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The "F" Word Tribute to Professor Marjorie Downing

Vicki Lawrence MacDougall, Oklahoma City University School of Law

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THE "F" WORD TRIBUTE TO
PROFESSOR MARJORIE DOWNING

VICKI LAWRENCE MACDOUGALL*

When the Law Review first asked me to write a tribute to Professor Marjorie Downing for this issue, I hesitated because I really do not think I am very good at that sort of thing. I did have some things that I would like to say about Marj, but I feared they would appear rather radical. I listened to the tributes made to Marj at her retirement party on February 7, 1998, and realized that all the comments were certainly true, but there was one thing lacking, which should be included in any full description of Marj's accomplishments. There was no mention of the "F" word, "feminist." I realize that the word "feminist" has come to be more of a dirty word at times than the other "F" word we are all familiar with. However, a full description of Marj's accomplishments should include an acknowledgment of her position and fight on women's issues and a description of what Marj has meant to women entering the legal profession. Marj relentlessly worked for the Equal Rights Amendment.¹

* Professor, Oklahoma City University School of Law. B.A., 1974, University of Oklahoma; J.D., 1976, Oklahoma City University. Professor MacDougall was founding member, Survey Editor, and Managing Editor of the Oklahoma City University Law Review.

1. Professor Marj Downing was what can only be described as a combat soldier in the battle for the ratification of the Equal Rights Amendment. Although the battle for ratification was ultimately lost, it was a fight that directly and indirectly led to significant social change. I discovered in my early adult years, for example, that married women could not acquire a credit history and any credit history belonged to the husband. This was true even if the woman was the working person in the relationship and had supported the husband through professional school. Upon divorce, the husband acquired the credit rating, not the wife. In 1974, The Equal Credit Opportunity Act was adopted in the United States with the express purpose in Section 502 that the "Congress finds that there is a need to insure that the various financial institutions and other firms engaged in the extensions of credit exercise their responsibility to make

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birth control, and abortion. She was extremely active in attempts for women's equality and has worked for many years for Planned Parenthood. Marj also established and maintained in her office a women's legal study collection, which was subsequently donated to the library. Her record reflects a politically active career to advance equal rights for women. The purpose of this tribute, however, is to tell Marj what she has meant to me as a colleague.

I started Law School in Fall of 1974. When I told people that I was going to law school, I was met with looks of confusion and bewilderment and statements like "that's no career for a woman" and that it would be a waste of time and money when I got married and had children. Many thought it was just a crazy decision. My parents were quite convinced that I should remain at my job at Sears. I entered law school and began classes. Within the first couple of days, a fellow student pointed to a woman walking down the hall and said, "That's Marj Downing" in a hushed tone. I wanted to know who "Marj Downing" was. I was informed that she was an excellent Property professor, a well-respected member of the bar, and an excellent practitioner. One of my big regrets in my legal education is that I did not have the opportunity to have Marj in more classes. Still, she made a significant contribution to my legal education. There was a woman who had made it in this profession. She had excelled. It sent a strong message that maybe, just maybe, I had not

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credit available with fairness, impartially, and without discrimination on the basis of sex or marital status." Regulations under the Act "give married persons the right to have credit information included in credit reports in the name of both the wife and the husband. . . . This right was created, in part, to insure that credit histories will be available to women who become divorced or widowed." I am very glad to be able to have the right to have a credit card and owe that right to a large extent to people like Marj throughout the country. Many similar examples could perhaps be provided that were byproducts of the women's rights movement. I remember Marj's statement when she acknowledged that the battle to ratify the ERA was over. Marj stated that even though the ERA would never become a constitutional amendment that the fight should continue, instead focusing on legislating specific issues. Marj continued the fight just on different, perhaps smaller, battlefields. I have to wonder if law students matriculating today would even be able to recognize what the initials ERA represent.

2. I was a student in only one of Marj's classes -- Legal Method.
made such a weird decision and maybe, just maybe, I could make it and be accepted in the legal profession as well. Her presence validated my presence. I suspect that this is true for Professor Nancy Kenderdine as well. Although it would have been hard to follow Marj's footsteps academically at the University of Oklahoma, I suspect that Nancy probably appreciates that she had those footsteps to follow.

