

44th STREET NOTES

November 1987

Vol. 2 No. 10



The Association of the Bar of the City of New York

CALENDAR

October 31

Family, Lawyer and Therapist: Are Healing and Advocacy Mutually Exclusive? Part II: What Happens to the Children?

November 2

Forming a Foundation—Private and Charitable

November 3, 10, 17 & 24

Amnesty Counseling Program

November 5

Look and Feel...and Sue: Perspectives on Software and Copyright

November 6-7

International Law Weekend

November 10

The United States Trademark Law: Proposals for Revision by the Trademark Review Commission

November 12

Bicentennial Lecture Series: Lecture 10: Racial Progress and Problems

SPEAKER:

THE HONORABLE A. LEON HIGGINBOTHAM, JR.

COMMENTATORS:

CHARLES FRIED
ELEANOR HOLMES NORTON

November 14

Twenty-fifth Anniversary of the Family Court

KEYNOTE SPEAKER:

THE HONORABLE SOL WACHTLER

LUNCHEON SPEAKER:

THE HONORABLE ROBERT F. WAGNER, JR.

November 17

ASSOCIATION STATED MEETING

November 18

The Supreme Court Finally Confronts the Issue of a "Taking" in Land Use Regulation, but Leaves Much Unresolved

November 19

Bicentennial Concert

See pages 4 & 5 for details

LETTER FROM THE PRESIDENT

October 1987 included the Fiftieth Anniversary of a very important event in the Association's history—an event which should be greeted both with pleasure and with some feelings of concern that, in fact, the event took place only fifty years ago.

On October 19, 1937, the first twelve women members were elected to the Association. The New York Tribune of October 20, 1937 contains a story headlined "City Bar Admits Twelve Women, First of Sex in Its 68 Years." The story opens with the sentence that, "Precedent was created last night when twelve women were included among the fifty-one lawyers whose applications for membership in The Association of the Bar of the City of New York were approved." After discussing other decisions at that meeting, the article reported that "The twelve women lawyers who were elected to membership were the first to be admitted to the Association in its sixty-eight years of existence. The way to their admission was paved on May 11 when the constitution was interpreted to allow their admission."

Earlier in 1937, the New York Times had reported on the Association's annual meeting at which Henry L. Stimson was elected President. The headline featured the vote to admit women, stating "After sixty-eight years of exclusive masculinity, The Association of the Bar of City of New York voted last night at its annual meeting ... to open its august portals to women. The removal of the bars was accomplished not by constitutional amendment, which requires a two-thirds vote, but by resolution of interpretation, requiring a mere majority. Twelve years ago a proposed amendment providing for women members on an equal footing with men failed to obtain a two-thirds vote. Although there was a forty-five minute debate on whether the organizers of the association in 1869 meant to exclude women

when they used the pronoun 'he' in the constitution, or merely seized upon a convenient, if un lawyer like word, no member came out flatly against the proposed admission of women." A proposal was made to lay the issue aside until the October meeting, but that received the support of only 78 of the 230 members present. The Times continued that "The vote on the resolution was so decisively in favor of the women that no division was requested or necessary."

Among the principal proponents of the resolution was Henry W. Taft, a former President of the Association, and the proposal was made by James Byrne, the 80-year old former President of the Association. According to the Association's Yearbook records for 1937, a principal supporter of the proposal was C.C. Burlingham, also a former President, and other leaders of the Association spoke for the resolution. The Association's records show that no one spoke in opposition.

Our first twelve women members were a remarkable group of lawyers. I will mention just a few things about them, in the order that they were listed on the membership ballot.

Dorothy Straus, 49 years old at the time of her admission, was sponsored by Joseph M. Proskauer. She was a member of the New York State Planning Council and was a partner of Dorothy Kenyon from 1930 to 1939. She died in 1960.

