

opportunity for women (and men) who seek to serve in the judiciary or politics is to demonstrate that the prime reason one serves in a public office out of a sense of civic duty.

I have heard Tom Hughes QC, a former federal attorney-general himself, lament that fewer people from the Bar seem to be putting their hand up to serve in politics. It is heartening thus to observe that a female member of our own Bar, Dixie Coulton, has done just that in her campaign for Lord Mayor of the City of Sydney. The present NSW Justice Minister, John Hatzistergos, is of course a long time member of the Bar.

Like the computers of Harvard, we have done our grinding work and now take on responsibility - and opportunity - of service to the law in its many guises. We come to it with an appreciation of the legal and social cosmos - that may perhaps elude some of our male counterparts.

Epilogue

I remember well the interview for my first paid job out of law school. It was with the then chief justice of New South Wales, the Hon Murray Gleeson, for a position as his research director. We managed to discuss three heretical topics: sex, politics and religion. It seemed as if we disagreed on all three counts. I left the interview confident I would be utterly rejected, but liberated that I had said my piece nonetheless.

Reflecting on what I have raised today, it rather seems there are some uncanny parallels - although I have left religion to venue alone. I can only hope that this time my first reaction will be confounded again, and that my second reaction engenders the same in you.

- 1 The New South Wales Bar Association regularly issues statistical analyses that are available at www.nswbar.asn.au
- 2 'A level playing field for Australian Lawyers' Media Release 7 December 2003 available at www.lawcouncil.asn.au/read/2003/2388554493.
- 3 President's message, *Bar News*, Summer 2003/2004. The text was selectively reported by Michael Pelly in 'Don't mention the hormones, female lawyers told', *Sydney Morning Herald*, 9 December 2003.
- 4 The Hon M E J Black AC, Chief Justice of the Federal Court of Australia, keynote address, seminar on equality of opportunity for women at the Victorian Bar, 5 April 2000; see also, The Hon Justice Michael Kirby AC CMG, 'Women in the law: What next?', *Victorian Women Lawyers*, 20 August 2001.
- 5 Chris Merritt, 'More equal before the law', *Australian Financial Review*, 5 March 2004, p.51.
- 6 Katherine Towers, 'Utz set to stress skill over mateship', *Australian Financial Review*, 5 March 2004, p.51.
- 7 At its 14 November 2003 meeting, the Standing Committee of Attorneys-General endorsed 'the principle of government entities engaging legal services with regard to equality of opportunity'. SCAG will meet again in on 18 and 19 March 2004 to consider, and hopefully adopt, a National Equitable Briefing Policy developed by Australian Women Lawyers and the Law Council of Australia.
- 8 Katherine Towers, 'All we want is an opportunity to shine', *Australian Financial Review*, 5 March 2004, p.53.
- 9 Address by the Hon Justice Marilyn Warren, Supreme Court of Victoria to the Victorian Women Lawyer Achievement Awards Presentation Dinner, Parliament House, Victoria, 15 May 2003, published at http://www.womenlawyers.org.au/promoting_difference.htm. An edited version was published in *The Age* as 'The feminine effect on law', 27 November 2003, p.15.
- 10 See http://www.womenlawyers.org.au/high_court_vacancy.htm; *ABC Law Report*, 'Changing of the guard at the High Court' 4 February 2003, at <http://www.abc.net.au/rn/talks/8.30/lawrpt/stories/s774889.htm>.

Equity is equality

An edited version of the address given by Madame Senior, Christine Adamson SC, at the 2004 Bench & Bar Dinner.

It was the end of January. It had been weeks since I had produced a drop of adrenalin.

Ian Harrison phoned.

'Will you do me a favour?' An ominous question. 'I want you to speak at the Bench & Bar Dinner.'

At first I said, 'I don't go to those dinners.' Then, as part of his duty of full and frank disclosure, he told me that Justice Meagher would also be speaking.

If ever there were a situation that called for a right of reply this was it.

Of course I said yes. What greater honour could there be? Philip Selth told me that I would not have to pay for the dinner

in cash - only in sweat and tears. He added, 'I hope blood won't be necessary.'

Anyway, I thought to myself, it can't be more difficult than:

- (a) trying to get an adjournment in the District Court from Judge Garling;
- (b) trying to work out what the High Court meant in *Perre v Apand*; or
- (c) trying to get chambers to replace the carpet.

