



**AUSTRALIAN
WOMEN
LAWYERS**

Themis

Issue 8 - Aug 2007

IMAGES OF WOMEN IN THE LAW CHAUVIN - THE WOMAN ADVOCATE

LOUISE BYRNE

In 2003 Justice Callinan generously donated to AWL a portrait of Dr Jeanne Chauvin, the first woman to be admitted to practice in France in 1900. This year it was agreed that the portrait should hang in the High Court on the walls of the practitioners' floor as AWL has no premises of its own.

The commentary on the back says -

"The first woman law student was Mlle Jeanne Chauvin, who used to arrive early at her class every morning, attended by her mother. In 1882 she received her doctorate in law, with a dissertation on the profession open to women, and applied for admission to the bar. In spite of a touching plea that she had spent ten years of her youth and considerable money to qualify herself for a profession she loved, she was told that to admit her would be 'contrary to the progress of civilisation.' The feminist Maria Deraismes was extremely sarcastic about this decision: she wondered aloud if judges were afraid of being seduced by women lawyers, or whether they feared one might give birth in court. It took years of effort (until 1900) and the personal intervention of statesmen like Poincare and Viviani to have the legal profession declared open to women on the same terms as men. A few weeks after this decree, Mlle Jeanne Chauvin was admit-

ted to practice. In 1925 she received the Legion of Honor. Still, by 1914 only about twenty-eight women had taken their oath in court as lawyers, and of those only a dozen were practising."

(Pricilla Robertson, *An Experience of Women: Pattern and Change in Nineteenth Century Europe*, Temple University Press, 1982, pp335-336 footnotes omitted).

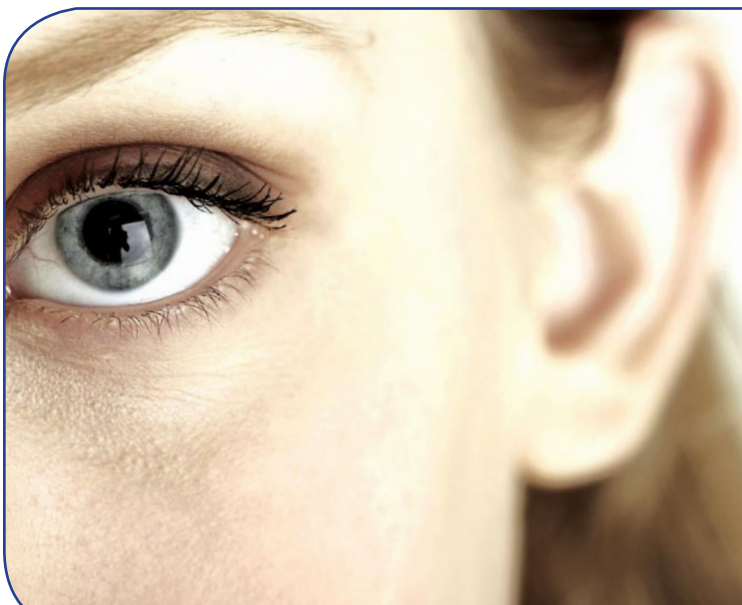
It is interesting that Mlle Chauvin owed her opportunity to study for her doctorate to the Empress Eugenie who in 1866 made a point, at a Ministerial Council which she attended in the absence of her husband during the war, of insisting upon a decree that women be permitted "to take examinations of the Faculties" (p334). We are not sure to this day whether a woman lawyer has actually given birth in court as feared by the french Judges.

Many thanks to Fiona McLeod SC for personally delivering the portrait to Christopher Doogan, Registrar of the High Court. The portrait can be viewed at:

<http://www.womenlawyers.org.au/images/Chauvin.gif>

HONOURING THE PAST, CREATING THE FUTURE 10TH ANNIVERSARY DINNER

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HONOURING THE PAST, CREATING THE FUTURE

Join women lawyers from across Australia at a dinner in celebration of Australian Women lawyers 10th Anniversary

When - Friday 7th September 2007
Where - Zinc Federation Square Melbourne
From - 7.00 for 7.30pm
Cost - \$120 per head

Guest Speaker Chief Justice Marilyn Warren

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INAUGURAL AUSTRALIAN WOMEN LAWYERS CONFERENCE "CELEBRATING EXCELLENCE"

LYDIA KINDER

Introduction

The inaugural Australia Women Lawyers ("AWL") conference, "Celebrating Excellence", held at the Sheraton on the Park in Sydney was opened by Chief Justice Spigelman of the Supreme Court at a cocktail function on the evening of September 28, 2006.

The following morning, Caroline Kirton, President of AWL, opened the first Human Rights Plenary session by introducing the keynote speaker, the Honourable Mary Gaudron QC.

The conference brought together an amazing array of women lawyers, all outstanding in their area of expertise. The two day conference was packed with fantastic papers on various aspects of the 3 streams: Property and Finance; Litigation; and Corporate Governance. The speakers and their topics were:

* Plenary Human Rights Sessions

The Honourable Mary Gaudron QC

* Equality: The guarantee of excellence.

Nicola Roxon, MP

* The people vs lawyers: The case for an ethical (and influential) profession

Prof Kim Rubenstein

* Advancing citizenship claims in Australia: A lesson on the law's limits.

Prof Hilary Charlesworth

* The role of women in building a democracy after conflict

Alex Richards QC

* The road to recovery, damage to a nation's psyche post genocide: The Rwanda & East Timor experiences.

Justice Robyn Layton

* Children and the legal system: Protective or abusive.

Chrissa Loukas

* International criminal justice and human rights.

Jennifer Burn

* Human trafficking and slavery in Australia.

Tania Evers

* Problems of relying on the insanity defence: Should the ultimate decision for detention or release of a person found not guilty by reason of mental illness be political?

