

“WOMEN IN THE LAW IN QUEENSLAND”

*Address and Launch of Exhibition
by Quentin Bryce AO*

“Reflections - 40 Years On”

Friday 24 November 2000

Banco Court, Supreme Court of Queensland

Queensland colleagues, Chief Justice, thank you for your warm welcome.

Judge Wolfe, thank you for your kind introduction.

I want to say how honoured I am by the generous invitation of the chairperson and members of the Supreme Court Library Committee to open the exhibition *“Women in the Law in Queensland”*.

Like many here this evening, I was contacted by the Library in early August about the exhibition and asked to contribute some personal material. When my friend, Justice White, called to sound out the idea of saying a few words on this auspicious occasion, I took Amelia Erhardt’s advice and said, “Yes”.

The invitation was a delightful surprise. I confess it had considerable emotional impact. It caused me to pause for a little and reflect on how much it has meant to me to be a Queensland woman lawyer, how central it has been to my life, to my sense of identity. It’s 40 years since I embarked on a pathway that opened up for me a richly rewarding career, great adventures, political intrigue, passionate causes, hilarious episodes, the odd well-publicised mortifying mistake and wonderful enduring friendships.

I offer my congratulations to all involved in this project and my grateful thanks to Rachael Boyd who has dug up bits and pieces for me with research expertise and delightful humour.

We women lawyers owe a particular debt of gratitude to the Supreme Court Library for bringing together our history. Some may be more familiar with it than others but it’s my bet that each one of us will be informed and stimulated by what we see and what we discover looking into the stories of women’s achievements in this exhibition; so much that one wants to know more about; so much to feel proud of; and so much to celebrate.

In recent years “Women in the Law” has become a popular area of research. Sociologists, taskforce enquiries by the judiciary and law societies in North America, standing committees of the Commonwealth parliament in this country and feminist legal scholars have concluded that while women had been let into the legal profession they now experience exclusion within the profession.

The most far-reaching analysis in Australia is Professor Margaret Thornton's 1996 publication "*Dissidence and Distrust - Women in the Legal Profession*".¹ Thornton's path-breaking examination of the experience of women is based on interviews with more than a hundred women including law students, academics, solicitors, barristers and judges. There are alarming stories of misogyny, discrimination, sexism, racism, isolation, pain, humiliation and belittlement. Some of us would identify immediately with some of them. The law school stories, the partnership stories, the hostile culture stories I know that some of those voices are from Queensland.

Often when women lawyers get together we share the difficulties we are experiencing, feelings that we live and work as the fringe-dwellers of the jurisprudential community. I've been in hundreds of these conversations. What shines through the voices is a sense of purpose, of persistence in the face of obstacles and resilience. I follow the literature. I am familiar with the development of feminist jurisprudence, the discourse, the deconstructions even the Derridaens. Like you, I know the facts and figures that deliver a message we have heard so often. "Women lawyers are going nowhere fast in Queensland", a message based on the poor representation of women in top jobs. Often when I observe young women lawyers in private practice in whose future I have a passionate interest, I despair. That's not I wanted for them in a world of equal opportunity: 16 hour days, weekend work, no time for the roses, for the best family life, for refreshment of mind, body and spirit, and for poetry. But I have to remind myself that more and more Australians are working like that, particularly young, talented, ambitious men and women wanting to fulfil their potential and make a mark. The workaholics disease is not confined to the legal profession by any means. But despite continuing concerns, I have to say that, today, I have a sense of liberation from the despair about a lack of progress for women in the law in Queensland. I'm more optimistic than some other commentators. I think we should shake off some of the depressing forecasts.