Dorothy Kenyon, perhaps the best known of all of the members, was also 49 years old at the time of her admission. Her membership was sponsored by Elihu Root, Jr. and as noted, she was Dorothy Straus' partner from 1930-1939. She was appointed by Mayor LaGuardia to be First Deputy Commissioner of Licenses of New York City and had been associated in World War I with a number of important government agen-

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PRESIDENT

(From p. 1)

cies. Her father and brother were members of the Patent Bar but she became a general practitioner of the City of New York. In 1938, Mayor LaGuardia appointed her to the Municipal Court but she lost the subsequent election. She was a member of numerous other committees, including the 1938 Committee of Jurists appointed by the League of Nations to study the legal status of women in the world. She was the first U.S. Delegate to the U.N. Commission on the Status of Women, and served on numerous committees of our Association. In 1950, she was attacked by Senator Joseph McCarthy but was defended by Ted Kiendl with, as Whitney North Seymour noted in giving her memorial address, substantial Association support. She was a member of the American Civil Liberties Union Board for 40 years and the recipient of numerous other awards. She died in 1972.

Catherine Noyes Lee, one of the younger members, was sponsored by Henry W. Taft and Thomas B. Gilchrist, both of the firm by which she was then employed—Cadwalader, Wickersham & Taft. She was the first woman employed by a major New York firm and the first woman partner in such a firm, becoming a member of the firm in 1942. She died in 1967.

Susan Brandeis was 44 years old when elected and was sponsored by two former Presidents, James Byrne and C.C. Burlingham who, as noted, had been the principal movers of the action to admit women. She was a partner with her husband, Jacob H. Gilbert, though she did not change her name after her marriage. She was a Special Assistant to the United States Attorney in 1921-1925, a member of the

New York Board of Regents from 1935-1949, and held other public offices. While we have not been able to determine when she died, she would be 96 years old and we have found no recent trace of her.

Edna Rapallo, 44 years old at the time of her admission, was an associate at Hunt, Hill & Betts and thereafter an independent practitioner in admiralty law. Her clients included the claimants on the Lusitania, the Vestris and the Morro Castle, three of the most famous ship disasters. She was a granddaughter of Judge Charles A. Rapallo of the Court of Appeals, who was one of the founders of the Association. She died in 1942.

Rosalie Loew Whitney was already 64 years old when elected, and her election was also seconded by C.C. Burlingham. She was the first woman admitted to the United States District Court and to the United States Circuit Court of Appeals in 1901, six years after being admitted in the First Department upon graduation from NYU. She became an attorney for the Legal Aid Society in 1897, and was its Attorney-in-Chief from 1901-1904 after Carl Schurz. Subsequently, she was a single practitioner and held numerous government offices. She was a member of the New York State Industrial Board from 1921-1923 as successor to Frances Perkins, Deputy Commissioner of Licenses from 1934-1936 and a Justice of the Domestic Relations Court from 1936 on. Her parents, both immigrants, inspired her work to help escapees from the Nazis. She died only two years after her admission to the Association.

Mary-Chase Clark was a distant relative of U.S. Chief Justice Salmon P. Chase. She was employed by Saxe, Girdes, Bacon & O'Shea and eventually became partner in a firm that included her husband and others. She was National Secretary of Bundles for Britain and active in other charitable organizations. She was elected a member when she was 40, but died only seven years thereafter in 1945.

Mary H. Donlon was 44 years old at the time of her election and was employed by Burke & Burke where she became a partner. She was active in public life, becoming Chairman of the State Administrative Board in 1944, a Judge of the United States Customs Court in 1955, an active leader of the New York State Republican Party and a Trustee of Cornell University. She died in 1977.

Emelyn Laura Mackenzie was 43 years old and became a member of the New York Bar after having practiced in her native province of Nova Scotia since 1919. Admitted in New York in 1929, she apparently practiced both here and in

Canada where she became a Queen's Counsel in 1950. Interestingly, her membership application says that she applied for membership in 1932 but "no action taken because membership was not admitted to women at that time." She ceased to be a member in 1958 or 1959, and we have no record of her thereafter. If alive, she would be 93 years old.

Margaret Mary J. Mangan was the youngest of the new members, aged 30. A graduate of Brooklyn Law School, she was active throughout her life in public service and Democratic politics. She was a Law Assistant in the State Supreme Court from 1946 to 1956, and then successively a Judge of the Municipal and Civil Courts, and became a Justice of the Supreme Court in 1963. From 1953 to 1956 she was the National Association of Women Lawyers' Observer at the United Nations, a Democratic State Committeewoman, a local school board and local community board member and an active member of a number of committees of this Association. She was a member of this Association until her death just last summer.