Claire O'Connor

* The impact of detention on the mental health of detainees and the relationship between the Migration Act and the mental health systems: Who cares?

* Concurrent Streams

* Property & Finance

Chief Justice Diana Bryant

* Finding the balance: Women's access to superannuation after marriage breakdown.

Jennifer Batrouney SC

* Clear, concise & effective: The holy grail of the financial services industry.

Jennie Granger

* The tax office compliance program: What's attracting our attention?

Jennifer Davies SC

* Recent developments in tax law: service trusts, promoter penalty provisions & part IVA

Lucy Martinez

* International investment arbitration and Australia: Obstacles and opportunities.

Lyria Bennett Moses

* The applicability of property law in new contexts: From cells to cyberspace.

Justice Narelle Johnson

* Continuing uncertainty in identifying inconsistent acts in native title claims: An analysis of recent decisions.

Litigation

Justice Catherine Branson

* Comprehending the light: The admissibility of expert evidence under the Uniform Evidence Act.

Anna Katzmann SC

* Working with expert witnesses.

Justice Ruth McColl

* Current developments in ethical issues in litigation.

Kate MacMillan SC

* Ethics in litigation.

Chris Ronalds SC

* Ethical issues in practice

Justice Margaret Beazley

* Recent developments in tort litigation.

Dr Vivian Waller

* The difficulties of sexual assault and limitation of actions: *Stingel v Clark*.

Judge Felicity Hampel

* Engaging judges: 21st century advocacy.

Dr Sue McNicol



Mary Gaudron QC, Justice Susan Crennan

* Recent issues in privilege.
Corporate Governance
Chief Justice Marilyn Warren AC

* Corporate social responsibility and the best interests of the corporation: Can they coincide?
Rayne de Gruchy

* Corporate governance and the triple bottom line.
Helen Conway

* Corporate governance and ethics.
Maryjane Crabtree

* Document management: Meeting the expectations of corporation, court and community.
Justice Margaret McMurdo

* Recent developments in directors' duties.
Penny Grau

* Corporate law – spelt G-O-V-E-R-N-A-N-C-E: is there any difference nowadays?
Diana Lohrisch

* Aged care and corporate governance: A difficult balancing act.
Jennifer McNeill

A compliance culture: Catchword, cost or commonsense.
If any complaint could be made it was that with three streams running concurrently, attendees were unable to attend all the sessions. It was very hard to choose which one of the three to attend. A survey of the feedback sheets received, confirmed that all those who completed the survey would attend the next conference, expected to be held in mid 2008.

Quotable Quotes

A memorable aspect of the conference was the personal reflections given by the speakers. Before presenting their papers, each speaker was asked to say something about themselves and their legal careers. The reflections were often surprising and almost always amusing.

The Honorable Mary Gaudron QC explained that while attending a Catholic school in country New South Wales, her precociousness in mathematics, which outstripped her teacher's capacity, caused her to be convicted of the sin of "intellectual pride". Thus banished from the study of mathematics, she was restricted to a career in arts or law.

The Honourable Nicola Roxon told us that, upon leaving her position as Associate to (then) Justice Gaudron to join a trade union, Her Honour presented her with a silver hippo advising her that where she was going she would need a thick hide.

Professor Kim Rubenstein recalled from her school days that when she ran for Prime Minister in a mock-election, her campaign and her party were successful but she failed to win her own seat. She said she learned the lesson that if you are not for yourself, who are you for?

Professor Hilary Charlesworth encouraged us with stories of her successful career in academia, once she had discovered her love



Alexandra Richards QC, Chrissa Loukas, Justice Robyn Layton, Caroline Kirton



Noor Blumer, Prof Hilary Charlesworth, Prof Kim Rubenstein, Nicola Roxon MP



Chief Justice Marilyn Warren, Justice Margaret McMurdo

of critical legal studies.

Mary-Jane Crabtree of Allen Arthur Robinson recounted how she had known from a young age what she wanted to do and commented that one's career can be a success even if it doesn't go to plan. She had always wanted to become a vet.

Justice Robyn Layton of the SA Supreme Court encouraged us to think broadly about what we could do with our law degrees apart from, or in addition to, being in private practice.

Chrissa Loukas explained that as the firstborn daughter of a Greek migrant she had a choice of two careers: law or medicine. One highlight of her career as a lawyer with Legal Aid was to be told by an old style criminal with an extensive record for whom she obtained a very good result: "Sheila - I thought at first maybe I should have had a bloke - but you done real good for me and I'm grouse on sheilas now".

Tania Evers, of the NSW Bar, explained that she had had little guidance about a career from her Russian migrant parents, who worked in factories. Tania explained that she had developed a passionate interest in how the mind works and originally wanted to be a psychiatrist, but when she investigated and found that it took 11 years of study, she chose law instead.

Dr Vivian Waller of Maurice Blackburn Cashman, told us that she failed fourth form remedial mathematics and was counselled that she was not destined for tertiary study. She therefore never considered law as a serious option and only applied for it as an act of "facetious defiance".

Human Rights – The Rule of Law

The Plenary Sessions were all on Human Rights themes. The Honourable Mary Gaudron QC started the ball rolling with a challenging presentation which, amongst other things, proposed that the rule of law is our greatest asset. The Hon. Mary Gaudron QC exhorted us all to pursue excellence, efficiency and ethical principles. She also stated that equality does not mean sameness, but rather the recognition of relevant difference. The Honourable Mary Gaudron QC ended her speech with warm public congratulations and best wishes to Justice Susan Crennan on her appointment to the High Court. Justice Susan Crennan led a standing ovation at the conclusion of the speech.

