

OWLS, Gentlemen, Honoured Guests:

Once upon a time in a not very far away land there was a girl who lived in a house that was of modest dimensions relative to your average castle.

She didn't have golden locks, nor did she have eyes as blue as the Aegean Sea or the fairest skin in the land. In truth, she was averagely good looking with a possibly slightly larger than average nose, and was prone to spots and a surly disposition at certain times of the month just like the rest of us. The girls name was Ethel, possibly not the name for a Princess, which didn't really matter much because as you will have worked out by now, she wasn't one.

But what Ethel lacked in status and general hotness, she more than made up for in dreams and ambition. When she was at Otago Girls' High School in 1892 she dreamed of being a lawyer, which was fairly out there given that not only was there actually no such thing as woman lawyers, but in the 1890s there were no women at law school, and only a handful of women at Otago University.

But undeterred, in 1893 Ethel commenced her legal studies, and in 1897 she graduated as the first woman lawyer in NZ, and only the 2nd in the British Empire. Go Ethel. On 10 May 1897 she was admitted to the Bar in Dunedin, and not content with her dream run to date, on 17 September 1897 she was the first woman to appear in court in the British Empire. It was like a fairytale.

Ethel's story doesn't end there, but the fairytale run does. Having completed her degree she looked for jobs in law firms and found that her exclusively male colleagues "weren't hiring", which was shorthand for "weren't hiring brazen upstart women who had the temerity to think that they could be lawyers in the kingdom of Dunedin". And so Ethel, faced with no other option, set up her own small law practice. (Put up your hand if this is starting to sound familiar...). She acted for people that the Kings and Princes of the legal profession in the Kingdom of Dunedin didn't want to represent - publicans, and battered women in need of protection. She did good work for deserving people, work for which she sometimes didn't get paid (put up your hand...). So she didn't make a lot of money, she didn't

enjoy the camaraderie or the respect of her exclusively male colleagues, and I have no doubt that Ethel sometimes wondered why she'd bothered. And in about 1907 she left the land of Dunedin for the land of Wellington where she married late and had no children. As happens to many good women even today, she was lost to the legal profession sometime after that, and died in 1943, in England.

Ethel Benjamin's audacity and daring didn't exactly open wide the castle gates for other lawyer princesses to enter. In truth, her tale was less "Princess", and more of a twist on Cinderella - she made it to the ball but never found the second slipper, and in the end had to leave halfway through because it was too uncomfortable dancing half shod and without a Prince, with a whole lot of men looking askance at her and wondering what the hell she was doing there.

It was another 120 years before the number of female law graduates in NZ equalled the number of males. An awful lot happened in those 120 years. A lot changed, and a lot stayed pretty much exactly the same. This is the true story about the Otago woman lawyers who helped bring about that change.

After Ethel the 2nd female graduate from Otago was Margaret McKay. Miss McKay left school to work at the family firm of Lee Grave and Grave in Oamaru as a law clerk. It was thankful that she was intellectually capable, because by all accounts she was a dreadful law clerk. In her own words:

"I wasn't very good at that job... I lost the key to the post office and I missed the mail with important letters, but anyway they still kept me on and I was promoted to a position of typist".

Margaret studied for her solicitors exams by correspondence, and was admitted to the bar in 1929. Listening to Margaret, there seemed to be little doubt that she owed her partnership to her family connections:

"...there really wasn't really any firm objection to my becoming a partner. But one of the partners, my Uncle A J Grave's son-in-law, Mr Karl Zimmerman did object to my becoming a partner, but my Uncle insisted on it and I was accepted as a Partner and that was the only time I ever had

any criticism or ever was aware that I was not accepted by any member of the profession.”

And so Margaret was perhaps our first real Princess; a law graduate who not only got a job in a firm, but made it to partner. But it helps, of course, if you're born inside the Castle walls ...