Marj's presence also sent an equally important message to the male law students. They were entering a profession where they would have to deal with women as colleagues and, heaven forbid, occasionally in positions of power. Enrollments in law schools in the eighties reached fifty percent women nationwide. That was a big change in a short period of time. Marj was the only woman in her law school class; Nancy was one of five; I was one of ten. Women today confront a significantly different environment when they enter law school, and I have to wonder if they really understand what it use to be like in the not so distant past. Marj once stated that women would achieve equality in the legal profession when "average" women are accepted into the profession like average men. In a short period of time we now see "average" women going to law school and establishing legal careers.

Shortly after law school, I joined the law faculty. I was told that Marj had stated to the faculty that if we wanted more women on the faculty that we needed to consider "home grown" ones because at that time women were not as likely to relocate for professional advancement as perhaps they are now. Perhaps it is no accident that the faculty extended an offer to Nancy Kenderdine holding an OU de-

3. The reader might not be familiar with the hiring practices of legal education. Building a national reputation for a law school necessitates hiring the "right" faculty. This means hiring faculty with degrees from the top law schools, such as Harvard, Yale, Chicago, Berkeley, Northwestern, and Virginia. The law faculty at OCU made the decision to forego hiring professors with the "right" degrees to enable three women to join the ranks of the fulltime law faculty, all with Oklahoma degrees, by 1978. The reader may decide for herself whether that was a good tradeoff.

4. Additionally, there were very few women in the legal education marketplace nationally. Further, family ties historically precluded women from moving to benefit their careers.
gree and shortly thereafter to me holding an OCU degree. I doubt if there were very many, if any, law schools in the country that had three women as members of the full-time tenure track faculty at that point in time. OCU has never been given enough credit on that particular issue. At a faculty meeting shortly after my arrival on the faculty, the Appointments Committee raised the question of whether we needed to be concerned about hiring more women. Did we have enough? Marj could have gone for the jugular on that one. Instead, she responded that there would only be enough women on the faculty when we could sit boy, girl, boy, girl at faculty meetings. Everyone laughed. But the point was made, and no member of the faculty has ever raised the issue again.

My early years on the faculty were made more pleasant from the companionship of Marj and Nancy. It was very nice to have lunch with the “girls” or go to Marj’s house for a swim, where we could discuss freely some of the problems that we confronted. The support was very much appreciated. I remember the time that I was in the dean’s office and went to have coffee with some male colleagues. I got back to my office to confront a redfaced dean, who informed me that I was not to have coffee with the men faculty because “people would talk.” Shortly thereafter, I had to discuss some law school business with Marj and Nancy and was told by an again redfaced dean to be sure to leave the “door open” or “people will talk.” I was in a quandary because the two mandates left me no one to associate with without “people talking.” I went to Marj’s office to discuss my outrage. Of course, I made sure I closed the door first. My conversation with Marj provided comfort because she agreed it was outrageous, should not happen, should be ignored, and finally should be laughed at. I’m still laughing. Similar conversations took place through the years, as when an administrator introduced me as the “ugly” member of the faculty, and the time another male administrator referred to a certain part of his anatomy. (Decorum precludes further descriptions

5. Experience has taught the author that “people will talk” regardless of behavior.
of this incident.\textsuperscript{6} That one took longer to laugh at, by the way.\textsuperscript{7} Marj and Nancy were both there to provide support when it was needed.

Marj is also a fighter. She will fight and state her opinion on issues she feels strongly about. It is not surprising that one administrator suspected Marj of leading a walkout at graduation.\textsuperscript{8} Marj was certainly a force to be reckoned with when she fought for any issue either within the law school or at the university level. Marj's willingness to fight on issues she believed in also sent a strong message that it was the appropriate thing for me to do as well. It was something "ladies" could do as well as the guys. Although my opinions usually were not as well-received as Marj's, I think the faculty understood that I could at least have an opinion, even if wrong.

I would like to thank Marj for being a friend and an excellent colleague through the years. The last message I would like to send, however, is remotely feminist in character. Marj Downing helped pave the road for women to enter the legal profession, as did the women who preceded her. That road was paved gradually. The entry road into the legal profession would have been built without the presence of Marj; however, that road would have been constructed more slowly and less well. A heartfelt thanks from me and countless women for paving that road.

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\footnote{6. I have omitted the names of the administrators out of respect for their families. I very much hope that this practice in no way accidentally implicates the many people at OCU who have been instrumental in advancing the cause of equality.}
\footnote{7. I honestly have never been able to truly laugh at that particular incident.}
\footnote{8. In truth, Marj led law students out of graduation because the graduation marshall signaled (prematurely) that the ceremonies were finished.}
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