The Honourable Nicola Roxon, Shadow Attorney-General, Professor Kim Rubenstein and Professor Hilary Charlesworth, a trio of University of Melbourne graduates who have taken up the challenge in the areas of politics, citizenship and international law, presented papers in the second plenary session and continued to build on the theme of the rule of law.

The Honourable Nicola Roxon challenged us as lawyers to ensure that we did not use our knowledge of the law to avoid its consequences. She reiterated that the solution to criticism of lawyers, which in turn leads to scepticism about the effectiveness of the rule of law, is "the pursuit of excellence".

Professor Kim Rubenstein demonstrated with two difficult cases, how we need our citizenship laws to be transparent and reliable, and not subject to political whims. She reminded us that we need to think critically about how to use the law to effect



Louise Byrne, Justice Margaret McMurdo, Hannah Roberts, Lee-May Saw, Maria Gerace



Jennifer Batrouney SC, Michael Slattery QC



Queensland women at the conference



SA women at the conference

policy change.

Professor Hilary Charlesworth gave us examples of how the lack of the rule of law can impact greatly on the role of women in a democracy following conflict. She gave examples from the situations in East Timor and Iraq.

The conference closed with a gala dinner and an entertaining speech by June McPhie, President of the NSW Law Society. June (who lives in Cooma) explained how she had warned the local newspaper of the potential danger to the public after being bitten by a disease-infected bat, only to be rewarded with the headline: "Bat Bites Lawyer and Dies". Entertainment at the dinner was provided by a female comic trio, The Chandeliers, who were very successful in encouraging diners to take to the dance floor.

Attendees agreed it was an excellent and inspiring event, very ably organised by DC conferences. Some of the conference papers are available on AWL's website: www.womenlawyers.org.au. AWL looks forward to hosting the next women lawyers conference in 2008.

Editors Note: The second AWL conference will be held in Melbourne on the 13th & 14th of June 2008. Watch our website for details

NEWS FROM WOMEN LAWYERS OVERSEAS

CLARE THOMPSON

In May and June 2006 I had the opportunity to meet with various women lawyers and organisations at two meetings, in the United States and the United Kingdom.

On Tuesday, 16 May 2006 I attended the Women's Bar Association of the District of Columbia annual awards dinner at the National Building Museum in Washington DC under the theme "Pathways to Power". It was the 89th year of the DC Women's Bar Association. Over a thousand people were in attendance that night. The proceedings were held in an extraordinarily grand hall renovated as part of DC's regeneration program in the 1980s. As well as honouring a variety of achievers in the law in the previous year, the dinner launched the Association's 2005/2006 project aimed at empowering women lawyers to access pathways to career success and power within the legal system. This comprised a survey and in-depth interviews of practitioners in the DC area and came up with a range of strategies to assist women in achieving positive career outcomes. The issues faced by women lawyers in DC are not substantially different from those faced by Australian women lawyers. Similar themes of concern arise and were talked about: the need for good mentoring, access to high quality work, access to partnership, issues relating to the balance between family responsibility and work responsibilities.

I had the pleasure of being seated with a group of judges on the Administrative Appeals Court which hears a range of administrative cases including local government appeals, taxation, planning and development matters. The Chief Judge was on the table, and was the only male present from the jurisdiction. I was told that the majority of the judges on that court are

women. The judges are appointed for a short tenure and are required to be assessed for reappointment against set criteria at regular intervals of three to five years. All the judges were African-American which, as one explained, probably arose because a public sector background is useful for this court and African-Americans, and women, have long had good employment opportunities in Government.

I met a range of very interesting women lawyers, many of whom were involved in government lobbying positions. Washington DC apparently has the largest number of women lawyers and the largest number of lawyers of any US jurisdiction.

I was also interested to see that the Association's Committee and President were all senior partners at substantial firms. It certainly appeared that substantial and senior support from the major firms was an important part of the success of the Women's Bar Association and was seen by those firms as integral to their ability to recruit and retain high quality lawyers.

A few days after the dinner, I sat in the US Senate Chamber gallery to watch a debate on immigration legislation. The main debaters were Senators John McCain and Edward Kennedy who were supporting the same amendment despite being on opposite sides of the political divide. At the end of a lengthy debate, the Senate voted, which required each of the 100 senators to come into the chamber and orally record their vote. It was thrilling to watch senators as well known as Dianne Feinstein, Hillary Rodham Clinton, Joe Lieberman and John Kerry, amongst others, individually record their votes.

I also visited the US Supreme Court and was privileged to watch some admissions and the handing down of judgment in *Brigham City Utah v Stuart*. At that sitting, four justices presided including John Roberts CJ. Ruth Bader Ginsburg and Clarence Thomas JJ. It struck me that, in handing down the court's reasons, the Chief Justice took pains to explain in a very accessible way the nature of the case, the issues it raised and the argument that was put, before explaining the outcome. This meant that a casual observer like myself, who had no prior knowledge of the matter before the court, was able to quickly grasp the issues and understand the court's reasoning. Having later picked up a copy of the judgment, I could see that his Honour was reading from the decision of the court. This was quite a different approach from that of the superior courts in Australia.

Following my trip to Washington, I went to the Third World Women Lawyers Conference in London on 8-9 June 2006. This was arranged by the Women's Interest Group of the International Bar Association and attracted several hundred women from around the world. The issues included an extremely interesting discussion on the free movement of workers which resulted in a heated exchange between European admitting authorities and central African, particularly Nigerian, lawyers regarding admission rights in the UK and consequently the European Union. It certainly appeared from the debate and the paper presented in respect of the present European system, that the recent changes to Australian admission rules enabling practitioners to practise across state boundaries places us at the forefront of reform in this area.