As I look at our 95 years of history, as I reflect on my own of 40 years, and on recent developments for women in law in Queensland, I see a real breakthrough and I have a sense of anticipation that recent gains will be consolidated and expanded. From this exhibition one is able to glean a true appreciation of the extraordinary contribution women have made. Its great attraction, in my view, lies in its breadth. It's much more than the usual narrow profile of women practitioners. It's inclusive. It embraces all women lawyers, its students, teachers, law reformers, solicitors, business women, journalists, barristers, bureaucrats, social workers, policy makers, librarians, politicians. As I look into it I see the role models, the mentors, the sources of courage, support and inspiration, for girls and young women for whom there is in 2001 a very clear message that you can do it; you can get to the top; you can have a successful career or two, or three, or four. You can dare to dream. Yes, it will be tough; obstacles, disappointments, compromises, exhaustion, frustration, dragons of many kinds but, yes, you can do it. There are many ways in which you can have a satisfying, enriching, challenging professional life. There are many ways of measuring success besides counting up the partnerships, the professoriate, judicial officers, public approbation, visible signs of wealth. Women know and understand that. I believe that the hundreds of young women in law schools in Queensland now have golden opportunities to be successful in whichever way, they choose. I am convinced that they believe that too. Indeed they expect nothing less. I encourage them to read their history and to remember that they stand on the shoulders of others.

¹ Oxford University Press, Australia 1996.

I wish I knew more about the early pioneers: the first to go through the door when we were let in at the turn of the century. The *Legal Practitioners Act* of 1905 was not the subject of lengthy debate in the Queensland parliament. One member, Mr Rankin, said he favoured it very heartily, "I do not know that the admission of women will conduce to the despatch of business in court if we get good-looking barristers." What was life like for Agnes McWhinney in Townsville during World War I working as a solicitor? What did she really think about the arrangement whereby her salary was paid to her brother, a partner in the firm. He was away serving in the armed forces.² Amongst the next eight women admitted in Queensland during the 20s and 30s, a few had minimal experience in practice and others, life-long careers, including Elizabeth Hamilton Hart, Clare Foley and Mary Whitehouse. My superficial observation is that those firsts had fathers, brothers or uncles who were lawyers. Perhaps that lay behind the comment made in distinctly perjorative terms to me by the head of the law school in 1960 at our first meeting. "What are you doing law for? You don't come from a legal family." I was 17. I had a great instinct for survival. I decided I would not share with Professor Harrison my reasons for embarking on an Arts/Law course: that I was imbued with altruistic notions of making the world a better place, that I believed that being a lawyer would give me the means to do so; oh youth! the strength of it, the faith of it, the imagination of it. Nor did I tell him about the worn sticky-taped newspaper clipping of Rose Heilbron in the pages of my school Bible. A charming photograph of her face in a full wig. There weren't any Australian women wearing them in the 50s. Justice Heilbron was the last of my girlhood heroines, a long line which began with Margot Fonteyn, Jo in *Little Women*, Shirley Strickland and Vivien Bullwinkle.

In 1960 there were 152 students at the University of Queensland Law School, ten of whom were women. All up, there were 8,000 students on campus, less than a quarter were women. Today there are 30,000 and more than half are women. My pals were Naida Haxton, Frances Cleary and Joan Bennett. We wore high heels, twinsets and pearls, linen suits in summer and neat shirts tucked into our skirts, certainly stockings and definitely not trousers or shorts. We took the serious things seriously. We had a lot of fun. There were two tables in the Law Library. Senior students had the back one. I was scared to death of some, - like John Gallagher who'd stride out from the back in a purposeful way and bang his hand on the table between Fran Cleary and me, interrupting our discussions about balls, ball dresses, parties and boys. I was in awe of Angelo Cominos whose intellectual powers were legendary. I was the *de facto* social secretary of the junior students and my mother could never work out why a Detective Sergeant of the Licensing Squad was often after me about our party plans which we naively advertised in the newspapers. Anything to do with sex was a big deal in the early 60s, shrouded in hypocritical attitudes, double standards, endless innuendos. Girls like us didn't know, didn't talk about, even to each other, certain things and we'd skip certain lectures in criminal law and family law. We knew when to stay away because we always read our cases beforehand. We were conscientious students and, academically, we were very competitive. Red George and Black George, named for the colour of their hair, not their politics, were said to have tape recorders under their pillows at night playing contract lectures.