Mary Hussey graduated from Otago Law School in 1947. Although she gained employment at Adams Bros Solicitors upon graduation, and was widely acknowledged for her formidable legal intellect, Miss Hussey never held a Practising Certificate while she worked in the employment of the firm's male partners. There, she applied her skills to writing legal opinions and submissions which were then passed off as the work of her male colleagues, such as the very famous Alf Hanlon. It was said that Miss Hussey made the bullets, and Hanlon merely fired them. It was also her responsibility to train the young male lawyers for success in the courtrooms in which she herself would never set foot as Counsel.

Mary Hussey was not a supporter of OWLS. She saw no need for it. And so Miss Hussey for her part may have sneaked through the castle gates, but she wasn't exactly in there trying to persuade the guards to open them a bit wider so that other aspiring lawyer princesses could enter.

The 3rd woman law graduate from Otago was Marion Thompson in 1937. Marion along with Margaret is a life member of OWLS and until she died in 2007 was our staunchest supporter. To me Marion was the Warrior Princess. Born into a working class family there was no money for girls to be educated. In Marion's words:

“... my parents wanted me to have an education; neither of them had had the privilege of a secondary education but because of the financial situation they had decided that 2 years would be as much as they could afford ...this really concerned me, because I loved school...I knew that I was going to have to take a commercial course and go into an office, so I dutifully went to Otago Girls High and enrolled in the commercial course...”

Marion ended up working as a junior typist in a law office, where she saw a photo of Ethel Benjamin among delegates at a law conference. Marion

thought to herself "Well if she did it, then why couldn't I?" and so she enrolled for university part-time. She recalled only 2 other women in her law classes who both dropped out during the course. She didn't feel any particular barriers were put in her way, although she did recount with some amusement an incident involving the criminal law curriculum:

"Mr A G Neill KC was the lecturer in criminal law and he knew my father. He approached Dad and asked him if I would mind staying away from a couple of the classes because he was going to be dealing with sexual matters and I think he felt that I might be embarrassed and that he possibly would be embarrassed ...I didn't mind that all, he said he would let me have the notes which he did. That was the only time that I felt that I was being treated differently from the men, but I didn't really mind."

During her time at law school Marion did OK, for a girl. She won the Law Society prize for Roman law, the Company and Bankruptcy prize and the Conveyancing prize. After she graduated in 1937 she was married that same year, and promptly went to be a housewife in Macandrew Bay and to have 3 children over 8 years. Like Ethel, she'd had a promising start. But it was to be over 2 decades before she practised as a lawyer.

In 1960 Marion was on a school committee with a lawyer who recognised her abilities, and offered her a position as a solicitor which with almost overwhelming trepidation she accepted, commencing practise 23 years after graduation!

Marion was, perhaps, the true forerunner of many of today's OWLS in both a practical and philosophical sense. She felt keenly the conflict of loyalty between work and family. While she was glad that she'd been able to stay at home and look after her children when they were young, she wanted to be able to afford to give them what she hadn't had as a young woman - an education.

After starting as a lawyer she specifically recalled attending the centenary of Ethel Benjamin's admission, but generally was unable to attend ODLs functions because of her obligations to her family. Marion said that she never pushed to become a partner. She felt that entering the profession 23 years after graduating she would have benefitted from a refresher course, but

(and again, put up your hand ...) between working and looking after her kids and being a wife, there was just no time! She recalled being grateful, and surprised, that when a male lawyer who had been in the firm for the same amount of time as her got a salary increase, and one of the partners, Mr McKinnon, insisted that Marion get one too.

Marion was also the first of our forebears who had an active involvement in OWLS. In the 1970's and 80's there were a small but significant number of other women who were also making their own way in the profession, and paving the way for more profound change.

One of these was Janet Somerville. Janet studied law as a mature student and became a partner in TWAB in the 80s's. She was a founding member of OWLS and chaired our first ever meeting. There is a famous story about Janet, told by her niece Elspeth Sandys in her book "What lies beneath". Elspeth was adopted, and as an adult instructed Janet to act for her in petitioning the family court, where Janet was one of the first specialist practitioners, as was the procedure in those days, for permission to see her birth certificate and thus learn the identity of her birth mother. In the book, Elspeth who lives in England, tells the story thus:

"Janet is optimistic... So we go to court, confident.