But at least in court, judges needn't find what you say amusing. In fact, it's probably better if they don't. Indeed, sometimes the sweetest words to hear in court are, 'Ms Adamson, we do not need to hear from you', but if you said that to me tonight, I confess, I would be offended.

I understand that there is a convention that the silk at this dinner speaks about the Guest of Honour. But in the finest traditions of the Bar I have delegated this difficult and delicate task to Mr Junior and I'm sure you will not be disappointed by his work.

In the four months since I was invited to give this speech (of course I was free; I don't plan that far ahead) I have devised many speeches. I have thought of my fifteen years at the Bar and how quickly they have passed. I remember my trepidation at the outset and my concern that I would not get any work. Having arrived in Sydney the previous year, I knew few solicitors.

Over time, my practice grew, thanks to the support of other barristers who were prepared to sign my work as their own, and introduce me to their solicitors. I celebrated the end of my first year at the Bar by buying a set of *Commonwealth Law Reports*.

The other day I was sitting in my chambers staring at those reports, which are now in their 212th volume. In the more than one hundred years of that publication, there appear the judgments of only one woman.

I remember when I graduated from university in Adelaide women comprised half the law graduates. I went from university to the Commonwealth Attorney- General's Department, where about half the professional staff was female. After two years as a solicitor there, I came to the Bar. Yet, the Bar web site reveals that women comprise only about 13 per cent of the Bar.

I ask myself: where have all the women I studied with, and worked with, gone, and why don't they come to the Bar?

When a profession or work place is dominated by one sex or the other, there is an obvious inference that there are arbitrary forces at work, which have nothing to do with merit. Why has my experience been so good, and yet so few of my sex have come with me?

Perhaps unwittingly barristers overstate the risks of coming to the Bar, and discourage people, particularly women, becoming barristers. Fortunately I knew so few barristers when I came to the Bar that I had not been told that it was foolhardy to come to the Bar without money or contacts, or for that matter much experience. And I found that it was not foolhardy, because barristers helped me. Also I found that it is easier to get excited about a Local Court arbitration at Blacktown at the age of 26 than at the age of 36.

But why, you may ask, does the Bar need more women?

For the Bar to be an effective, useful and respected institution, I believe it should reflect at least the pool of people who are legally qualified, if not society as a whole. If it fails to do so it will be weakened, and seen by parliament, the executive, and the public as ultimately irrelevant, and rightly so.

One possible consequence is that the executive will find it easier to sideline the views of the Bar. In these times, as in all times, we need a strong independent bar to remind the executive of the importance of the civil liberties which the common law has developed. I have in mind the right to silence, the right to know that by which we are charged, the right not to be detained indefinitely, the right to a trial by jury.

'I ask myself: where have all the women I studied with, and worked with, gone, and why don't they come to the Bar?'

If we ourselves advocate and exemplify equality we will have greater strength to withstand the forces that oppose these liberties.

Many years ago, when I had been at the Bar for about a year, I attended a christening. The host introduced me to a silk who is now a District Court judge. As soon as he heard I was a barrister he said, 'Good, my daughter wants to go to the Bar. Come and tell her the Bar's no place for a woman.'

I told him that I could not do so, because my experience was to the contrary. I regard the Bar as a good place to practise law, whether one is male or female, if one has a certain temperament and intellect, and doesn't mind anxiety attacks, insomnia, working on Sundays and irregular cashflow.

So when your daughters or your wives or your sisters or your friends come home from school or university or work and express an interest in coming to the Bar, please do not do what that silk did to his daughter. If you do not feel qualified to recommend the Bar to a woman, by all means give her my phone number, and I will. All it takes is a little encouragement. For me, all it took was for a Melbourne barrister to take me aside after the Jessup Moot competition when I was a student and tell me that I should go to the Bar. A chance remark like that can change someone's life.

And many such remarks can change the Bar.

Most of the women who come to the Bar stay at the Bar. But so few are coming. We must do something more to attract them, for all our sakes.

The Bar resembles a boys' club only because 87 per cent of the Bar is male. But, in my experience the Bar is not exclusive. Unlike some institutions, such as the Australian Club, the Bar does not exclude women from membership. Parliament, the Bench and the Bar used to be male-only clubs as well, and they have changed, due to the enlightenment of many men and women. After all, equity is equality. We should try to be advocates for equality.

The fact that I am entitled to wear silk to court and not just to this dinner is testimony to the support I have received from the Bench and the Bar. For that I thank you all.