Yes, I did feel different, unusual and an outsider as much as the literature about women in the law describes. I was, and I quite liked it. I never discovered who carved "Squaw Strachan has been scalped" on a desk in 115 when I had my long schoolgirl plait cut. Joan Bennett reminded me of the day we were asked to leave a case we'd hoped to report for Criminal Law

² Wilson, Ryan & Grose. *A vintage century in Townsville*. Dorothy M Gibson-Wilde 1995.

assessment. The High Court was in town. We were sitting in on a family law appeal; a rising star at the Bar was getting a roasting. He called the usher over to instruct us to leave. The matter was too delicate for our ears. I think it was about adultery. Joan thinks it had an element of cross-dressing. I remember how we choked with rage and laughter as we left. Next we were given instructions that we should wear hats when we went to court. That put us in stitches. On the whole, we were given a distinct impression that we were a bit of a novelty, definitely short term, that we wouldn't last.

We joined in things. I became president of the University Women's Club. I loved the Law Gaudies at Murray Street where Wally Campbell and Cedric Hampson (we referred to everyone in familiar terms) traded insults in outrageously funny political speeches. I remember with affection the great personalities of the Bar in my student years, their witty repartee and the tales about them. Some of them taught us as early morning lectures in their chambers or in the draughty old Supreme Court Building. I thought that one day I would be part of the camaraderie I observed at the Bar in those more leisured times and I assumed that other young women like me had the same ideas.

In December 1965 on a hot summer morning in the old Supreme Court I was admitted to the Bar. David Jackson helped me with all the forms as did dear Alistair McDonald, associate to Chief Justice Mansfield. Rothwells found it quite a challenge tailoring my jacket, not quite sure about how to take my measurements or where - "We've never made one of these for a lady." The lady was a few months pregnant and her size changed for every fitting. There was some argument in court about my name. Geoff Davies who moved my admission sorted that out. There were lots of "ho ho" jokes about lavatories for women in the court. The *Courier-Mail* reported the occasion with a photograph and the heading "Six admitted, including a woman". I asked several Supreme Court judges about the possibility of an associateship. Each one was horrified of the idea. "What would people think of my travelling on circuit with you?" I had no idea, really.

In 1968 when I started tutoring at the University of Queensland Law School the numbers of women students had increased, but the proportion was just the same as it had been in my first year, 7 per cent. I was deeply involved in motherhood much of which was embarrassing for my colleagues. I remember one looked in the area of my abdomen one day and said, "Everything's alright again is it?" Otherwise, my pregnancies were not mentioned. I recall being introduced to a visiting professor as "one of our ladies who comes in to help". I didn't hear his presentation as I was asked to take his wife on a trip to Lone Pine. She was very nice.

The Law School tutorial timetable was set around my breastfeeding schedule. Kevin Ryan was thoughtful and kind to me. He'd known me since I was 17. I loved teaching. I enjoyed my students enormously, the cheeky boys, the marvellous young women who often reminded me of my shy self. I encouraged them. I pushed them to participate, to express their views, to develop their confidence. I admired their academic commitment. I respected their intellectual capacity and, today, I rejoice in their success. I keep in touch with many of them. I'm so pleased there are so many here this evening.

In the 70's community activities pulled me away from a serious academic career. I wrote a few papers for publication. I won some research funds but my heart was not in it. I was pre-occupied with child advocacy issues; working with people who thought I knew much more than I did and thought that a woman lawyer would be useful. I learnt about grassroots

political action and the view that I had formed at 16 that law was a useful tool in reform was confirmed, so I never became one of the dutiful daughters of the academy whom I see taking responsibility for increasing numbers of students in the face of decreasing resources. The pressure on them is immense.

This exhibition shows us that women in Queensland law schools are researching and publishing in all areas they are represented at all levels from tutors to professors except at U of Q. As a member of the Federal Attorney's ADR Advisory Board, I sat with Gay Clarke, recognised many times by awards for excellence in teaching. Her delight in the classroom challenge shines and I know that there are very many women, of the highest calibre, exploring new ways of teaching in academe. They enjoy the autonomy, the flexibility and the intellectual rigour of academic life.

I became absorbed in campaigns to reform the *Children's Services Act*, adoption laws, childcare regulations, hospital policies for children, mandatory reporting of child abuse and child safety issues. My co-conspirators were brilliant lateral thinkers, sophisticated operatives, people like Wally Dethlefs and Anne Macmillan, founders of Justice for Juveniles and, later, the Youth Advocacy Centre. We had some hair-raising tactics and developed excellent publicity skills.

