

Lawyers, who are women

A speech given by Raelene Webb QC at the NTWLA's Patron's Drinks.

Are we women lawyers or are we lawyers who are women? Personally I prefer the latter description. There are lawyers who are men, and there are lawyers who are women.

As Justice Kirby has so helpfully pointed out to us: "Women are not just men who wear skirts".¹

It is often said that, for a woman to succeed in a traditional male area, which we know the law is, she has to be better than her male counterparts. We know this to be true. We also know that it is not difficult to be better than the average male.

What is it that makes women succeed in our chosen profession? I hazard a guess that there are a number of differences women bring to the practice of law which pave the way for success. They are these:

- * Women are generally goal-oriented rather than task-oriented. They concentrate on getting the end result rather than keeping busy along the way.
- * Women tend to persuade rather than dictate.
- * Women see things in perspective; they can judge the relative importance of things.
- * Women tend to seek resolution.
- * They have organizational skills.
- * Women are adaptive and flexible.
- * They have a strong sense of method.
- * They have energy, patience and insight.

It is not hard to see how women have developed these skills. We learn from our mothers. Try running a household and particularly bringing up children – every one of these skills gets honed by practice.

But I would like to talk about three particular characteristics I personally have found essential to the successful practice of law.

They are **courage**, **integrity** and a sense of **humour**.

There are many definitions of **courage**. In the context of practising law, I view courage as the ability to confront fear in the face of uncertainty

and intimidation; to take on challenges; having the confidence to speak up; doing the right thing regardless of personal cost.

My first case "on my feet" took courage. I was junioring the Solicitor General, Tom Pauling QC, in a public liability case. There were a number of parties, represented by various local and interstate silks, and very experienced barristers. I was totally green. So when my learned leader told me that the case would settle and there was no need to do too much preparation, I merrily went along with this.

The case proceeded and the first week ended. The way things were going we were due to open on Monday, probably in the afternoon. No problems Raelene, it will settle. The weekend was spent doing other things.

Come 11am Monday my learned leader leans over to me at the bar table and says: "I have to catch the lunchtime flight to Canberra. You'll be right, won't you?" And promptly gathered his things and left me sitting alone, amongst leaders in the profession, to take the reins of a horse that had not even been broken in.

As luck would have it, we did not open our case until Tuesday morning at 10.15, so I had one evening to learn everything I possibly could about the facts of the case and the law of negligence. I opened, called witnesses, and concluded my final address on the Thursday. Sometime Thursday evening I started to feel tired. Then I realized I had not slept since Sunday night – adrenalin had kept me going. And I loved it! That was the moment that marked my future as a barrister.

It helps to be an adrenalin junky. I practice it outside the law too.

Some of you will know that I have recently learned to hangglide. As I stood on Ben Nevis at 1400' hanging

on to a piece of cloth, about to run straight off the launch down a 70 deg rock face, my throat was as dry as it had ever been. Even dryer, I think, than when I rose to my feet for the first time before seven judges of the High Court. I'll come to that. But back to hanggliding.

Looking down at the rocks below and to the side, knowing there was no margin for error, every instinct in my body was screaming, don't do this! But run, I did, and the result was beyond description. I soared. And that is what you do when you have courage.

The other thing was that, having been the first in the group to take the plunge, other members of my group (all male) were not going to be "shown up" by a woman, and a grandmother at that, so they all took the jump too! One quietly took me aside and suggested that when I "went first" at various times, I was positively intimidating other members of the group who then felt they also had to do what I did, and I should "stand back". I ignored his advice, needless to say. Would anyone ever tell a man he should not go first because it might be intimidating to a woman following on? I think not.

Back to the law. Another moment of courage was rising to make submissions to the High Court for the first time in an important appeal. Even though I had addressed the High Court on several other occasions before, it had always been in special leave applications. This was the "big one".

Before I went into Court, the late Justice Selway, who was then Solicitor General of South Australia, took me aside and gave me the best bit of advice I have ever received as a barrister. He said: "Raelene, remember, no matter how bright these judges are, you know more about this topic than they do."

I pass it on. It won't always be the

case. But it often will, if you do your preparation well. And be prepared to roll with the waves too and the occasional punches.

Be prepared for surprises. They will sometimes leave you uncharacteristically speechless.

Lets move on to **integrity**, a personal obsession of mine. I'll translate it simply into honesty; sincerity; trustworthiness.

Many lawyer jokes are about integrity, or a lack of it. For example:

An investment counselor decided to go out on her own. She was shrewd and diligent, so business kept coming in, and pretty soon she realized that she needed an in-house counsel.

She began to interview young lawyers. "As I'm sure you can understand," she started off with one of the first applicants, "in a business like this, our personal integrity must be beyond question." She leaned forward. "Mr. Peterson, are you an honest lawyer?"

"Honest?" replied the job prospect. "Let me tell you something about honest. Why, I'm so honest that my father lent me \$15,000 for my education, and I paid back every penny the minute I tried my very first case."

"Impressive. And what sort of case was that?"

The lawyer squirmed in his seat and admitted, "He sued me for the money."

There are many more.

Why do we need to practice with integrity?