But Judge Twaddle ('straight out of Dickens' I whisper to Janet) has other ideas. He rules that as I am clearly of sound mind (am I supposed to be grateful or that?), with a clear sense of identity, he sees no reason why my birth certificate should be made available to me.

It's all over in a matter of minutes. Janet and I walk out of the courtroom, Janet muttering rebelliously. When we reach the reception area Janet grabs my arm and says, 'Wait here'.

I watch her scurry back into the courtroom and disappear through a side door.

She's back within minutes. In her hand is a piece of paper which she passes to me. 'If you ever tell anyone about this I'll be de-barred', she says, glancing over her shoulder to be sure she's not being overheard. 'You can't do

anything with it, but at least you have what you came for – your birth certificate’.

‘Is it ... the original? No. I’m not a thief. Fortunately I know my way around this place. It’s a photocopy.’

‘I figured the judge would head for his room,’ she says, pulling on my arm to hurry me out the door, ‘leaving the documents for the clerk to file. I was right. All I did was ‘borrow’ one page from his bundle.’ ...

A painting in Janet’s memory, presented by OWLS, still hangs in the family court.

While in the early 80’s there were more women in law, the profession remained steadfastly male in its orientation. While some of our early colleagues recall that the men in the profession were generally polite and tolerant towards them, at the same time the way that firms and the profession generally were run did little to accommodate and welcome women.

To start with, it was much harder for women to get jobs, and the interview process was frequently daunting and off-putting. Julie Kennedy recalls being asked at an interview what her father did, where she went to school, whether she was married and if she was going to have children.

Donna Buckingham was asked whether she wore a bra (presumably a reference to whether she was a feminist, rather than a genuine inquiry about her underwear preferences...) and once when she was working at the High Court Library discovered that an older male member of the profession had rung the ODLs to ask that her employment be terminated because it had come to his attention that Ms Buckingham hadn’t taken her husband’s name, and it wasn’t appropriate that the Society have a “woman’s libber” in its employment.

So the job interviews were an ordeal, but once you were in the profession, many women discovered that the challenges had only just begun. It was common to be paid less than your male colleagues, for there to be blatant discrimination in regard to the type of work you were delegated, whether

you got to see clients or were tucked away in a back room writing opinions, and whether you were invited to participate in the important social aspects of the profession that enabled younger lawyers to build a reputation, a practice, and client base of your own, and thus improve your prospects for advancement.

Bar Dinners were usually held at The Dunedin Club, where women were not admitted. Those that were held elsewhere enabled woman lawyers to attend, but it was stated on the invitations that the dress code was “dinner suit” - a subtle way of deterring females from attending. Sue Bathgate and Alison Laidlaw attended one such dinner in dinner suits hired for the occasion; Sue recalls that they got a few laughs, although not many of the men actually spoke to them. The point was well made though, and in due course more women began to attend dinners, although often leaving before the excessive drinking of our male colleagues gave way to bawdy jokes and groping; I know at least 3 colleagues who as young woman lawyers were manhandled by older male colleagues and dissuaded by their employers from making complaints, because “it was just a bit of fun”. In truth, I’m not the only woman in this room who saw those dinners as something to be endured rather than enjoyed.

At court there were also issues. The Robing Room made no allowance for the fact that both men and women now needed to change, and so woman lawyers were relegated to the women’s toilets which were cramped, unheated, pretty smelly, and shared with the public. As a young prosecutor I remember one occasion when I was in one cubicle changing into my court garb, and had to wait for what seemed like hours while the woman I was prosecuting went about her business in the next cubicle. By the time I eventually made it into court I’d learned that benefit fraud was the least of her troubles.

In response to all of this, in the mid 1980’s a group of woman lawyers began meeting for lunch on a regular basis to discuss professional matters of mutual interest. Over time, these casual get togethers evolved to have a more focussed purpose. In OWLS Herstory Sue Robson recalls that these women wanted to “feminise the practise of law; make it more compatible with a woman’s life”.