The conference dinner was held at Middle Temple Hall, an awe-inspiring venue at which Shakespeare's play Twelfth Night

premiered in 1602. Prior to the dinner, the International Woman Lawyer of the Year Award was presented to Dianna Kemp QC, former President of the IBA, in the gardens of Middle Temple, a beautiful green oasis in the middle of the city of London. As with all conferences, whilst the papers are interesting the most useful interactions take place casually over the session breaks, meals and so on. My enduring memories of the conference will be twofold. First, sitting in the hotel lobby late one evening with two European lawyers, one Slovakian, the other German, discussing advocacy techniques and the particular skills that women bring to court craft. The issues we face appear similar across the jurisdictions despite the vast differences in procedure and the nature of the law that we all practise. Secondly, having made a short visit to Chancery Lane on Friday morning, I ran into several of the delegates from the conference and had one of those women lawyers' moments trying on suits and discussing what was appropriate for court, for the office and what wasn't.

It is clear that women lawyers are alive and well across the world. They are hardworking and vibrant, committed and keen to improve not only their own lives but the lives of all of those with whom they come in touch. The next International Women Lawyers Conference is scheduled for June 2007 and I urge people to consider attending and having the great opportunity to meet colleagues and form bonds which stretch across the world.

Clare Thompson is a barrister at Francis Burt Chambers in Perth, practising in commercial litigation. She was a member of the founding committee which established AWL and was a director of AWL from its incorporation until 2001, when she retired having been elected President of the Law Society of WA for 2002.

IMAGES OF WOMEN IN THE LAW- REMARKS BY ALEXANDRA RICHARDS QC ON THE UNVEILING OF THE PORTRAIT OF VICTORIAN CHIEF JUSTICE MARILYN WARREN

ALEXANDRA RICHARDS QC

The "images of women in the law" series had its genesis in the work and effort of the Women Barristers Association who initially proposed the series to the Bar council. Her Honour Judge Frances Millane was then convenor of WBA and under her guidance and subsequently as chair of the equality before the law committee, the series saw its first two works. Her Honour may justly be called "the architect" of the series.

The Bar council enthusiastically adopted and supported the WBA proposal. The portrait of Chief Justice Warren is the third in this series, the product of this happy and fruitful collaboration between the Women Barristers Association, the Bar's equality before the law committee, and the Bar council.

The EBTL sub-committee responsible for arranging this third portrait comprises the solicitor-general, Pamela Tate S.C., who is a consultant to that committee; and Mark Dean S.C., a member of the committee.

The Chief Justice was approached. The equality before the law committee considered a number of eminent portrait painters. With Her Honour's approval, it recommended Peter Churcher. The project was brought together, and the Bar council enthusiastically approved it agreeing to fund the next edition in the series.

The Victorian Bar council has become a leader in the profession and throughout Australia on its initiative in taking up recommendations from the equality before the law committee over the years. I instance a few examples:

- * The commissioning of the equality of opportunity report in 1998: a work which remains an invaluable source of reference for studies on the progress of women in the law not only in Australia but also abroad;

- * The equality of opportunity briefing policy which the bar council resolved to adopt in 2002 and which was enthusiastically promoted by the attorney general to government agencies in their briefing practices and later provided the forerunner and model for the national policy adopted by the law council of Australia on 28 march 2004;

- * This, the women in the law series.

Images are important. Understandably, in the historical context, the portraits of barristers and judges all around our chambers had been exclusively of men. Look around on your way out: notice the array of photographs of past chairmen of bar council hanging in the foyer.

The silks' tapestries which hang high in the grand entrance foyer to Owen Dixon west were the gift of 86 practising silks in 1988. They were designed, and I quote, "to capture the spirit of the bar and its activities". There is no woman in either tapestry.

Inescapably, the image projected by the art work in our chambers was that of a profession in which only men are engaged – or, at least, in which only men achieve eminence.

For a very long time now, there have been women barristers – women silks – and women magistrates and judges. It has taken some time for the "images" around our chambers to catch up with this reality. And why is imagery important?

Walter Liepmann wrote in 1921 in his book, Public Opinion, "whether right or wrong... Imagination is shaped by the pictures seen ... consequently they lead to stereotypes that are hard to shake."

In Gender in the mirror, Diana Tietjens Meyers argues that the gender imagery produced by patriarchal cultures has a profound and deleterious effect on women's capacities for self

determination. Cultural “figurations” – visual images, metaphors, stories and myths – work insidiously to transmit gender norms. They “colonise” women’s psyches, impairing their powers of imagination, memory, introspection and expression – all abilities that are essential elements for the repertoire of skills which constitute autonomy.

Stereotypes are “mental cookie cutters” as Dr. Orit Kamir observes which force a pattern upon a complex mass and assign a limited number of characteristics to all members of a group. Popular images which are shared by those who hold a common cultural mindset – they are the way a culture or significant subgroup within that culture, defines and labels a specific group of people. Stereotypes can have a useful function for example, stereotyped characters in novels allow the storyteller the luxury of not having to slow down to explain the motivations for every minor character. But as Dr Kamir points out in her work *The meaning and significance of stereotypes in popular culture*:

“As human beings, each of us has a seemingly infinite number of choices about what kind of person we want to be. In fact, most of us choose to be several persons – efficient at the office, sloppy around the house, formal with our boss... Warm and loving with our parents [or children] – we enjoy wearing different personalities for different occasions. If we accept someone else’s stereotyped image of what we ought` to be, even if the image is a positive one, we sadly, perhaps even tragically, limit the choices that are such wonderful part of our humanity, and confine ourselves to being narrow and standardised. We become less human and more like robots.”

The first “image of a woman in the law” at our bar was, I believe, the naming of a set of chambers in honour of Joan Rosanove QC. Those chambers were opened in April 2000.

