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Foreword

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FOREWORD

Judge Gladys Kessler*

As the 1982-1983 President of the National Association of Women Judges, I was delighted with the suggestion of the editors of the Golden Gate University Law Review to prepare a symposium issue devoted to NAWJ. The articles in this issue reflect the broad spectrum of NAWJ's concerns. Nothing could be more critical to women lawyers and judges than the judicial selection process which is examined by Professors Beverly Blair Cook and Elliot Slotnick; the panels presented at the 1983 NAWJ San Francisco Conference exemplify the organization's continuing interest in judicial education; the book review of *Framed* addresses the political problems faced by an activist woman judge; and justice Shirley Abrahamson's article lucidly spells out our need for women on the bench and the contribution they make to the judicial system. Viewed in its entirety, this symposium issue reflects the strength, the diversity, and the breadth of interests of women judges. As our numbers swell, and as our collective judicial experience grows, we welcome the opportunity to make our contribution to the growth and development of American jurisprudence.

In October of 1979, more than 100 women judges from across the nation gathered for the historic meeting at which the National Association of Women Judges was formed. The enthusiasm, exhilaration, and excitement generated at that initial meeting spoke louder than any words: an association of women judges was not only feasible and desirable—but long overdue in the minds of the 100 who were in attendance and the 50 kindred souls who could not attend, but wished to become founding members of the new National Association of Women Judges.

Thus, unlike most new organizations, NAWJ did not evolve gradually and grow slowly over many years. Rather, it burst into existence at that October 1979 convocation as a full-fledged organization with clearly defined purposes and policy positions, and with high national visibility.

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Preparation and Planning for the Founding Meeting

The impetus to organize a national association of women judges was supplied by its two co-founders: Justice Joan Dempsey Klein and Justice Vaino Spencer, both of the California Court of Appeals. With the ranks of women judges in California having increased in recent years more than three-fold, a Judges' Committee was formed within the 10,000 member California Women Lawyers Association. Finding the Judges Committee meetings constructive and rewarding, Justices Klein and Spencer set out to replicate their state experience on a national level.

Because there was no readily available information on the names and number of women judges throughout the United States, the task of locating such judges, contacting them, and inviting them to the founding meeting seemed an insurmountable task. Thanks to Professor Beverly Blair Cook of the University of Wisconsin, who in the process of becoming the leading authority on America's women judges had prepared a useful listing of them, it was possible to compile an initial invitation list.

Enormous organizational efforts by California women judges, lawyers, and law students contributed to the smooth operation of that first conference. As more than 100 women judges gathered—at their own expense, on their own time, not knowing the sponsors or the tone of the meeting, but acknowledging their own heartfelt need for such an organization, it readily became apparent that an historic event was occurring.

Accomplishments of the Founding Meeting

During that initial three-day meeting, by-laws for the organization were adopted, committees were appointed, a statement of purpose was issued, a specific agenda of future goals was drawn up, officers for the following year were elected, and Washington, D.C. was chosen as the site of the 1980 Convention.

The consensus of the 100 founders was clear: until women achieved substantial parity with men in the legal profession, and particularly in the judiciary, the need would exist for an association devoted to promoting the interests of women judges. Con-

WOMEN'S LAW FORUM

sistent with this rationale, the founders issued the following statement of purpose:

The specific and primary purposes of this corporation are to promote the administration of justice; to discuss legal, educational, social and ethical problems mutually encountered by women judges and to formulate solutions; to increase the number of women judges so that the judiciary more appropriately reflects the role of women in a democratic society; and to address other important issues particularly affecting women judges.

Finally, three significant resolutions were adopted by the membership: first, supporting ratification of the Equal Rights Amendment; second, opposing membership of judges in private organizations which invidiously discriminate on the basis of sex, race, religion, or national origin; and third, pressing for the appointment of a woman to fill the next vacancy on the U.S. Supreme Court.

NAWJ was off and running.