In May 1986 this led to a meeting in the High Court library chaired by Janet Somerville, and at which Marion Thomson, among others, spoke in support of the formation of an organised group for the advancement of woman lawyers. The meeting resolved to form an incorporated body that would be known as the Otago Woman Lawyers Society or OWLS. The acronym was not just cute; it was chosen for the fact that the owl was the symbol of Athena, the greek goddess of wisdom and war. She was called Justitia by the Romans, who blinded her and gave her a sword and a set of scales, and plonked her on top of the High Court building in lower Stuart St Dunedin, NZ. Who knew!

The inaugural meeting of OWLS was held a month later, and a Convenor and committee were elected. The Convenor was a woman who had been the first female partner in a law firm in Dunedin, Kam Niak. Kam had mana and wisdom, and as Donna Buckingham observed, being Chinese she was a clever strategic choice because if there was any male opposition it would look both sexist AND racist!

Kam was joined by an able committee; Annis Somerville, Sue Bathgate, Susan Jamieson, Bernadette Farnan, Jo Bates, Donna Buckingham, Glen Houghton, Marie Grills and Julie Kennedy, with Anya Gartner, Judith Ablett-Kerr and Kathleen Weatherall seconded shortly afterwards.

And so OWLS had hatched.

I'd love to stand here and say that the profession universally greeted this development with positivity and enlightenment, but just as there are farmers in the north of England who regard Owls as a pest, so too there were lawyers in Otago - some men and a few women - who weren't unconditionally delighted that women lawyers had grown wings and looked set to fly places that had previously been inaccessible to them.

In the years that followed there were many, many experiences which only went to prove that what doesn't kill an owl makes it stronger. And there were a LOT of laughs.

As I've said, some men and a few women were anti-OWLS. There were others who thought they were being supportive but were perhaps a bit misguided ...

In 1986 the President of ODLS, Peter Chin, acknowledged the fledging of OWLS, but went on to say that he trusted that some day soon ODLS would be able to "organise it's activities and it's focus" so that OWLS would "no longer be necessary."

Some women who would have liked to join didn't do so for fear that being active in an all-woman group would jeopardise their careers in the law. Most of us were conscious that in some circles it was considered tantamount to taking off your bra and burning it in the Octagon. At lunchtime. On a Friday. In summer. When Nicola Williams and I were both on the committee in 1987 we were tasked with photocopying the newsletter. OWLS only income was from subs, which were kept to a minimum on account of the fact that most woman lawyers weren't paid much. And so Williams and I contrived to xerox the newsletters at one or other of our offices. These days most firms would be happy to volunteer the cost of a few sheets of A4 but in 1987 neither of us were game to ask our employers. And so we would go into the office after ten o'clock at night and do our xeroxing under cover of darkness. Frightfully cloak and dagger. We didn't quite stoop to balaclavas and torches, but turning the lights on just seemed like an unnecessary risk. To this day I have absolutely no idea what we would have done had we been caught...

OWLS issues were by no means limited to the Profession. In 1987 an OWLS member took a client for a business lunch at Pacific Park, then a very swish establishment. Being at her invitation, naturally she intended to pay for their meals, but was bewildered to find that her menu didn't have prices on it. She asked for but was refused a priced menu, being told that it was the establishment's policy not to give them to women, even if requested.

The member reported this to OWLS, which resolved to tackle Pacific Park about it, not the least reason being that the ODLS had recently agreed to have some of its functions at a venue other than the DC (which still did not admit women), and had unfortuitously arranged the next law society dinner at PP; we were out of the frying pan and into the fire it seemed.

The committee wrote to PP pointing out that giving female diners a blank menu was sexual discrimination under the Human Rights Act. PP took legal advice, then in early 1988 a member reported that she had dined there and been given a priced menu. Victory was ours... or was it? Some people just have to have the last word. The male lawyer for PP then wrote to us asking to join OWLS, arguing that a refusal would amount to sexual discrimination under the HR Act. We responded that the HR Act makes specific provision for single sex organisations, but our man persisted. We tried a new strategy; let him join, and discover the joys of being the only male in a room full of women discussing pressing issues such as breastfeeding at work, and the inadequacy of the sanitary products disposal facilities in the women's toilets in the court building. Our man must have got wind of our cunning plot, because his membership fee remained unpaid.