The 70's was an amazing decade on Australian campuses. The Whitlam Government abolished fees and diversity came to university. In the richness of a wider community there were many women of all ages and stages of life. They questioned, they thrived, they broadened the horizons of law schools. The women's movement was gathering momentum and I was ready for it. Queensland had a Commission of Inquiry into the Status of Women in 1972. At that time there were only two women who had ever been elected to the Legislative Assembly. The Commission noted in its report in 1974 - "There are no female judges in Queensland and there is no prospect of there being any. There are no women practising as barristers in Queensland, therefore it will be many years before a Queensland woman is in the position to be considered for appointment to either the District or Supreme Courts. The Commission sees it as an essential long-term goal that there should be many women practising as barristers as well as solicitors and that women should become judges in Queensland." The matter did not become of the slightest concern to anyone and I do not recall any of the recommendations in the report being translated into policy. Anyway, I was flat out on the Shirley Conran superwoman track. I had five little ones under seven and I wanted to be the perfect everything - wife, mother, neighbour, worker, activist, hostess. I abandoned the latter ambition at my last traditional dinner party. I'd spent hours making home-made ice cream, chopping the nuts and the fruit to make the perfect cassata - never, never again I promised myself as I watched the woman guest opposite me painstakingly pick out every little piece of fruit and nut.

I was supported in this madness, chaos and exhaustion, balancing too many competing priorities by my dear friends, Patsy Wolfe and Margaret White. We'd sit on each other's back verandahs, sipping spritzers, our kids rushing about. We complained about our husbands. Why did they always come home after the feeding, bathing, story, bedtime schedule? Why couldn't they wipe benches down properly? We planned our futures, a wonderful new legal business for Brisbane, its exact nature not clearly identified but three partners and a clever name - Money, Power and Prestige. I'd never have survived without their wit and wisdom, their warmth, their generosity in those crises which beset all of us from time to time.

For several years I taught legal subjects to social workers at the old Kangaroo Point TAFE and at Queensland University. Social workers and lawyers were getting together to establish neighbourhood shopfront legal services. They aimed to demystify the law, educate the community about its use and give legal assistance to those without ready access to private solicitors. Caxton Street was set up in 1976. Di Fingleton was one of the early members of the volunteer roster as a student in the late 70s. In class, she had a strong commitment to keeping all of us ideologically sound. Many women lawyers played key roles in the services being established for women who were victims of domestic violence. The Women's Legal Service came later when Zoe Rathus and others gave their talents and time to arrange significant initiatives in Queensland to assist women in need. It was tough-going getting these off the ground in a politically hostile environment in Queensland and through those struggles a sense of solidarity developed - women supporting each other, understanding that the personal is political.

Leneen Forde established the Women Lawyers' Association and some, like Leneen, took on leadership roles internationally in non-Government organisations. A few prominent male lawyers denounced the Women Lawyers' Association and any other form of feminist activity. Women's issues were hot news. They were controversial and they threatened the comfortable life of some men. Remember the emotive language - leftist, hairy-legged boiler-suited brigade, bra burners. I loved being described as 'rabid'. Sadly, some women articulated similar sentiments in calling organisations like the WLA sexist.

In 1978 I spent time as a State Department visitor in the USA looking at programs for children in the law and the health system. The children's rights movement was recognising that children are people in their own right and not appendages of adults. Soon after I was appointed to the National Women's Advisory Council where I learnt so much about the lives of women with special needs. I travelled through Arnhem Land, up to the Arafura Sea, living with indigenous women who taught me how to fish and so many important things about life. I've been back again and again always reminded of the bonds that all women share, wherever we are, whoever we are. Our priorities are our children, their health, their education, their futures.

In 1983 when I left the university the profile of women students had changed dramatically. They represented 38 per cent of the faculty of 770 students and many achieved at very high levels, most famously, Marion Gibney. The Queensland Government of those days ignored what was happening in the rest of the world. Women's policy was in the hands of groups like the Women Who Wanted to be Women. The pressure from others to establish women's programs and policies was blatantly ignored, for example, measures to address discrimination, or to pick up even 12½ per cent of the funding for women's refuges under the Commonwealth State Agreement.

