

PRESIDENT’S PAGE

WHAT WOULD LELIA J. ROBINSON THINK?

By Kathy B. Weinman

I am writing several days after Justice David Souter announced his plans to retire from the U.S. Supreme Court at the close of the term. Rumors about Justice Souter’s replacement are rampant (the nomination likely will have been announced by the time this piece is published). There appears to be a growing consensus that the next Supreme Court appointment should be a woman. Among the names mentioned are federal and state appellate judges Kim Wardlaw, Diane Wood, Leah Ward Sears, Sonia Sotomeyer and Margaret McKeon; former and current law school deans and professors Elena Kagan, Pamela Karlan and Kathleen Sullivan; and Governors Janet Napolitano, Christine Gregoire and Jennifer Granholm. A recent New York Times article, “Wider World of Choices to Fill Souter’s Vacancy,” quoted one law professor’s observation that “[t]he legal landscape has been totally transformed. Obama has a lot of possibilities.”

All this is a world apart from the one inhabited by Lelia J. Robinson, who became the first woman admitted to the Massachusetts bar in 1882. When Robinson graduated from law school, she was the only woman in her class and the only woman ever to complete her studies at Boston University. Turned down for admission to the bar by the Supreme Judicial Court, Robinson successfully lobbied for legislation permitting women to practice law. In her 1890 survey of women lawyers nationwide – she counted under two hundred – Robinson observed that “[i]n some places the public is slow to intrust legal business to women attorneys; in others it readily does so.” She hoped that “in time, sooner

or later, the lawyer everywhere who deserves success and can both work and wait to win it, is sure to achieve it,--the woman no less than the man.”

The advancement of women in the legal profession over the past three decades has been dramatic. In the late 1970s, women were only 28% of law school graduates and less than 1% of the partners at the nation’s largest firms. By the late 1980s, women constituted approximately 40% of graduating classes and 8% of the partners at the largest firms. Today, nearly 50% of law school students and almost 16% of large firm partners are women. In 2009 more than 200 women are federal judges (about ¼ of the bench) and over 100 women are judges serving on their states’ highest court. In Massachusetts, our top courts are led by Margaret Marshall, chief justice of the Supreme Judicial Court, and Sandra Lynch, chief judge of the U.S. Court of Appeals for the First Circuit.

There is a long way to go to fulfill Lelia Robinson’s prediction, however. At least as measured by leadership roles at large law firms, success is not yet achieved equally by men and women. Although women have joined incoming classes at law firms in numbers nearly equal to men for over fifteen years, they continue to be promoted to partnership at far lower rates – a glass ceiling of approximately 15%-16% of equity partners according to surveys by the National Association of Women Lawyers and others. When Working Mother magazine announced the “50 Best Law Firms for Women” in 2007, the percentage of female equity partners at selected firms ranged from as low as 9%.

There are varied reasons for lower equity partnership rates, but two major issues emerge: (1) the difficulty of achieving work-family balance in private practice; and (2) the challenges of generating business for the firm. Under the auspices of the Equality

Commission, cosponsored by the Boston Bar Association, Massachusetts Bar Association and the Women's Bar Association, the MIT Workplace Center conducted two surveys – of the largest 100 law firms in the state and of certain lawyers who had worked at those firms in 2001. Its 2007 report, *Women Lawyers and Obstacles to Leadership*, confirmed what many of us know from experience: Women leave firms and law firm practice at greater rates than men, often citing an inability to integrate work and family life. The pressure to work even longer hours to justify higher associate salaries and generate larger profits for the firm has made it even harder for women to progress at their law firms. The focus on revenue means that rainmaking is more important than ever. The National Association of Women Lawyers' report on *Actions for Advancing Women Into Law Firm Leadership* (2008) found that “[a] lawyer’s ability to generate business is the single most determinative factor in whether a lawyer will become an equity partner.”

A focused effort to advance the success of women in the legal profession is imperative. The BBA’s strong recommendation in its 1999 report, *Facing the Grail: Confronting the Cost of Work-Family Imbalance*, that firms offer lawyers individualized, flexible work alternatives still holds true. My own experience of working four days a week when my children were young – and the similar experiences of other women I know – suggest that part-time work need not adversely affect a woman’s long-term contributions to her firm. Concrete steps to improve women’s rainmaking also are important. While generating business comes naturally to some women, others benefit from a more structured approach, including assignment to important matters with key clients, inclusion in pitch teams for client prospects and business development training and coaching. As clients increasingly make clear their preference for diverse teams of lawyers, we all benefit.

