rights; family matters (including marriage, spousal support during and after marriage, child support, and custody of children); and business and employment.<sup>19</sup> In 1975, Krauskopf published a second article on the ERA, this time in the *California State Bar Journal*, which was more of an advocacy piece. She covered most of the same issues explored earlier in the Missouri article, but stated her own view more positively. Krauskopf gave NOW significant credit for its work in "turning things around" for women.

### *Life After Tenure*

Joan Krauskopf's life "just utterly exploded" once she had become Missouri's first tenured woman law professor in 1974:

I was researching and publishing. I was on the Missouri Bar Family Law Committee, and later became its Chair. I was on the United States Civil Service Commission Advisory Committee. I did everything. I thought, 'I've got to do this stuff for the Bar. I've got to do this. I've got to do that. I have to turn out all these articles.'

She continued to teach family law on a regular basis, and she began to publish in the field in 1973, writing an article on property division and separation agreements for the *Journal of the Missouri Bar*.<sup>20</sup> In 1974, she and her former student, Rhonda Thomas, co-authored an article on spousal support.<sup>21</sup> Two years later, Krauskopf returned to the subject of property division, publishing "A Theory for 'Just' Division of Marital Property in Missouri" in 1976.<sup>22</sup>

Krauskopf continued to develop her expertise in family law, and she published four family law articles. She contributed three to the *Journal of the Missouri Bar*—two on maintenance,<sup>23</sup> one on child custody<sup>24</sup>—and one to the *Missouri Law Review*, on property division.<sup>25</sup>

### *Judge Krauskopf?*

In 1979, at the time President Carter was beginning to appoint women to the federal bench, Missouri stood out like a sore thumb. There were no women judges in any court of record in the entire state.<sup>26</sup> National women's groups had identified Professor Krauskopf as their ideal candidate. When Krauskopf was approached, her gut reaction was negative: "I really didn't want to do it," she recalled, "but I felt a tremendous obligation to the women's movement."

After she had agreed to throw her hat in the ring, Krauskopf prudently considered what she needed to do to make herself at least a viable candidate. Krauskopf met with Senator Tom Eagleton in January 1979:

He was a Catholic from St. Louis, and he had to mollify those incredibly extreme anti-abortionists in St. Louis. At the same time, he had very active women's groups in the state whom he also had to mollify. To his credit, the only question he asked me about abortion was whether or not I had ever acted publicly for an abortion rights group. I said I had not.

Eagleton ultimately decided to support Krauskopf's appointment, and in March, 1979, Carter's Eighth Circuit Merit Selection Commission recommended five finalists for the Circuit Court judgeship.<sup>27</sup> Krauskopf was the only woman, and—as it turned out, a significant deterrent—the only academic among the five finalists. She and Charley both remembered how they learned the news:



Joan: In late March, Senator Eagleton called me at ten o'clock one night and said, 'Congratulations, Judge.' Carter had picked me.

Charley: Eagleton called one night. He talked to me for a few minutes, and then talked to her. He told her to go ahead and hire law clerks. He said, 'You're in.'

Senator Eagleton, however, had overestimated his influence. The American Bar Association found Krauskopf "unqualified" because of her lack of trial experience. Krauskopf had been interviewed by only one member of the committee, "an extremely traditional conservative Republican railroad attorney from Kansas City, who did his homework:"

He went to the little town with the prison and talked to people there about my ACLU cases on behalf of prisoners. He came to see me, and he raised the issue of my qualifications, because I had not had any trial experience to speak of.