The Prime Minister's Department established the Women's Information Service in Brisbane. I was appointed Director with the task of promoting the Federal Government's reforms - the *Sex Discrimination Act* and the *Affirmative Action Act*. We were a skilful small operation, running meetings and conferences throughout the State. I got to know Queensland like the back of my hand and learnt how to cope with the most extraordinarily wide range of hostilities and insults. We relished the debates about women's changing roles. The discussions were energetic and alive right across the State as we prepared for the UN Conference in Copenhagen. Thousands of Queensland women, tens of thousands,

participated, many of them taking their very first political steps, standing up at meetings to talk about what they wanted changed in their lives - shouting, arguing, laughing, listening. If it was a wet day, you might have got hit with an umbrella.

The Human Rights and Equal Opportunity Commission Office was established in Queensland to administer the federal human rights legislation. Women lawyers, including Ros Atkinson, took a special interest in these areas and developed expertise in human rights law and practice. They assisted women make history in breaking down the overt forms of discrimination which permeated Queensland society. The very first were the Keperra women golfers demanding a fair go at the golf club. They were fed up with extremely limited access to their sport. I will never forget how brave many complainants were in those early years of the legislation. They were often subjected to humiliating scrutiny, titillating publicity in pursuing their rights. Their taking action brought change for all of us.

In the 80s women were becoming more visible in legal practice. We celebrated Elizabeth Nosworthy's presidency of the Law Society and Susan Kiefel's appointment as a QC. Both were very significant for many of us who were asking why. Why was there so little change for women lawyers in the workplace despite the fact that for many years the various Queensland law schools had been producing at least 50 per cent female graduates who consistently got the best grades and won the prizes? Would women ever be represented in the top echelons of the legal profession as judges, silks and high income-earning partners in the big firms?

I left Brisbane in 1988 to take up the position of federal Sex Discrimination Commissioner. I travelled throughout Australia promoting the legislation, handling thousands of complaints each year and conducting enquiries. The Act did play and continues to play a powerful role in changing attitudes and behaviours in workplaces everywhere. Leaders in business and industry across Australia got behind our efforts. Some of the most interesting work was in the lead industry. I think I went over every lead smelter and down every coal mine and other sort of mine in this country. The work in superannuation and in addressing outmoded assumptions about pregnancy and maternity at work was path breaking. I enjoyed the industrial relations arena and intervened in major test cases in the AIRC. A highlight of those years was being a member of Australia's delegation to the UN Commission on Human Rights in Geneva and representing Australia in New York and Vienna at UN meetings. My heart used to beat like mad when I would raise my hand to intervene in debate in those august chambers. I felt it was a very long way from Ilfracombe.

In my Commissioner role I built up giant file of articles about women lawyers. I spoke at their conferences about maternity leave, childcare, part time work. Some came to talk to me about the struggles of their day-to-day lives. They were not women frustrated by lack of promotion or women coping with lecherous and sexual harassers but senior women, including the first partner appointed in a mega Sydney firm, struggling with guilt and anxiety about the double burden, the double bind, working extraordinary hours, being a bad mother, not working extraordinary hours, not being serious about a career - so much pressure. What would people say if she renounced a socially prestigious professional position for which her foremothers fought. It did make the front page when she shook on the golden handcuffs and left but now, some years later, she's back at the top in a Commonwealth statutory body, enjoying life immensely.

Women lawyers don't make formal complaints about discrimination or sexual harassment. The Queensland, the Australian legal community has been too small, too insular and too oppressively masculine and conservative for women to feel free to complain to an external agency with impunity. They seek support and advice from their peers. Is there enough available for those who need it? I hope that more women moving up the ladder will take seriously what I believe is our responsibility to nurture and develop the careers of younger women. Sometimes all it needs is a "Hang in there, you're doing well. You'll get through this awful patch." Sometimes it's making connections, opening doors, opening the minds of colleagues, speaking up about a talented applicant, more in the nature of advocacy, affirmative action than the old whinge over a drink. Honest advice and a generous spirit, definitely some humour are what's required.