Now, in the entrance foyer to Joan Rosanove chambers, we have the splendidly characteristic photograph of Joan in wig and gown, smoking from a long cigarette-holder.

In February 2001, Attorney-General Rob Hulls launched the women barristers directory on the Bar website.

In October 2001, the Attorney launched the new Bar website which, for the first time, included images of women in the law alongside their male colleagues.

Michael Shand QC chaired the committee that created that website; and chaired the committee that created our present website, in which the art work is similarly inclusive.

In November 2001, Her Honour Judge Millane, then convenor of the Women Barristers Association, proposed to the Bar council this “images of women in the law” series. The rest is history.

In June 2002, we unveiled the Josephine Kuperholz photographic study of Justice Sally Brown.

In September 2002, the cover of *Bar News* was the magnificent image of a full court of the supreme court constituted by Justices Balmford, Warren and Dodds-Streeton – not part of the “images” series, but a powerful image worthy of mention.

On 9 September 2003, almost exactly 3 years ago, we unveiled

the Murray Yann photographic portrait of all 5 women supreme court judges to that time – which, of course, includes Chief Justice Warren.

The choice of Marilyn Warren as the subject of a portrait for Owen Dixon chambers was obvious and the spontaneous and unanimous decision of the EBTL.

Your Honour’s long and constant commitment to the advancement of women in the law, to their support and encouragement is roundly recognised and is valued highly. Your Honour’s image as portrayed in Peter Churcher’s work will serve for generations of women to come, inspiring them to undertake a career in the law.

Your Honour was appointed to the Supreme Court on 13 October 1998, and appointed Chief Justice on 25 November 2003.

At your welcome, Your Honour expressed confidence that: “together the judges and I will take the court to the heights it deserves, that you all seek”. Your Honour has far advanced down that path.

Your Honour is an active leader of the council of Supreme Court judges and of the heads of courts in Victoria – receptive to new ideas, engaging with your fellow judges and the other heads of courts, and with government.

Your Honour’s leadership is reflected in the 2004 Courts Strategic Directions statement in which the courts and VCAT engage with government.

Your Honour is an active and able administrator, and continues to sit as a judge on the Court of Appeal and in the trial division, as well as the practice court in regular rotation with the other judges of the trial division.

Your Honour is actively engaged in examining the workloads of judges, and has improved the conditions of associates and tipstaffs.

Your Honour and the President of the Court of Appeal are in dialogue with the Bar on reforms in the presentation of cases, and in case management within the court, and on other matters.

Your Honour, and your husband, Mick Healey, are personally engaged with the judges and their spouses and partners. Your Honour and Mick regularly attend legal and formal functions together and we are all beneficiaries of the fine relationship that your honour and Mick so evidently share.

Your Honour’s personal commitment, courage, and sheer stamina are extraordinary. In addition to Your Honour’s day job, you are also president of the Victorian Law Foundation, chair of the Judicial College of Victoria, chair of the Council of Legal Education and chair of the Victorian Institute of Forensic Medicine. Your Honour is also patron of Victorian Women Lawyers and the Victorian Court Network. Your Honour assumed the role of lieutenant governor of Victoria on 7 April 2006.

In just short of 3 years, Your Honour’s hard work and principled approach have made their mark throughout the whole of the Victorian community.

MARY GAUDRON PORTRAIT TAKES RIGHTFUL PLACE IN THE BAR'S COLLECTION OF PORTRAITS

LOUISE BYRNE

The latest addition to the NSW Bar's rich collection of portraiture was unveiled at a formal ceremony in the common room on 21 February. President Michael Slattery QC described the painting as 'a truly remarkable work, which will become one of the enduring public images of Mary Gaudron throughout Australia'.

The Hon Mary Gaudron QC, former High Court judge, was joined by artist Sally Robinson at the unveiling. The Hon Justice Ian Harrison, a former president of the Bar Association, crowned the evening's honours by presenting Mary with her certificate of life membership of the organisation.

Perhaps the most striking and unusual feature of the painting is the stencilled wording from section 75(v) of the Australian Constitution: that the High Court shall have original jurisdiction in all matters in which a writ of mandamus or prohibition or an injunction is sought against an officer of the Commonwealth. It was, Mary said, unique among the constitutions she had studied and the provision which ensured that there could be no repetition of Guantanamo Bay under the Australian legal system.

The portrait is featured in the Winter 2007 edition of Bar News.

COLLABORATIVE LAW IN CANBERRA

JULIE DOBINSON

Canberra family law clients now have the settlement process known as Collaborative Law available to them.

Collaborative law is a settlement process that is now well established in the family law jurisdictions in the United States, Canada, and more recently, the United Kingdom. It is a process in which the parties and their lawyers sign a contract not to go to court or threaten to go to court.

Following signing of the contract, all negotiations are carried out in four-way meetings using interest based negotiations. The process does not preclude either party from ultimately making an application to the court should the process fail. However, if the process fails neither of the parties' lawyers nor their firms can represent the clients in subsequent litigation. This is known as the "irreducible minimum" of the process. The process has some similarities to mediation in that it involves interest based negotiations. However, it is different from mediation because:

* Each client is represented by his or her own lawyer throughout

the process.

* Collaborative lawyers work with the clients to help them establish effective and constructive communication and in negotiating optimum outcomes.

* The lawyers are available to make suggestions about creative outcomes and document the agreements that are reached.

Nationally, collaborative law is being considered by the Family Law Council in conjunction with the Family Law Section of the Law Council of Australia and the National Centre of Collaborative Law, an organisation established by Canberra lawyers in July 2005. Collaborative law is now being offered by some NSW, Queensland and Victorian family lawyers.