Margaret May Burnet is the member about whom we have been able to learn the least. She was admitted to the Bar in 1902, so that, if alive, she would be more than 100 years old. She ceased being a member in 1944 and was last listed in any directory in 1957, though that directory indicated that she had been a Judge of the Municipal Court.

Julia Morris van Dernoot was 54 years old at her time of admission. Having graduated from Hunter College in 1901, she became a school teacher and then retired while raising a family. She returned to school and received her law degree from NYU in 1921—20 years after college graduation, and practiced law with her husband. She served as a member of the New York City Board of Higher Education in 1932, as a Trustee of Hunter College and in other public service activities and died in 1960.

Thus, there is no indication that any of our original twelve members are still alive and none of them are carried on the rolls of the Association at the present time, though, as has been noted, Judge Mary Margaret Mangan died only last summer.

The most senior women members still on our rolls are, in fact, quite active. They are Florence Perlow Shientag and Lillian Poses. Judge Shientag was admitted in January, 1938, soon after the original group of twelve, and Lillian Poses was admitted shortly thereafter. The next most senior living woman member, Helen Buttenweiser, was admitted in 1940, though other women

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had by that time become members of the Association.

Judge Shientag, who was admitted under the name Florence Perlow, was a Law Aide to Thomas E. Dewey, Law Secretary to Mayor LaGuardia, a Justice of the Domestic Relations Court and held public service positions on the local, state and federal levels. She most recently served on the New York State Task Force on Women in the Courts.

Lillian Poses also served government on the local, state and federal levels, including service as Chairman of the New York State Management Labor Appeals Board and as a Trustee of the University of Connecticut. She is a well known philanthropist and was, for many years, the lawyer for Greta Garbo.

Helen Buttenweiser studied law after entering professional life as a social worker. Among her contributions to the profession were her Chairmanship of the Board of The Legal Aid Society and numerous other public service positions.

I have gone to such detail about these women leaders of our profession because I thought it appropriate, as we mark this Fiftieth Anniversary, to remind our members about how much women lawyers have accomplished and how important they were in our profession, even before this Association agreed to admit them into membership. It is also a reminder of the enormous role which they have, since that time, played in our profession and Association. A woman now chairs our Executive Committee, Joan L. Ellenbogen; another woman is a Vice President of the Association, Sheila L. Birnbaum; a third is the Executive Secretary and Chief Administrative Officer of the Association, Fern Sussman; and there are numerous women Committee Chairs and Executive Committee members.

Nonetheless, we should remember that it has taken us a long time to get to where we are today.

Robert M. Kaufman

TWELFTH NIGHT TO HONOR MS. BUTTENWEISER

Helen Buttenweiser, one of the first female members of the Association, will be honored at the 37th Annual Twelfth Night Party sponsored by the Committee on Entertainment, Myron D. Cohen, Chair. The extravaganza, scheduled for Friday, January 8, 1988, will include refreshments and dancing and will be performed by talented members of the bench and bar.

THE LIBRARY

By Frederic S. Baum

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Bicentennial Quote of the Month

"Liberty and good government do not exclude each other; and there are excellent reasons why they should go together. Liberty is not a means to a higher political end. It is itself the highest political end." Lord Acton (John E. E. Dalberg) 1834 - 1902.

REGIONAL ROUNDS OF THE 38TH NATIONAL MOOT COURT COMPETITION

The following schools will be competing in the Regional Rounds at the House of the Association on November 30, and December 1, 1987 at 5:00 P.M. and 8:00 P.M.: Brooklyn Law School, Cardozo School of Law, Fordham University School of Law, Hofstra Law School, New York Law School, New York University School of Law, Pace University School of Law, Rutgers School of Law-Camden, Rutgers School of Law-Newark, St. John's School of Law, Seton Hall Law School and Touro College Law Center. Further information regarding rounds may be obtained by calling Mariann Owens at (212) 382-6600.