In the 90s the status of women in law became a public issue in many jurisdictions. The American and the Canadian Bar Associations led the way, publishing reports that made gripping reading. We read them; we nodded. We said, "Hmm, hmm." Gender bias was on the agenda internationally. It was a time of great change in Queensland. Equality of opportunity, equal status for women and a commitment to EEO were significant aspects of the new government's policy for women. In March of that year, Margaret White was appointed Master of the Supreme Court and I remember that ceremony with great affection. I was so proud of my friend.

The next year Margaret McMurdo and Helen O'Sullivan went to the District Court. This exhibition records the remarkable firsts of the 90s. In 1992 Master White went to the Supreme Court. We didn't have to wait another 22 years for the next as had happened after the Australian first, Dame Roma Mitchell, in 1965. Susan Kiefel was appointed in 1993. Women in Queensland were making an exhilarating list of firsts in front page news. Elizabeth Nosworthy, Chancellor of Bond University, Leneen Forde, Governor, Diane Smith, Judicial Registrar in the Family Court. By then, several women were on the Bench of that court. A fresh climate in Queensland, a contemporary modern one in which the talents, experience, qualifications and professional standing of women were being recognised and the principles of merit and diversity translated into practice. Women were coming through at long last.

I didn't think there was any sense of great surprise in the wider community, rather a consensus that it was about time, to be expected as a result of high levels of education of women in Queensland for more than a generation and, often, the highest achievements. It was also to be expected that there would be some reaction from the troglodytes, warnings to the Premier not to open the floodgates for radical feminists to start imposing their attitudes on Queenslanders, some wonderful quotes in the clippings of the time - "I sincerely hope that the Premier will take an extremely pragmatic approach to this whole issue and not let it be hijacked by extreme feminists who have absolutely nothing in common with the ordinary woman."

Recently, appointments and elections to a wide range of senior roles in many areas of the law have moved from being marginal, curious, isolated events. I know that the numbers are still proportionately small but they're very powerful and they're very influential. For me, they are what this exhibition represents, showing that after slow, cautious beginnings women are breaking through, no longer the gentle invaders.

Who would have thought just a few years ago that, in Queensland, the Chief Stipendiary Magistrate, the Chief Judge of the District Court, the Deputy President of the Queensland Industrial Relations Commission and the President of the Court of Appeal would all be women and that we would have six female Supreme Court Judges. It makes my heart sing. Not even the most grudging inappropriate criticisms from a few very old-fashioned (and I'm trying to be very polite) men in the law in Queensland can spoil the sense of celebration that all of us share; nor can they detract from the remarkable achievements of talented, highly qualified women. Their intrusions are disappointing but some men just can't adjust to change. I met quite a few of them when I was Sex Discrimination Commissioner, in mining, in insurance, in the Anglican Church, in the Army - a favourite was a chap who sat beside me in the front seat of a plane travelling from Sydney to Perth. While we were waiting to take off he bent over and asked the usual, "What do you do?" When I told him, he went on and on about things going too far; there were some things women could not and should not take on. He'd never travel on a plane with a woman pilot. A great piece of timing - out she came from the cockpit - the captain. He never said another word.

I know that there are women in law in Queensland engaged in richly rewarding roles, making a valuable contribution to their profession and their clients as top quality solicitors in large and small firms and some are sole practitioners. Many of them, like Nerolie Withnall are expert networkers. They're playing all kinds of leading roles in our society, in our democratic institutions, in business, social welfare and information technology. Together they signify great advancements in opportunity and status. They send out the clearest message to the community and, importantly, to young men and young women; young men growing up expecting and understanding that women will be their professional colleagues; young women knowing and believing that they can achieve anything they set out to do as women in the law in Queensland. Have no doubts about the confidence, the expectations, the potential of young women in our high schools and our law schools. They are the future. In this exhibition they will find the sources of inspiration and courage that they will probably need from time to time.

Congratulations to Justice White and members of the Supreme Court Library Committee. I have no doubt that you will have thousands of visitors, people coming to the courts, perhaps some for the first time, to see an important piece of Queensland history. I am very proud to be part of it.

I appreciate your indulging me in these reflections this afternoon. They're tinged with nostalgia but they're filled with optimism and, Rachael, thank you for being a super sleuth and such good fun to work with.

I'm delighted to launch the exhibition, "*Women in the Law in Queensland*".