The Commonwealth Attorney-General, the Honourable Phillip Ruddock, espoused its benefits during his State of the Nation speech to lawyers at the October 2006 National Family Law Conference in Perth.

Collaborative law has applications in other areas of law apart from family law, including employment law, and is being considered as a dispute resolution process by construction lawyers.

For further information about collaborative law, Julie Dobinson may be contacted at Dobinson Davey Lawyers on (02) 6262 8444, or by email, mail@dobinson.com.au.

AWL PRESIDENT'S REPORT 2007

JANEAN RICHARDS

Inaugural Women Lawyers Conference 2006 - Celebrating Excellence

One of the highlights of my involvement with Australian Women Lawyers will always be the Inaugural Women Lawyers Conference held in Sydney in September 2006. The theme of the conference was "Celebrating Excellence" and the depth of expertise in the talented and inspiring women in the Australian legal profession was displayed in the range of speakers at the conference. While it was professionally rewarding and informative, it was also a lot of fun.

The atmosphere of the conference was established by the opening address by our Patron, Justice Mary Gaudron QC. She observed that the position of women in the legal profession may not yet be perfect but developments in the past decade do provide grounds for optimism and give us reason to look to the future rather than dwell on past events. She encouraged delegates to continue to make an important and distinctive contribution to the law and the administration of justice, and ensure equal justice and thereby maintain Australia's greatest asset, the rule of law.

On behalf of AWL, I would like to extend our appreciation to the Organising Committee comprised of Caroline Kirton, Noor Blumer, Louise Byrne, Anne Winkel, Anne Marie David, Fiona McLeod SC and Dianna Crebbin for the enormous effort that

went into preparing the conference.

Representation

Australian Women Lawyers has always been concerned about the under representation of women in important areas of legal practice and in the judiciary. We continue to monitor indicators of women's participation and representation across the profession.

In August 2006, AWL published the results of a national gender appearance survey undertaken in State and Territory Supreme Courts and the Federal Court. The object of the survey was to ascertain the rate at which women were appearing as advocates, the type of matters in which they appeared and the average length of time of cases in which they did appear.

The results of the survey indicated that there is substance to anecdotal reports that gender briefing patterns persist and that women are not being briefed to appear as Seniors or in complex matters. The results clearly indicate in Australian Superior Courts, women advocates are not appearing as regularly as their male colleagues. They are not appearing at all in some jurisdictions as Senior Counsel. In some jurisdictions they are not even being briefed as Junior to Senior Counsel. Accordingly they have less opportunity to develop their expertise than their male colleagues. These results should be of concern to the legal profession and AWL has called on the Law Council to undertake a fully funded comprehensive national gender appearance survey to research why women are under represented as advocates in Australian superior courts and to provide constructive proposals as to how gender balance can be achieved.

The gender appearance survey results and explanatory memorandum are published on the AWL Website.

Membership of the independent Bar and appearances before the courts are not the only areas in which women remain under represented. In December 2006, data published on partnership appointments indicated that fewer than 20 percent of partners in Australian commercial law firms are women. Importantly, the percentage of new partners who were women had increased over six months from 28% to 34% (in the Australian Financial Review's legal partnership survey) reflecting in part the implementation of a range strategies within law firms to retain women in practice.

The gender appearance survey and partnership results reinforce the need for the profession to consider the persistence of barriers in legal practice to women's entry to senior roles in the profession and to question why their representation at these levels remains disproportionate with the number of legal graduates entering the profession.

Judicial Appointment

In September 2007, Justice Callinan QC will retire from the Bench of the High Court of Australia and the Federal Attorney General has commenced the process of consultation regarding a new appointment.

In October 2006, Immediate Past President Caroline Kirton presented a paper on behalf of AWL to the Australian Bar Associa-

tion Judicial Appointments Forum. On behalf of AWL, Caroline suggested that an independent judicial appointments commission which is transparent and accountable, is a preferable mechanism for assessing suitability for judicial office.

Discussing the process of judicial appointment, Caroline observed that "while a successful career at the Bar is an excellent way to prepare for appointment to the judiciary, it should not be the only path to the bench". She stated that it is impossible to assess the current system of judicial appointments without considering the failure of the legal profession as a whole to ensure the advancement of women within the profession.

Considering the results of AWL's own gender appearance survey, Caroline cautioned that there needs to be real cultural change within the independent Bars and also within the ranks of the solicitors who brief barristers to encourage women to go to and remain in practice as barristers if the independent Bars want to ensure that their members the primary source for appointments to the bench. The full text of Caroline's paper is available at the AWL website.

10th Anniversary of Australian Women Lawyers

In September 2007, Australian Women Lawyers will celebrate a significant milestone, its 10th Birthday. To honour the occasion we are organising a dinner to be held in Melbourne on 7 September 2007. It is hoped that as many members of Women Lawyers associations as possible will be able to join us, and particularly those who were associated with establishment of AWL in 1997.

Australian Women Lawyer Scholarship

AWL has prepared a proposal for the Law Council of Australia to support the establishment of an award or prize to further the post graduate educational opportunities for women lawyers. Such a gender based award would provide significant support for academic accomplishment and represent an important investment in the future of women in senior roles in the Australian legal profession.

2008 Australian Women Lawyers Conference

Work has already commenced on the planning of the 2008 Australian Women Lawyers conference. The conference will take place in Melbourne on 13 and 14 June 2008 – put the date in your diary now.

I would like to thank the Board of Directors of Australian Women Lawyers and Presidents of the Associated Organisations for their support of AWL. In particular I would like to thank immediate past President Caroline Kirton for the work that she dedicated last year to organisation of the conference and publication of the gender appearance survey results. Most recently I would also like to thank Louise Byrne for reliving me temporarily of the responsibilities of President, for a few weeks at the commencement of my maternity leave.