Growth of Membership and Influence

Within the last ten years, the numbers of women on the bench in the United States have taken a quantum leap forward. However, the total number of women judges remains discouragingly low. Women still constitute a distinct minority in the legal community representing only 13 percent of attorneys, 6 percent of state appellate judges, 3.9 percent of state trial judges, 8.3 percent of federal appellate judges, and 6.9 percent of federal district court judges.¹

NAWJ's growth as an organization has paralleled that of its constituency. Membership now numbers 500, representing more than half the women judges in the country.

NAWJ has always taken distinct pride in the great diversity of its membership. Members represent every kind of judgeship in the country, as well as federal and state administrative law positions, and come from every geographical region of the coun-

1. Washington Post, Nov. 6, 1982 at A16, col.1; remaining statistics are from National Center for State Courts, July 1, 1983.

try, from Alaska to Puerto Rico. Minorities have played an active leadership role in the development of the organization, and male judges are welcome and eligible to join as members.²

Since its founding in 1979, NAWJ has quickly attained influence and respect in national legal and political circles. At its 1980 Conference in Washington, D.C., Chief Justice Warren Burger spoke to the membership and hosted a reception at the Court attended by several other Justices. During that same three-day period, members had lunch at the White House; President Jimmy Carter spoke and received a special NAWJ award for his accomplishments in naming women and minorities to the Federal bench. On the Monday morning after the Conference, at the opening 1980-81 session of the Supreme Court, a special ceremony was held in which 56 NAWJ members were sworn in as members of the Supreme Court bar. As those 56 women judges stood in that glorious historic courtroom—once the bastion of male exclusivity and self-proclaimed supremacy—the atmosphere was laden with joy and a sense of history-in-the-making.

It was not long after—one year to be exact—that that same historic courtroom witnessed the achievement of one of NAWJ's most sought-after goals: the swearing in of the first woman Justice of the Supreme Court, Sandra Day O'Connor, a founding member of NAWJ.

NAWJ leadership has always understood that the institutional power of the nation's legal community is centered in the American Bar Association. While many of our individual members are active and visible within the ABA, it was important for NAWJ as an organization to achieve a voice and a forum within that powerful body. At the 1983 ABA annual meeting in Atlanta, Georgia, as the result of a great deal of effort by the NAWJ leadership, and with the help of our members who already play prominent roles within the ABA, NAWJ did receive official "Li-

2. Given the strong policy position NAWJ has taken against judges belonging to discriminatory clubs, it would have been particularly inappropriate for NAWJ to have, itself, excluded men. Moreover, there is no reason why male colleagues who share our beliefs and support our goals should not be given the opportunity to participate in our activities.

WOMEN'S LAW FORUM

aison” status with the ABA which entitles us to participate in the deliberations of the Judicial Administration Division and to play an active role regarding the many issues with which it deals.³ The path is now clear for us to serve as an effective advocate for the interests of women judges and women lawyers within the monolithic structure of the ABA.

Major Projects

Since the inception of NAWJ we have understood the necessity of forging a strong alliance with women’s bar organizations and women law students. Those women are the pool from which our future members will be drawn. More importantly, it is our experience that it takes the woman-power, money, and organized political “clout” of large and influential women’s bars to ensure the appointment and/or election of significant numbers of women to the bench.

Consequently, we have worked very closely with the National Conference of Women’s Bar Associations. We have sponsored educational programs on how to become an administrative law judge. In states which were first forming a women’s bar organization or having trouble keeping one viable, we have appeared on lecture platforms and panels to motivate women lawyers, to encourage them, to share our own national and state-wide organizing experiences with them, and above all, to inject the enthusiasm necessary for winning elections and appointments to the bench.

Our sense of responsibility also extends to women law students who do need role models, who do need to know that there are many paths to the judiciary, and that personal fulfillment and professional success can be combined. As examples of our activities, we have put on a three-judge panel at the National Women and the Law Conference in Washington, D.C., and are continually participating in programs at law schools and student bar meetings on law school campuses.