Krauskopf had supporters in high places who came to her defense. Eight of the nine Eighth Circuit Judges signed a letter to Attorney General Griffin Bell, objecting to the ABA's rating. It said that no candidate should be disqualified solely on the basis of limited trial experience.<sup>28</sup> Chief Judge Floyd R. Gibson observed that her "background in law would more than make up for her lack of trial experience. She is certainly qualified to sit on this court."<sup>29</sup>

Armed with the letter, Senator Eagleton and the Justice Department asked the ABA Committee to take a second look at Krauskopf's nomination, but the result remained the same.<sup>30</sup> On Wednesday, August 15, President Carter sent a handwritten note to Senator Eagleton, withdrawing his selection of Professor Krauskopf in reliance on the ABA's negative rating and a Justice Department recommendation against her nomination.<sup>31</sup>

Feminist groups called upon Carter to reconsider his decision.<sup>32</sup> The *St. Louis Post-Dispatch* blasted the ABA in an editorial published on August 17, 1979, charging that the Carter administration and the Justice Department "have not done themselves much credit in succumbing to the American Bar Association's veto of Joan M. Krauskopf for a federal appellate judgeship" and pointing out that "Mrs. Krauskopf seems particularly qualified for appellate work" based on her academic career.<sup>33</sup>

In a memorandum that she sent to President Carter's Special Assistant Sarah Weddington on August 21, 1979, Krauskopf explained why the combination of the two factors he had cited in withdrawing her nomination—lack of trial experience, and a narrow academic specialization in domestic relations—had resulted in denying her the opportunity to serve as a federal judge because of past sex discrimination. She pointed out that automatic disqualification for lack of trial experience had the effect of excluding not only herself, but also “many academics and of most women with 15 or more years of experience (particularly in the Midwest).”

### *Last Years at Missouri*

After her nomination struggle, Joan Krauskopf “withdrew from everything public. I was depressed. It had been a very trying experience. I just went into a quiet hole, working at things and doing my research.” However, by 1981 Krauskopf had shaken off her funk. “I was back and feeling great.” Her star status at the law school had not been tarnished by the nomination battle. Professor Thomas E. Sullivan, who had recently joined the Missouri faculty, recalled that “Joan was one of the most influential and senior persons on the faculty, and she was held in great respect by virtually everyone.”

In 1980, Krauskopf published one of her most successful and widely cited pieces. “Recompense for Financing Spouse's Education: Legal Protection for the Marital Investor in Human Capital,” drew on the economic theory of investment in human capital as the basis of a legal remedy for an ex-spouse who had worked during the marriage to put the other spouse through professional school or graduate education.<sup>34</sup> Krauskopf's vision of “the economic model of the family as a firm choosing to invest in human capital” proved extremely influential, and had a major impact on the recommendations of the American Law Institute's Project on Family Dissolution.<sup>35</sup>

In 1980, Krauskopf had received a grant to prepare a Continuing Legal Education (CLE) manual, called *Law for the Elderly*.<sup>36</sup> Dean Allen E. Smith encouraged her to publish a book on the subject.

Al kept saying, ‘Just write books!’ No one had done books yet on Law and Aging. I asked him, ‘Well, how do you write a book?’ He said, ‘You just send off a proposed table of contents.’ So I sent off a proposed table of contents to



West Publishing Company. And I wrote a book almost all on my own with just a student research assistant.

West published *Advocacy for the Aging* in 1983.<sup>37</sup> In 1993, Krauskopf expanded the book to a two-volume set, titled *Elder Law: Advocacy for the Aging*.

In 1981, Krauskopf finally got another chance to teach torts, when the professor who had been teaching it at Missouri retired. Torts, in addition to her current course load, created a heavy burden. Resolving “to stay with family law, to keep up my research, and to teach torts just because I loved it,” Krauskopf nevertheless “decided that I had to make my mark with a torts publication if I was going to teach the subject.”

I always loved to see if I could effect a change in the law, so I chose to write about the tort of wrongful discharge in employment law. I wrote it from a national perspective, but I ended up tying the Missouri law to it. I think it has been somewhat helpful in Missouri’s changing its law.