Janean Richards
President
Australian Women Lawyers

May 2007

Editors note: On the 13th August the Attorney General Phillip Ruddock announced the appointment of Justice Susan Kiefel to the High Court following the retirement of Justice Ian Callinan.



Janean Richards with baby Madelyn

STATE OF THE NATION

WOMEN LAWYERS ASSOCIATION OF SOUTH AUSTRALIA

KERRY CLARK

Update

The Women Lawyers Association of SA welcomed many new members to its committee for 2007, with fresh ideas and enthusiasm for the coming year. This enthusiasm has been reflected in the wide range of new and exciting events that the committee has been planning for 2007.

'New Look' WLA Newsletter

The introduction of a 'new look' newsletter that will include profiles of senior practitioners and members of the judiciary, feature articles, details on upcoming events, conferences, seminars and professional development for female practitioners. The newsletter will be available in electronic and hard copy form and distributed to all members of the profession including law students and judges. The first edition of the newsletter is due to be distributed in the first week of March 2007.

Key note speeches

The Association is currently planning a series of key note speeches for law students and recent graduates on topics of le-

gal, political and professional interest. It is envisaged that these events will provide students and graduates with a valuable opportunity to network and support the work of the committee through the raising of funds for charity. The first 'network and nibbles' event for law students and recent graduates is to be held on the 22nd March 2006 at the Law Society of South Australia.

Legal Practitioners Survey

In conjunction with the Law Society of South Australia WLA SA is currently developing a survey to obtain raw data on the renewal of Practising Certificates by female practitioners in South Australia. It is hoped that this survey will provide much needed information on the retention rates of female practitioners in SA and their level of satisfaction in the profession. The survey is due to be distributed with the renewal of Practising Certificate notices at the end of this financial year.

Women Barristers Sub Committee

A priority for WLA SA in 2007 is to develop a Women Barristers sub-committee to provide a representative body for female Barristers in SA. The sub committee will work jointly with WLA SA in representing the interests of women practitioners in addition to hosting events tailored to the interests of female barristers in SA. WLA SA is currently establishing the sub committee which will be operational by mid April 2007 and provide a much needed role for female barristers in this State.

Mentoring Programme – Young Practitioners and Female Judges

In 2007 WLA SA will continue its highly successful mentoring programme with young female practitioners and female members of the judiciary. The programme was established in 2006 and was an overwhelming success with many young members of the profession attending the functions organised by the Association. This year the Association is currently planning range of mentoring events including drinks and nibbles, theatre outings, breakfasts and seminars!

WOMEN LAWYERS' ASSOCIATION OF NSW

LEE-MAY SAW
PRESIDENT
WLA NSW

Our AGM on 30 November 2006 brought with it the promise of several exciting changes to WLA NSW. A new Constitution was passed introducing new categories of Corporate Membership and Associate Membership for male lawyers, and a new committee was elected that sports several fresh and energetic faces alongside some more familiar and longstanding ones.

We have held several successful and well-attended functions this year. Our first function for the year was a "Gender Games – Doing Business with the Opposite Sex" seminar hosted by Freehills on 15 February 2007, with Candy Tymson, business communications expert as keynote speaker.

The main focus for WLA NSW this year is the relaunch of our NSW Women Lawyers Achievement Awards. The Awards were relaunched in Law Week on 29 March 2007. Geoff Dunlevy, President of the Law Society of NSW, Michael Slattery QC, President of the Bar Association of NSW, Ian Knight, Crown Solicitor representing the Attorney-General's Department of NSW, and Anna McPhee, Director of the Equal Opportunity for Women in the Workplace Agency, represented their respective organisations in speaking in support of the Awards to a full room of enthusiastic attendees at the Law Society Building for the launch.

Also held during Law Week were our "Law as a Career" seminar on 26 March 2007 in Newcastle and "Law as a Career - Coming to the Bar" seminar on 27 March 2007 in Sydney, both of which were well-received. Our strong financial position at the end of last year and the continued generosity of our major sponsors the NAB has allowed us to run all our Law Week functions at no cost to attendees.

We continue to enjoy strong relationships with the press and our partner organisations. We have so far this year had a media presence in the Sydney Morning Herald, Lawyers Weekly, the Law Society Journal, Vive Magazine, and the Locus newsletter. Our Christmas Cocktails held at the end of last year on 12 December 2006 in Sydney marked the beginning of a developing partnership with Locus, a technology company that provides practice management solutions for legal workplaces.

At our Planning Meeting on 3 February 2007, WLA NSW introduced a formal subcommittee structure to manage its key areas of business for this year. Our Flexible Working subcommittee is chaired by Georgina Gowland, Secretary, who has developed a "Flexible Working Initiative" that provides us with key targets for the ever relevant policy issue of flexibility in the legal workplace.

Our upcoming projects for this year are the promotion of a recently introduced Regional Chapters Package for women lawyers in regional, rural and remote areas of NSW interested in establishing a regional branch of WLA NSW, and the promotion of our new categories of membership.

VICTORIAN WOMEN LAWYERS

WVL celebrated its 10th anniversary in 2006.

On 14 June 2006, VWL in conjunction with WBA held the annual "Meet and Greet" for barristers and solicitors at the Essoign Club. Members of both associations enjoyed the wine tasting and fashion parade while they networked. They also had the opportunity to donate their old business clothes to "Fitted for Work", a voluntary organisation with assists women in obtaining

employment.

On 24 August 2006, VWL held its 10th anniversary luncheon at the RACV Club. The occasion marked the achievements of VWL over the past ten years and provided those who attended the opportunity to look forward to what the future holds. Over 400 guests attended. Her Honour and VWL's Patron Chief Justice Marilyn Warren was guest speaker. She delivered a very powerful speech, which is available on the VWL website. A video was also produced and shown at the lunch. A special edition Portia was published to mark the occasion.