The presence of women in the courts at all levels was an issue for the female bar. I have already mentioned the problems with the robing room, the toilets and the exclusive nature of the camaraderie at the male bar. But some Judges were also far less than supportive of or even civil to female counsel. One example was Justice Holland. Judith A-K, Marie Grills, myself, and a few others, spent more time appearing before him than most and suffered being shouted at, demeaned in front of a jury and constantly interrupted. (Marie remembers an appeal once, filed, possibly by Liz Bulger, on the grounds that the jury felt so sorry for her, the Prosecutor, for the way that Holland treated her, that the conviction was based on sympathy.) While it has to be said that he was hideous to some male counsel too, he reserved his top shelf sarcasm and undisguised misogyny for woman lawyers. Marie and I worked together and were able to support each other on occasions when he had devoured less than his full quota of raw cattle beast for breakfast and was still looking for something to bite – usually one of us. But it was immensely stressful, and highly effective in seeing many very capable women appear once in the High Court, never to be seen again.

In the District Court, OWLS had an increasing number of members appearing in the late 80's, and decided to work on fostering relations with the bench. In 1988 Judith A-K hosted an evening at her home (now Jenny Beck's home - we OWLS like to keep things in the family...) for members to get up close and personal with Judge Willy. The idea was that younger members in particular would be introduced to him, and that we would all

be able to ask him insightful questions on matters of procedure and practise and that he would graciously expound his wisdom. But what unfolded was unexpected. Judge Willy sat in a chair at the end of the room. The turnout was much larger than expected, and so while there were chairs for some members, most were reduced to sitting on the floor around Judge Willy's chair gazing upward in a manner reminiscent of what one might imagine happens at The Playboy Mansion with Hugh being surrounded by His Bunnies (this was the '80's remember...). His Honour seemed very happy with this state of affairs, and let the questioning begin. One member asked him a question which was directed at finding out whether there was anything that he felt female counsel generally could do to improve the quality of their advocacy; His Honour launched into an effusive praise-fest of the benefits of having women in his courtroom, referring to us as a "breath of fresh air". I remember him making particular mention of Glen - "And here's Mrs Houghton in her pearls...!" Our razor sharp advocacy skills didn't seem to rate a mention. At the end of the evening Judith graciously thanked His Honour for giving up his evening for OWLS, and Judge Willy even more graciously pronounced the evening "Splendid", agreed that we simply must do it all again soon, adding "Let's have a BBQ!". Like I said, it was the 80's; I fancied he was hoping that the BBQ would be held at the home of someone who also had an outdoor spa in which his Playboy mansion moments could be relived...

Another very 80's issue that was significant for many of us "women's libbers" who were unmarried and/or had not taken our husbands names was the use, or not, of the honorific "Ms" in the court news in the ODT. I myself was frequently reported as Mrs McMillan (and each time I read it I wondered what my mother had been doing in court the day before...). OWLS referred to it as "The great status debate", and great frustration was expressed at the fact that the ODT simply didn't reply to letters written asking them to print "Ms" for those of us who preferred that title. It didn't seem like much to ask! In due course additional pressure from other quarters saw "Ms" suddenly appear in the paper one day as if by magic, although I note looking back through old Minutes that the use of the word "Ms" by Judges was still an issue as late as 1993, which is in living memory of at least half of us here tonight ...

As I've looked around the room this evening I have seen that for many of our younger members the tales I have told seem to belong to a time long ago, in a faraway land, possibly involving dragons (masquerading as ill-tempered High Court Judges). And yet what I've recounted has resonated with my older sisters-in-law, for whom, like me, it was a true story and it seems like only yesterday.

I mentioned earlier that in 1986 the then President of ODLS said that he hoped that one day ODLS would be able to organise its activities so that OWLS would not be necessary. And yet, here we still are, 30 years on. Please stay seated if you're feeling unnecessary.

Otherwise ladies and gentlemen, I ask you to stand and raise your glasses – to OWLS.

Sally McMillan
14 October 2016