Krauskopf’s article, “Employment Discharge: Survey and Critique of the Modern At Will Rule,” was a comprehensive overview of the social and historical climate affecting legal principles from the 1880s, when the at will employment rule was developed, to the 1980s, when it was undergoing rapid modification in many states.<sup>38</sup> It was also—at seventy-seven pages—her longest published article. She set out emerging contractual and tort theories for employee recovery, reviewed relevant federal statutes affecting the common law rule, and focused on the tort remedy of wrongful discharge. Her article certainly served the purpose of “making her mark” in the field of torts: Professor Mack Player told her that it was the best summary that had been done and cited it in his casebook on employment discrimination law.<sup>39</sup>

Krauskopf kept up her steady output of family law research. She published another specialized casebook with West, a 250-page compilation called *Cases on Property Division at Marriage Dissolution*, in 1984.<sup>40</sup> She wrote two final articles for the *Missouri Law Review* in 1985, both designed to instruct the Missouri bench and bar in the latest developments in family law. Krauskopf also prepared articles on several family law subjects for the University of Missouri-Columbia Extension which

appeared in 1985 in the *Home Economics Guide*: property division at marriage dissolution, pension benefits at divorce, maintenance, contracts concerning marital rights, and child support. In the same year, she contributed a chapter on *Principles of Property Division* to a book for practitioners.<sup>41</sup>

### *Full Circle: Return to Ohio State*

Joan Krauskopf spent 1986–87 at the University of West Virginia as the William J. Maier, Jr., Visiting Professor of Law. While there, she received a call from Professor Michael Kindred, Chair of the Ohio State Appointments Committee, who told her that they were looking for a senior woman to join their faculty. As Krauskopf remembered the conversation, Kindred told her, “Joan, your name keeps coming up around here,” and while the general consensus was that she would never leave Missouri, the school saw an opening when she accepted a one-year appointment in West Virginia.

Ohio State understood that they were dealing with a dual career couple, and that they would have to put together a package that would be attractive both to Charley and Joan. They were eager to do so. Joanne Murphy, who had returned as Assistant Dean and Adjunct Professor of Banking Law, reported that “Joan had such an impressive interview here, and with the people who knew her, there just wasn’t any question about her having a faculty appointment if we could get her.”

Creating an attractive package for Charley Krauskopf was more difficult. Ultimately, the department used Charley’s potential appointment as an opportunity to renew a request to hire someone to direct the training clinic for psychology graduate students. The result was an appointment that was “three quarters” dedicated to the psychology department and included both leading the training clinic and working with the dean of student affairs on data analysis issues.

The Krauskopfs moved back to Columbus in 1987. Joan was in her element: teaching her beloved course in Torts, as well as Family Law, Insurance, Remedies, and a seminar on Law and the Elderly. In addition, she took on major service commitments, both for the University and the Law School, which competed for her research time. The Provost immedi-



ately asked her to serve on the University Promotion and Tenure Committee—a prestigious, but extremely time-consuming assignment—and Dean Frank Beytagh urged her to accept because no law school faculty member had ever served on that committee. She served for three years. In 1988, she was appointed to the Council on Academic Excellence for Women, becoming its chair in 1991.

The Ohio State campus administration also utilized Krauskopf's expertise in sex discrimination to its fullest to examine existing practices. In January 1990, she was appointed chair of a committee to examine "family friendly" policies then being adopted by other universities. It recommended the adoption of a policy permitting the exclusion of up to two years from a faculty member's six-year tenure probationary period for purposes of child care, care of a seriously ill or injured family member, or serious illness or injury of the faculty member.<sup>42</sup> The recommended policy was adopted by the Faculty Senate and approved by the OSU Board of Trustees.

Krauskopf's external service commitments to the legal profession were also impressive: in 1989, she became a member of the advisory committee for the American Law Institute's Project on Family Dissolution, which lasted until the project was completed in 1999. In 1991, she was named chair of the Ohio Gender Issues in Law Schools Committee "to explore whether there was gender unfairness in Ohio's law schools that might affect general attitudes or practices in the courts or the profession."<sup>43</sup>

While Joan Krauskopf enjoyed her position at the center of a whirlwind of activity at Ohio State, Charley's situation was not as ideal. Joan reflected that Charley, who loved teaching and working with graduate students and conducting research, was dissatisfied with the heavy administrative content of his role at Ohio State. Making the best of his situation, Charley used the additional time to finish a book he and a co-author, David R. Saunders, had been working on for several years. *Personality and Ability: The Personality Assessment System*, was published in 1994.<sup>44</sup>

