

NSW Women Lawyers Achievement Awards
Women Lawyers' Association New South Wales
Emeritus Professor Rosalind Croucher AM

23 August 2019

Thank you to WLA NSW for inviting me to speak. This is a wonderful event. Full of pride, full of celebration—and full of women!

There are so many dignitaries in the room, it would take me all my allotted time to get through you all, but I will acknowledge two special people: WLA NSW President, Larissa Andelman, and 'Her Majesty' in this context, sitting beside me on stage, Janet Coombs AM.

Let me begin by acknowledging the traditional custodians of the land on which we meet, the Gadigal people of the Eora Nation and pay my respect to Elders, past, present and emerging, and also to acknowledge any Indigenous guests sharing the evening.

Given our proximity to Barangaroo, and our celebration of women this evening, perhaps we should also remember *her*. Barangaroo was the second wife of Bennelong, an intermediary between the Aboriginal people and the early British colonists in New South Wales. They were members of the Cammeraygal clan of the Eora Nation. Although not her traditional land, Barangaroo is named in her honour. Women as intermediaries? Something clearly recognised from the outset of the colony.

My brief was to speak about women in law and to give a humorous 'after dinner' speech. Being told to be humorous is challenging. I am not a naturally funny person. Any humour is accidental, and often the result of my curious way of mixing metaphors, the tendency for which I generally warn people about in advance. I was also told I

could call upon past experiences. Plus I only have, at most, 15 minutes. So it will be a bit of a 'trifle' perhaps, with mixed layers....

I recently read a biography of Ruth Bader Ginsburg, *My Own Words*, that prompted some reflections on which I will draw. Given the company tonight, I will call her 'Ruth'. She was actually born 'Joan Ruth', but in her kindergarten there were several other Joans, so her mother suggested using her second name. And it stuck. Surnames for many women are also, generally speaking, either our father's or our husband's, so the first names are truly ours. My parents chose for me 'Rosalind', which I am pleased to say is Shakespeare's largest part for a 'woman'.

Having partners who are proud

Ruth's autobiography has a dedication that tells you a lot: 'To Marty, dear partner in life and constant lifter'. She said that she had had 'more than a little bit of luck in life' but nothing equalled in magnitude her marriage to Martin D Ginsburg: her 'supersmart, exuberant, ever-loving spouse', with whom she had a 'marital partnership nonpareil'. (He died on 27 June 2010).

It was Marty who was her champion. The Romans had a wonderful word that has found its way into our vocabulary, 'uxorious', wife-loving. Marty was uxorious.

When I married for the second time, in 2004, I found in my husband John my own champion. He dedicated the first book he wrote after our marriage, *Number Crunch*, (He is a statistician!) as follows: 'Dedicated to the best number in the world, my darling Rosalind'. He has been —and is—like Marty Ginsburg, my 'constant lifter'.

So many of the award winners this evening have spoken of theirs.

It certainly helps in the challenges of life, particularly for professional women, to be supported by our constant lifters!

Remaining calm

Ruth said that she is often asked a question when speaking in public: 'Do you have some good advice you might share with us?' Yes, she did. It came from her 'savvy mother-in-law', who advised her, on her wedding day, that 'In every good marriage it helps sometimes to be a little deaf'. (My own mother described this as 'matrimonial deafness').

Ruth said she followed that advice assiduously, and not only at home:

'I have employed it as well in every workplace, including the Supreme Court of the United States. When a thoughtless or unkind word is spoken, best tune out. *Reacting in anger or annoyance will not advance one's ability to persuade*'.