On the 18 September 2006, VWL held its biennial Lesbia Harford Oration. This event involves a speech by an eminent speaker on an important issue for women. Previous speakers included His Honour Justice Kirby and Honourable John Phillips. This year we had the pleasure of Senator Lyn Allison (Democrats) and Senator Judith Troeth (Liberals) speaking about women politicians collaborating across party lines on policy matters of significance to women and the power of unity to affect change in the federal political sphere. They spoke in relation to the private members bill to remove restrictions surrounding the importation of RU486.

VWL has purchased a portrait of its patron, the Chief Justice Marilyn Warren, by Charlotte Clemens, which will go on display at the Supreme Court and other prominent places frequented by female lawyers. See speech by Alexandra Richards QC in this edition of Themis.

ACTIVITIES OF THE VICTORIAN WOMEN BARRISTERS

FIONA MCLEOD SC

So much has happened since our last report in Themis. It has been an exciting and exhausting time with much more on the near horizon.

The WBA finalised its logo and banner in May. We held a Meet and Greet networking event in June with over 100 solicitors and barristers being a fashion parade and wine tasting night with attendees donating their old suits to Fitted for Work which helps unemployed women return to work; In July, we held a breakfast here raising awareness about the plight of young women in East Timor, with our guest speaker Sister Pinto – details are in the newsletters on the tables and appeared in the Bar news. In August with assistance from the Victorian Bar we held a half day event for 100 female law students about various aspects of considering a career at the Bar, and in October we held an information evening event for 50 female solicitors who might be thinking about coming to the Bar or want to find out more about how the Bar works.

A highlight of the year was attending and supporting the inaugural national AWL conference organised by Caroline Kirton, then President of AWL and her committee.

In November, we held a Celebratory Dinner, and invited as our guests the 15 Victorian women appointed to the Bench and Magistracy, and the one female taking silk since our dinner the year prior. We also celebrated the 10th anniversary of the first woman appointed to the Supreme Court Bench, the Honourable Rosemary Balmford, and a special tribute to her was made. There were 100 attendees at the dinner.

For 2007, we look forward to the Women Lawyers Achievement Awards which we are jointly hosting with VWL. The guest speaker is Chief Justice Bryant. Nominations have been circulated. It will be at Parliament House on 8 March.

The WBA is hosting a forum on 28 March 2006 discussing women lawyers over the last 10 years - whether it has been a time of change or time stood still. Liz Bishop is a PhD student and former VWL Convenor who will be the guest speaker at this forum.

We are seeking to produce an oral history of past WBA Convenors E-film subject to funding. Journalist Juliette Brodsky will interview all past convenors in an open session in the Bar Council Chamber at a date to be advised. We are also currently preparing an exhibition about Women Barristers in Victoria- Then and Now for Law Week, with assistance of the Law Foundation.

The WBA looks forward to assisting the law firms, and corporate lawyers with implementation of the model briefing policy including to assist firms to find women barristers on the vicbar website, by using the women barristers' directory.

WOMEN LAWYERS ASSOCIATION OF QUEENSLAND

SAMANTHA KANE
PRESIDENT

I would like to thank Kylie Torlach, Immediate Past President of WLAQ, for her dedication, hard work and enthusiasm to the committee over her 2 year term as President.

During 2006, WLAQ congratulated the following women on their appointment to the judiciary: Justices Catherine Holmes (Court of Appeal), Justice Ann Lyons (Supreme Court), Judge Fleur Kingham, (District Court), and Magistrate Suzette Coates (Magistrates Court). It also congratulated Wendy Pack, Leanne Clare and Kathryn McMillan on their appointments as senior counsel in December 2006. The Association promotes the interest of women in the law and justice and strongly supports female appointments to the judiciary.

In August 2006, we presented our Woman Lawyer of the Year Award to Ms Clare Endicott, the Deputy President of the Guardianship and Administration Tribunal and the Emergent Woman Lawyer of the Year Award to Ms Sunni Dawson, solicitor of the

Southwest Brisbane Community Legal Centre.

The Awards were a great success with The Hon. Mary Gaudron QC, the first female appointee to the High Court of Australia and Patron of Australian Women Lawyers, delivering the keynote address on the topic of "The Rule of Law and the Protection of Minority Rights" - the key message was that minority rights can only truly be protected in a society which upholds the rule of law and safeguards the most basic human rights.

The Association hosted its Christmas function on 30 November 2006, which was well attended. Its next function will be the Una Prentice Dinner on 28 March 2007, to celebrate the best female graduates from each Qld law school.

I take this opportunity to thank all of the WLAQ members for their continued support and contribution to the Association.

NORTHERN TERRITORY WOMEN LAWYERS

GEORGIA MCMASTER

Since the last publication of Themis, the Northern Territory has experienced a remarkable day in law: on 27 March 2007 all Territory women magistrates and justices were sitting in a court somewhere in the Territory, which was the largest ever - five. The total number of magistrates and judges sitting in the Territory is: 6 judges and 11 magistrates.

Also in April 2007, Rex Wild QC was invited to dinner to address a gathering of women lawyers, together with some invited doctors and counsellors. Mr Wild QC spoke about some of the issues that could be expected to be addressed upon the release (a week later) of the Little Children Are Sacred report. There was much enthusiasm from the floor at question time and the women doctors were keen to attend further women lawyer functions. Of course, since the release of the report, we have seen the disastrous, autocratic intervention by the Federal Government (contrary to the very first recommendation of the report), which has yet to show any results other than antagonism and resentment on the part of the majority of Territorians.

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