A Prologue in the Guise of an Epilogue

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More than a year ago, when I began preparing for the Noreen McNamara Lecture on a chosen subject I knew had wide significance and interest, I started a collection of materials about women in law. Since my involvement in the subject has continued and even intensified after the research was complete, and the lecture delivered, and the article printed, the collection grows and grows. It began as a discrete pile on the floor near my favorite opinion-writing chair, then it oozed over into boxes and Redwelds, and now it threatens to evict me from the entire area. Hardly a day passes that the collection is not enhanced with another treasure—a letter with fresh insights from one of the many women with whom I spoke in the course of my research, a new comic strip (“The Fast Track”) now regularly appearing in The Washington Post, books and articles of every imaginable variety.

The variety of the literature is itself symptomatic of the broad significance and interest this subject has. The popular press is a constant source, whether the Times, or Wall St. Journal, or Newsday, USA-Today, the Albany Times-Union, Time, Business Week, Fortune, and on and on. So is the popular lawpress, whether the New York or National Law Journal, or American or Manhattan Lawyer, or national or state bar journals of increasingly high quality, such as the ABA Journal and the New York State Bar Journal. And the scholarly literature yields up more and more fascinating studies, whether dealing with history or novel problems in practice and academia, or analyzing women’s lawyering and judging processes, or assessing women’s impact on the substance of the law (the articles themselves adding immeasurably to women’s impact on the substance of the law).

With this issue, the Fordham Law Review makes a special contribution, both “procedurally” and “substantively,” to the ongoing dialogue.

Procedurally, this issue is a commendable break from traditional law review fare. It is dedicated to a contemporary social problem that reaches far beyond the legal profession and the law; the struggles of today’s frontline J.D.’s are representative of dilemmas in every corner of our society. Text far outbalances footnotes; the mood is unabashedly personal and anecdotal. While I have neither the wit nor the will of Fred Rodell to condemn all law review writing,1 the voice and presence of the

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1. As Fred Rodell wrote in his classic Goodbye to Law Reviews, 23 Va. L. Rev. 38 (1936):

There are two things wrong with almost all legal writing. One is its style. The other is its content. That, I think, about covers the ground. And though it is in the law reviews that the most highly regarded legal literature—and I by no
author in these pieces—the naked "I"—is most welcome.

Substantively, the essays add valued new perceptions. It does not sur-
prise me that, however level one may believe the playing field to be in any
particular area of practice, not one of the authors expresses satisfaction
that we have achieved equality throughout the legal profession. Despite
growing numbers, it remains true that women face continuing barriers to
the attainment of positions of security, influence, rainmaking, policymak-
ing, power. This is a daunting conclusion after decades of a substantial,
visible female presence and proof beyond a reasonable doubt that women
have no innate lack of ability or suitability to excel as lawyers and law
teachers.

It is useful and important to be reminded—as several of these essays
do—of how profoundly this profession had changed over the century,
even in its most traditional quarters, responding to personal needs, or
historical events, or social forces. Succeeding generations have left dis-
tinctive imprints on the way law is learned and practiced. Again history
proves itself a great teacher. It is all too easy to accept that the institu-
tions must remain as they are, that only the individuals coming into them
must bend to existing stereotypes. In a day of pervasive social change, it
should be clear to all that the practice of law will not remain immune.
Indeed, the legal profession, concerned with the rights of others, should
be in the forefront of meaningful reform to effect genuine integration and
equality within its own ranks. This not only is just but also serves the
selfish interest of attracting and keeping the best available talent.

Several models of change are suggested—for example, accommodation
and assimilation within existing structures (typified by flexible work
schedules, extended leaves and child care facilities) and more fundamen-
tal reassessment of actual needs and relationships within the profession.
Doubtless more can be added, but all will begin at a common point: rec-
ognition of a problem, and sensitivity in confronting it. It is apparent to
me that the pressure for change must continue, that the dialogue must be
kept open, and that increasingly wider groups within the profession must
be drawn into it. Above all, these essays demonstrate that the discussion
cannot be brought to closure. Plainly, this issue can have no epilogue.

means except those fancy rationalizations of legal action called judicial opin-
ions—is regularly embalmed, it is in the law reviews that a pennyworth of con-
tent is most frequently concealed beneath a pound of so-called style. The
average law review writer is peculiarly able to say nothing with an air of great
importance. When I used to read law reviews, I used constantly to be reminded
of an elephant trying to swat a fly.

Id.; see also, Margolick, At the Bar, N.Y. Times, June 9, 1989 at B5, col. 6 (the truism of
law reviews is that "anything fun to read cannot be important").