

Admission of Lawyers Ceremony

17 June 2016, 10:30 am

Supreme Court of the Australian Capital Territory

Chief Justice Murrell

Introduction

The Court acknowledges the traditional custodians of this land. We pay our respects to their elders, past and present.

Today I am sitting with the Honourable Justices Refshauge and Burns.

We congratulate the newly admitted practitioners. For each one of you, your admission today is a great personal achievement. We warmly welcome you to the legal community.

An admission ceremony is not only about the person being admitted; it is also about their support crew. Family and friends, you are entitled to be very proud. You have supported your loved one through the stress and exhaustion of many years of study, followed by more study, practical experience and more study. Well done – you didn't choose to enroll in law, but you have probably more or less done the course, and now you have made it to the finishing line.

If you will pardon an indulgence, I would like to mention my Senior Associate, Anneke Bossard, who is part of this admission ceremony.

Women in the law

When Grata Flos Grieg, the first woman to be admitted in Victoria, was admitted in 1905, Chief Justice Sir John Madden referred to the occasion as the “graceful incoming of a revolution”.¹ And in one sense it was. Women now comprise about two thirds of law graduates. But they are not correspondingly represented in the senior ranks of lawyers. I see that among your number the vast majority are women. But among my number, they are not.

¹, 'Lady admitted to the Bar', *The Register* (Adelaide), 1 August 1905, 1
<http://trove.nla.gov.au/newspaper/article/55825018/>

Last Tuesday's *Canberra Times* reported that Australian women performing top jobs in business and the public service are being out-earned by their male counterparts by an average of \$65,000 a year.² Allowing for part-time work, the average wage gap across all sectors was still 19%.

Why is it so?

Research shows that women often wait longer before they go for promotion. They feel that they must be more prepared and more experienced before they raise their hand. They must be more perfect.

Reshma Saujani the founder of Girls Who Code says:

So many women...tell me that they gravitate towards... professions that they know they're going to be great in, that they know they're going to be perfect in, and it's no wonder why. Most girls are taught to avoid risk and failure... Boys, on the other hand, are taught to play rough, swing high...and by the time they're adults...they're habituated to taking risk after risk. ...*we're raising our girls to be perfect, and we're raising our boys to be brave.*³

Mary's Story

Let's consider the story of a girl who was far from perfect - but very brave.

Imagine 1940s Moree NSW (it's still the back of beyond, and it certainly would have been in those days). John Curtin was Prime Minister and Australia was at war.

A baby girl – let's call her Mary – was born to a working-class family, a train driver and a stay-at-home mum.⁴

² Noel Towell, 'Revealed: the \$65,000 gender pay gap at the top of politics and public service', *The Canberra Times* (online), 14 June 2016 <<http://www.canberratimes.com.au/national/public-service/revealed-the-65000-gender-pay-gap-at-the-top-of-politics-and-public-service-20160613-gphm21.html>>

³ Reshma Saujani, 'Teach girls bravery, not perfection' (Speech delivered at TED Talk annual conference, Vancouver, 17 February 2016) <https://www.ted.com/talks/reshma_saujani_teach_girls_bravery_not_perfection/transcript?language=en> (emphasis added).

⁴ Tony Blackshield, Michael Coper and George Williams, *The Oxford Companion to the High Court of Australia* (Oxford University Press, 2001) 293.

It was a bleak time for women. There were no women in Parliament, women were required to resign from the Commonwealth Public Service when they married and there were certainly no women judges.⁵

Mary went to a rural Catholic school, where the teaching nuns found her to be “quick witted” (perhaps not an unqualified compliment, coming from a nun).⁶ Mary won a university scholarship.⁷ While at university, she married.⁸ During her final year of law, she had her first child (and you thought you just had a tough year!).⁹ Nevertheless, Mary graduated with first class honours and the University Medal in Law.¹⁰

She was called to the Bar in 1968.¹¹ Despite an outstanding academic result that should have guaranteed her a room on an excellent floor, other barristers refused to sell her chambers to Mary because of her gender, even where there were no other applicants for the room.¹² Eventually, another woman offered to share chambers with her.