Two of NAWJ’s primary purposes are “to promote the ad-

3. Amongst the vital issues which could impact women lawyers and judges on which the Judicial Administration Division reports and recommends, are criteria for judicial selection, the Code of Judicial Conduct, judicial education, etc.

ministration of justice” and “to formulate solutions” to the “legal, educational, social and ethical problems mutually encountered by women judges.” To achieve these purposes, NAWJ has co-sponsored the National Judicial Education Program (NJEP) with the NOW Legal Defense and Education Fund. The focus of NJEP is the elimination of gender bias in the court. Through judicial education and training, the Program is designed to examine the effects of gender-based stereotypes, myths, and biases on judicial decision-making. The NJEP, using NAWJ members’ experience and expertise, has developed educational materials to focus judges’ attention on the devastating economic impact of divorce and inadequate child support and alimony awards on women and children. Another segment of the Program’s work highlights the demeaning, condescending, and unprofessional ways in which some male judges (often unintentionally and unconsciously) treat female attorneys, witnesses, and litigants. These programs have been presented at the National Judicial College in Reno, and at numerous state judicial education sessions including New York, California, New Jersey, and Oregon.

NAWJ is also fighting to eliminate the appearance of racial and sexual discrimination on the part of the judiciary outside the courtroom. We have been a leader in the battle to prohibit judges from belonging to discriminatory clubs. We believe that when those who are sworn to uphold the law, to be faithful to the Constitution, and to administer justice impartially belong to private clubs which bar women, blacks, Asians, Hispanics, etc, of necessity an appearance of partiality arises in the minds of the public. While this is an issue of great emotional intensity, there is no doubt that the public will no longer tolerate a double-standard of conduct under which a judge sits on the bench from 9:00 a.m. to 12:30 p.m. making decisions without regard to race or sex and then lunches from 12:30 p.m. to 2:00 p.m. at a social club which excludes women and blacks from its dining room.

Future Directions

NAWJ burst into vivid existence in 1979. Thereafter, it experienced to-be-expected growing pains: insufficient funds, lack of permanent staff to handle administrative matters, a member-

WOMEN’S LAW FORUM

ship that is deeply devoted to the organization and its goals but already over-burdened with demands from heavy dockets, community and bar groups, and personal commitments to friends, children, and spouses.

A number of these problems have been substantially alleviated. The organization is now well-staffed by the Secretariat of the National Center for State Courts.⁴ We are operating in the black. Many internal organizational “kinks” have been ironed out. In short, we are on firm footing financially and structurally. All of our formidable energies can now be directed to achieving our substantive goals.

Despite the growing numbers of women entering the legal profession, and their movement into areas of the law which were previously closed to them (such as corporate law and complex civil litigation), the last few years have not seen any concomitant increases in women on the bench which would correlate with the percentage of women in the profession (between 13-15%) and women graduating from law school (between 30%-40%). Indeed, progress on federal judicial appointments has come to a virtual standstill for women and minorities since 1981.

Thus, the need for NAWJ to continue to press for the appointment of qualified women to the bench has not abated. Just as other organizations exist to promote the goals and interests of other minorities (without being perceived as a threat to the white male majority), so NAWJ must continue to exist and advocate for women so long as they retain minority status in this country.

As a large national organization, we can speak out on those issues—often controversial ones such as discriminatory clubs or federal judicial appointments—that individual judges, with all their ethical restrictions, do not feel they can appropriately address. There is always, in a democracy such as ours, strength in

4. The National Center for State Courts is a private, non-profit corporation founded in 1971 to provide coordination, information, and expertise in the field of court administration to state judicial systems. Through its Secretariat it provides necessary administrative services to court-related organizations such as the Conference of Chief Justices, the National Association for Court Administration, National College of Probate judges, etc.

numbers, and political strength in large organizations. Judges, because of the unique nature of their position and their function, are unsuited to address larger societal issues which affect the judiciary. But NAWJ, as an influential and respected institutional entity, commands an appropriate and suitable voice to speak on behalf of women judges and women functioning in the legal profession.

Finally, apart from achieving its concrete goals, such as elimination of gender bias in the courtroom and appointment of more women to the bench, NAWJ exists because it fills a great emotional need for its members: the need for conviviality, for frank talk, for intimacy with colleagues who suffer the same stress, isolation, and loneliness—and for a hearty laugh at the absurdity of it all. As sisters on the bench, we give each other strength, courage, and reassurance, as well as renewed energy and dedication to serve the public to the very best of our ability.