### *Honors and Activities*

Joan Krauskopf was named the Manley O. Hudson Professor of Law at Missouri in 1977, and held that Chair until 1985, when she ascended to the F. R. B. Price Professorship. She was given the Missouri Alumnae

Anniversary Award for Outstanding Faculty Women in 1977 and the Alumni Association Faculty Alumni Award in 1985. At Ohio State, she was given the President's 300th Commencement Award in 1987, an honor conferred each year on a few outstanding Ohio State Alumni. She held the Presidents' Club Professorship in 1996-97. In 1984, she was elected to the American Law Institute. She served on the Executive Committee of the National Order of the Coif from 1989 to 1998, becoming its President in 1995-97.

### *Retirement*

Joan and Charley retired from Ohio State University in 1997. In 1994, at age sixty-two, she had convinced Charley to join her trekking to 18,000 feet at the base of Mt. Everest. In the fall of 1997, they took a trip to China and India. They traveled the Silk Road together, ending up in Bukaro, Uzbekistan. They separated in Tashkent and she went on to Nepal alone. She spent ten or twelve days trekking alone with a crew of ten outfitters. Krauskopf had ample time for reflection and meditation, and on the way out, she had a transformative experience:

We were hiking across a high slope where there was no snow. You could hear the rushing river down below, and far in the distance you could hear yak bells on the main trail. Above us were huge, snow-covered peaks against the bright blue fall sky. I looked down the slope, and it was covered with a beautiful array of fall colors, of golden colors and some dark reddish plants. There were birds flying around singing. And I stopped, and looked down, and suddenly I was in tears. I sat down, pulled out my journal, and wrote a passage beginning, 'I'm moving to the mountains.'

After Joan returned to Columbus, she and Charley began looking for a home in the mountains. They settled on Prescott, Arizona. There they bought a wonderful house that allowed them to sit on their deck at 6000 feet to see nothing but mountains, trees and blue sky. Once settled in Prescott, the Krauskopfs affiliated with the Unitarian Universalist community and also became active with the Smoki American Indian Museum as volunteers. At different times, both served on the Board of Directors. She taught numerous short courses while Charley chaired the Exhibits



Committee, acting as the museum curator. They continued to do extensive travel all over the world.

Charley died in 2015 at the age of 83. Joan died four years later, at the age of 87.

#### MARYGOLD SHIRE MELLI

Marygold (“Margo”) Shire was born on February 8, 1926, in Rhinelander, Wisconsin, the second of three daughters of Osborne and May Bonnie Shire.<sup>45</sup> Margo’s father was Canadian but had moved to Wisconsin to work for his uncle, Arthur Taylor, who had acquired the Coca-Cola franchise for northern Wisconsin and had a plant in Rhinelander. There he met May Bonnie, and they were married on May 20, 1916.

Early in the marriage, Osborne suffered an industrial accident, which resulted in the loss of his right hand—a traumatic event, which prompted him to return to his home country and join his older brother, Frank, on his farm near Calgary, Alberta, Canada. Osborne and May Bonnie’s first daughter, Bonnie Ann, was born there on Armistice Day, November 11, 1918.

The family returned to Wisconsin a few years later. May Bonnie’s marriage to a Canadian (“a foreigner”) had resulted in the loss of her United States citizenship under the Expatriation Act of 1907, but she was allowed to “repatriate” and regain her status through naturalization under the Cable Act of 1922. Thereafter, she exercised her reacquired citizenship by voting regularly in elections. Margo’s birth in Wisconsin in 1926 made her a “natural born citizen” of the United States. Her father became a citizen in 1939.

In 1928, the family moved to Jackson, Mississippi, and when Margo was five years old, she began attending first grade there. She wryly described the arrangement as “the result of a baby-sitting problem, not a recognition of my brilliance.” The local Catholic school wanted to hire Margo’s mother, but May Bonnie explained that while she would be interested in the job, she had no childcare for Margo. There was no kindergarten program available for a five-year-old at that time, but as Margo remembered it, “the nun in charge said, ‘We will put her in the first grade—she is a quiet child and won’t cause us any problems.’” Apparently,