Mary built a busy practice at the bar.¹³ She was the first woman to be elected to the NSW Bar Council, she became a Deputy President of the Arbitration Commission, she was the first woman to become NSW Solicitor-General (1981) and later that same year she became the first female Queen’s Counsel in NSW.¹⁴

Mary did not forget the prejudice that she had experienced in her early professional life. She did much to address discrimination against women in the legal profession. When she was Solicitor-General, she advocated for an equitable briefing policy at the NSW Crown Solicitors

⁵ Fergus Shiel, ‘A different kind of Justice’, *The Age* (online), 9 December 2002, 2
<http://www.theage.com.au/articles/2002/12/08/1038950270361.html/>

⁶ Tony Blackshield, Michael Coper and George Williams, *The Oxford Companion to the High Court of Australia* (Oxford University Press, 2001) 293.

⁷ *Ibid.*

⁸ *Ibid* 293–294.

⁹ *Ibid* 293.

¹⁰ *Ibid* 294.

¹¹ *Ibid.*

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ *Ibid.*

Office, which provided many young women barristers (myself included) with much of the quality work that came their way.

In 1987 at the age 43, Mary Gaudron was the first woman to be appointed to the High Court of Australia.¹⁵ She famously said:

We'll know that there is gender equality in judicial appointments when the government starts appointing women of mediocre ability.¹⁶

Clearly, she felt that her appointment was not an example of appointing women of mediocre ability.

Nor was she part of the “graceful incoming of a revolution” to which the Victorian Chief Justice had referred in 1905. Never an exponent of ladylike behaviour, she once wrote to a colleague on the High Court:

The trouble with the women of my generation is that we thought if we knocked down the doors, success would be inevitable; the trouble with men of your generation is that so many think that if they hold the doors open, we will be forever grateful.¹⁷

RBG

Mary Gaudron’s story echoes that of another famous – and famously brave jurist – Ruth Bader Ginsburg. “RBG” was the Brooklyn born daughter of working-class Russian–Jewish immigrant parents.¹⁸ In 1956, when her daughter was one year old, RBG enrolled at Harvard Law School where she was one of nine women in a class of about 500.¹⁹ She graduated from Columbia Law School equal first in her class.²⁰ Like the girl from Moree, the girl from Brooklyn gave back, championing human rights and gender equality throughout her professional career.

¹⁵ Ibid.

¹⁶ Fergus Shiel, ‘A different kind of Justice’, *The Age* (online), 9 December 2002, 3 <<http://www.theage.com.au/articles/2002/12/08/1038950270361.html>>.

¹⁷ Ibid 4.

¹⁸ Irin Carmon and Sharna Knizhnik, *Notorious RBG: the life and times of Ruth Bader Ginsburg* (Dey Street, 2015)

¹⁹ Ibid 17.

²⁰ Ibid.

In 1993 RBG became an Associate Justice of the United States Supreme Court.²¹ When asked recently when there will be enough women on the US Supreme Court RBG replied that there will be enough women when there are nine.²² There are only nine judges on the US Supreme Court.

Lessons from these stories

Of course, we can't all be RBG or Mary Gaudron... or even Janet King or Martha Costello. Apart from any difficulties associated with gender transformation, not everyone has the capacity or desire to die their hair, take silk or sit on the highest court.

But we can learn to be brave and to be comfortable with our imperfections. We can all give back.

And we can take a few risks with life. You miss 100 per cent of the shots that you don't take.

Each of the new practitioners has come to this ceremony—to this important milestone in their lives—by a different route. And from here you will each undertake a different professional journey. For each of you, it will be an adventurous journey through a constantly changing landscape; a landscape that extends into a future that we cannot now imagine.

The Court wishes you well on your journey. May the road rise up to meet you, where ever your journey leads.

²¹ Supreme Court of the United States, *Biographies of Current Justices of the Supreme Court* (11 August 2016) <<https://www.supremecourt.gov/about/biographies.aspx>>.

²² Jill Filipovic, 'Justice Ginsburg's distant dream of an all-female supreme court', *The Guardian* (online), 1 December 2012 <<https://www.theguardian.com/commentisfree/2012/nov/30/justice-ginsburg-all-female-supreme-court>> 1.