

1987

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Recommended Citation

Hon. Sol Wachtler, *The Lady in the Harbor and the Lady in Albany*, 15 Fordham Urb. L.J. 3 (1987).

Available at: <https://ir.lawnet.fordham.edu/ulj/vol15/iss1/2>

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THE LADY IN THE HARBOR AND THE LADY IN ALBANY—TWO SYMBOLS OF FREEDOM*

Hon. Sol Wachtler**

We have read much during these past few months about the one hundredth anniversary of the dedication of the Statue of Liberty in New York Harbor. We are justifiably proud of this symbol and foundation of freedom. At the same time as this lady of liberty arrived, another important lady “arrived” in New York.

During this month of May, one hundred years ago, the first woman was admitted to the practice of law in this State. While this milestone has not attracted the same attention as the anniversary of the Statue of Liberty, it is certainly of equal significance as a symbol of freedom and a measure of progress in our great nation.

New York’s first woman attorney, Kate Stoneman, came to Albany from Jamestown, New York. She learned the law, by marvelous historical coincidence, in this very building as a transcriber of the official proceedings of this court. And it was here, in Albany, that our legislature, on May 19, 1886, amended the laws of this State so as to allow, for the first time, women to be admitted as attorneys.

Ironically, only fourteen years earlier, the United States Supreme Court, in its notorious *Myra Bradwell* decision,¹ had upheld an Illinois law which prohibited women from becoming attorneys. The language in the concurring opinion in *Bradwell* revealed the obstacles women faced. There, three justices on our nation’s highest court expressed their view that “[t]he natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life. . . . The paramount destiny and mission of woman are to fulfil[] the noble and benign offices of wife and mother.”²

While the New York State Legislature’s progressive action in 1886 removed one obstacle confronting women, it was, of course, only a beginning. Just as the arrival of the Statue of Liberty did not eradicate ethnic prejudice, the change in our laws did not remove the bias against women and women attorneys.

* Hon. Sol Wachtler, Chief Judge of the State of New York, Remarks on Law Day at Court of Appeals Hall, Albany, New York (May 1, 1986).

** Chief Judge, New York Court of Appeals.

1. *Bradwell v. State*, 16 U.S. (1 Wall.) 130 (1873).

2. *Id.* at 141 (Bradley, J., concurring).

This celebration of Kate Stonemen's admission to the Bar, while not diminished, is made sober by compelling evidence that some of the same attitudes that delayed her becoming an attorney are still present today.

On April 2 of this year, the New York Task Force on Women in the Courts submitted its Report to me. The Task Force was established on May 31, 1984 by then Chief Judge Cooke. Since becoming Chief Judge sixteen months ago, I, along with Chief Administrative Judge Joseph W. Bellacosa, have continued to provide encouragement and financial support for its vital project.

I commend the Task Force, many of whom are here today, and its Chairperson, Judge Edward J. McLaughlin, for the extraordinary effort and thoroughness of the Report. It is the product of dedication, tireless effort and a profound sense of commitment. We are deeply grateful for your contribution.

Although the Report documents continuing problems and prejudices facing women in our court system, and serves as a strong impetus to accomplish more in this area, the Report should not be read as an indication that all judges and lawyers are insensitive to the problem.

I know from my personal experience that the vast majority of judges, and members of the Bar, are also committed to the protection and enhancement of women's rights in our courts. Nevertheless, adopting the voice of scores of professionals and lay persons with considerable experience in courts throughout the State, the Task Force has put forth an orderly and detailed exposition of "statutes, rules, practices, and conduct that work unfairness or undue hardship on women in the courts."

In examining the status and treatment of women litigants, attorneys and court employees, it found that women are denied equal justice, equal treatment and equal opportunity—the result of problems "rooted in a web of prejudice, circumstance, privilege, custom, misinformation and indifference." Gender bias against women in our courts is unacceptable.

The Task Force correctly observed that "the courts have a special obligation to reject—not reflect—society's irrational prejudices." It has been the abiding objective of this administration to provide to all citizens a court system that delivers quality justice. Making abundantly clear that gender-biased conduct is wrong wherever found in New York's courts—inimical to any concept of justice—is an important step towards that end.

Accordingly, we are prepared to pursue a comprehensive program to address the problems women face in our courts.

First, and without question, the educational and consciousness-raising recommendations which pervade the Report are singularly important and will be implemented immediately by substantial inclusion in all judicial and nonjudicial orientation and educational programs. This will be a significant part of one of our highest priorities for the next two years, which is to develop and inaugurate expanded educational programs and syllabi for judges and nonjudicial personnel on the entire range of subjects for which they and we are responsible.

Second, we will continue our policy of advancing women to important positions of judicial responsibility.

The most significant move in this direction was made, of course, when Governor Cuomo appointed my colleague, a superb jurist, Judith Kaye to this court.

Judge Bellacosa, when he was chief clerk of this court, began a program of recruiting qualified women and minorities for top professional positions.

We intend to continue that commitment and accomplishment throughout the court system and have already done so on our own initiative within the last several weeks by bringing to our ranks of administrative and supervising judges three distinguished judges and lawyers: Judge Marie Santagata, a distinguished jurist who was the first chairperson of the Nassau County Youth Board and formed the Juvenile Aid Bureau for Nassau County, appointed as Supervising Judge of all Criminal Courts in Nassau County; Judge Kathryn McDonald, who, in addition to her outstanding judicial experience, served for twelve years with the Children's Rights Division of the Legal Aid Society, and as Attorney in Charge of that Division, appointed as Administrative Judge for the entire Family Court of the City of New York; and Judge Judith Sheindlin, an excellent jurist, who was former Deputy Chief of the Family Court Division of the New York City Department of Law, appointed as Supervising Judge of the New York County Family Court.

Another key step in our comprehensive program will be the establishment of a standing and implementing arm of the court system to help us assess, monitor and further sensitize ourselves to these concerns. I am creating—as I did, for another key policy initiative last year, the statewide Individual Assignment System (IAS) Case Management Program—a small, in-house implementation team consisting of: Judge Kathryn McDonald, as Chairperson, in whose court so many of the concerns have been found to exist in a special way; Adrienne White, our Office of Court Administration (OCA) Director of Equal Employment Opportunity, who has responsibility for the

whole spectrum of equal opportunity, embracing this particular gender-neutral and gender-sensitive aspect as well; Nicholas Capra, the Executive Assistant to Judge Sise for all the courts outside New York City; Juanita Newton, the Executive Assistant to Judge Williams for all the courts in the City of New York; Michael Colodner, our OCA Counsel; and very specially as a bridge outside our own judicial branch, one member designated as my Special Consultant, the Honorable May Newburger, member of the Assembly and Chairperson of the Assembly's Special Task Force on Women's Issues and Concerns.

This standing team's charter will be as sweeping as the need warrants. They will start with the Report of the Task Force, which has now completed its work. The new team will report their recommendations and progress directly to Judge Bellacosa and me. They will reach out very specially to the court system's Personnel Director and to the education and judicial units and organizations, as well as all judges, lawyers, bar leaders, law school deans and faculties, law enforcement agencies and other public officials and community leaders who affect the operation of the courts.

I am convinced and determined that by this pervasive and persistent method of insight and oversight, we shall make great strides together to build on the significant improvements that have already been accomplished and to substantially eliminate the vices of gender bias and gender insensitivity insofar as they may persist in our great court system.

In pursuing this goal there will emerge a justice system better able to satisfy its special obligation to all the people of this State.