- * Integrity builds trust; as lawyers we need our clients and our colleagues to trust us; we need judges to trust us.
- * Integrity helps build higher standards: as a barrister, I always strive for the highest standard possible, the view I take is that the responsibility is always mine, at the end of the day. Solicitors need to develop the same sense of responsibility to their clients. And as you work yourself further

into a position of leadership, responsibilities increase.

- * Integrity results in a solid reputation, not image. Think of it this way. Image is what people think we are. Integrity is what we really are. Ask yourself:
 - + Am I the same regardless of the person I am with?
 - + Do I make decisions that are best for others, when another path would benefit me? For example, if I have a fascinating legal case which has a "dead set" High Court point, but the best result for the client is to settle, do I encourage settlement? Yes, because it's not about us, it's about the client.
 - + Do I readily recognize the efforts and contributions of others to my work? If it's someone else's research and effort you are relying on, acknowledge it – it's easy – "I'm obliged to Ms X, my instructing solicitor, for her research on this topic. The principles are these..."
- * Integrity means not asking someone to do something or go where you have not been before. Live it before you ask anyone else to do it.
- * Integrity helps you be credible, not just clever. People must have confidence in you. You must always act competently and consistently to build that confidence.
- * Integrity comes from self-discipline, an inner confidence and a personal decision to be relentlessly honest in everything you do.

At the conclusion of my first case, abandoned by my leader, a senior silk from Adelaide took me to one side and asked how long I had been practising. He was astonished to find I was still a "baby" in legal years. However, he said something which I have kept with me ever since. It was to say that he had been most impressed with the fair way I put my client's case; that I had not tried to "cover up" or fudge some less than

helpful facts, but had laid it all out there and dealt with it. He told me never to lose that fair and honest approach to my cases. I hope I never have.

Turning lastly to **humour**, I'll be brief. We need it to survive in this profession. We particularly need to be able to laugh at and about ourselves. It keeps us sane, and keeps us centred. It prevents us from taking ourselves too seriously. But be careful of attempting to use humour in Court. It works only for a few.

It worked for the Solicitor General once when we were appearing in a landmark case in the High Court before the Mason bench. I had bet the Solicitor General a good bottle of red wine that he could not make Chief Justice Mason smile during his submissions. It was a certain bet. But Tom managed to win it. He did it like this. We were relying on a case from the Times Law Reports and the High Court registry had asked us to provide copies for the court. We did. As the copies were handed up, my learned leader said to the Court:

"Now, I want your Honours to look at the case about the barrister who spilt the milk in the top right hand column, not at the case in the bottom left hand column about the woman posing nude in a lions cage".

That's all it took to lose the bet. But, in hindsight, it was not such a good move on the Solicitor General's part as we lost the Court's attention for at least ten minutes while they read the irrelevant case.

My last story is about Dame Roma Mitchell. She was the first woman in Australia to be made a QC (1962), first female Supreme Court judge (1965), first female chancellor of a university (1983), first woman to be appointed governor of any Australian state (1991).

During an interview in her early years of the Supreme Court, Roma Mitchell was asked by a brash journalist: "you are not married?" "I am not". "And you do not drive a car?" "I do not".

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News from the NTWLA

June 2005

I was remiss in not acknowledging an earlier event in Alice Springs in the last *Balance*. Lawyers in Alice Springs had an opportunity to enjoy refreshments and meet with Acting Justice Martin and his wife, Lorraine, on 25 February 2005. NTWLA wishes to thank Povey Stirk Lawyers for its generous support of this event.



Tracey Nagel, Salre Sturm, Sharon Krause and Sarelle Woodward at William Forster Chambers.

It was well attended and, reportedly, a very agreeable time was had by all.

The Australian Women Lawyers Board met in Darwin on Saturday 7 May 2005. On the Friday night before the meeting, Colin McDonald QC, Head of Chambers, welcomed members of the AWL Board, NTWLA members and guests to the first event to be held in the newly-opened William Forster Chambers. These drinks were followed by dinner at SONSIE Restaurant. It was a splendid evening on a perfect dry season night. The southerners were very impressed! The board meeting on the following day was long but very worthwhile. The Board reviewed the progress of the collection of gender appearance survey statistics nationally, discussed the issues of nominations to the High Court, tax



Justice Sally Thomas, Gul Baqar, Ruth Morley and Debbie Wilson at the NTWLA Patron's Drinks in Alice Springs.



The Australian Women Lawyers Board met in Darwin during May.



NTWLA President, Gabrielle Martin

issues, and the Inaugural Women Lawyers Conference for 2006, and prioritised issues for the forthcoming financial year.

A Special General Meeting of NTWLA was held on 11 May 2005. Thanks to those members who very kindly provided proxies for the meeting. The draft constitution was adopted and members enjoyed catching up with each other after the meeting.

As President of NTWLA, I attended Patron's Drinks in Alice Springs. It *continued page 15...*

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Undeterred by the terseness of the replies, the journalist pressed on:

"The Chief Justice, Dr. Bray, is also unmarried. Is there any chance that the two of you might get together?"

"No", Roma replied, "that would be no good at all. He doesn't drive a car either."

To conclude, I totally endorse the words of Justice Mary Gaudron (as she was then) when launching the Australian Womens Lawyers in 1997:

Go to it! Go be yourselves! ①

Endnotes

¹ M Kirby, "Women in the law - What next?" (2002) 16 Australian Feminist Law Journal 148 at 154.