In reading the article in this month's *Law Society Journal* about Margaret Beazley,¹ and reading the speeches on her retirement from the Court of Appeal to take on the role of 'Her Excellency', I was struck by particular parallels between Margaret and Ruth. Chief Justice Bathurst said of Margaret that she was not one to lose her temper or even raise her voice. He remarked that, on the bench, she communicated 'clearly, concisely and politely', so much so that 'counsel was often unaware that they were being skewered until it had already happened'.²

Sense of humour

There is also a parallel between these fabulous women in having a sense of humour. President Bill Clinton was clearly struck by Ruth's sense of humour, which also spoke to him of her humanity. To avoid press attention when she was going to meet him at the Oval Office, and because of the leaking around the Supreme Court nominations, she was ushered in the back door, on a Sunday. Over 20 years later,

¹ Kate Allman, 'Tea with a trailblazer' (2019) 58 *LSJ* 31.

² 'Farewell Ceremony for the Hon Justice Margaret Beazley AO as a Judge of the Supreme Court of New South Wales', 27 February 2019, [33].

President Clinton remembered how then Judge Ginsburg reacted to her 'cloak and dagger' entrance to the White House. 'It tickled her that I had to smuggle her into the White House', Clinton said. 'She liked that, and I liked the fact that she had a sense of humour. I think it's very hard to endure over the long run and have a positive impact on the Court that goes beyond the writing of your opinions if you don't have a sense of humour.'³

In the speeches honouring Margaret, there were many examples of humour. One example given by Ms Elizabeth Espinosa, speaking on behalf of the solicitors of NSW, was of an exchange with Michael Slattery, then of Senior Counsel, and the late Justice of Appeal, Roddy Meagher, concerning a contract case. Meagher JA kept correcting Slattery when he used the term 'draftsperson', insisting that it should be 'draftsman'. As Ms Espinosa recounted: 'As the toing and froing continued over the use of the gender-neutral word, from which Slattery did not let up', Justice Beazley intervened from the bench, saying, 'Don't' worry Mr Slattery, a *draftswoman* would never have drafted a clause as bad'.⁴

Before I leave the subject of humour, let me return to another example about Ruth. In her Senate confirmation hearing, that particularly gruelling form of US parliamentary spectator sport, she was asked why she used the term 'gender discrimination' rather than 'sex discrimination'. The story she told apparently made everyone laugh. When she was at Columbia in the 1970s she had a bright secretary, Millicent, who typed her briefs, articles and speeches about sex discrimination. Millicent said to her: 'I have been typing this word, sex, sex, sex, over and over. Let me tell you, the audience you are addressing, the men you are addressing ... the first association of that word is *not* what *you* are talking about. So I

³ *My Own Words: Ruth Bader Ginsburg* (2016), 169.

⁴ 'Farewell Ceremony for the Hon Justice Margaret Beazley AO as a Judge of the Supreme Court of New South Wales', 27 February 2019, [66].

suggest that you use a grammar-book term. Use the word “gender”. It will ward off distracting associations.⁵

Departments

Successful life partnerships are based, among other things, on knowing one’s ‘departments’.

Early on in Ruth and Marty’s marriage it became clear to Marty that cooking was not Ruth’s strong suit. Marty took on the kitchen and became ‘Chef Supreme’. Their daughter later said she had grown up in a home in which responsibility was equally divided: her father did the cooking; her mother did the thinking.⁶

In other words, they worked out, as I say, their ‘departments’. Marriages and other life partnerships need to work out what is in whose department. In my own marriage, cooking is in mine. (When I met my darling husband, John, a widower, he was managing OK on Lean Cuisine frozen dinners and yoghurt with sprinkles, but that is not my idea of an ideal diet). But ‘plugs’ are definitely John’s department. So anything with a plug I leave to him. We are essentially shareholders of Harvey Norman and JB Hi Fi for all John’s purchases of things with plugs. We have far too many increasingly bigger televisions, but, what the heck!

Showing the way

Ruth concluded the preface of her autobiography by quoting Justice Sandra Day O’Connor, the first woman on the US Supreme Court:

For both men and women the first step in getting power is to become visible to others, and then to put on an impressive show ... As women achieve power, the barriers will fall. As society *sees* what women can do, as *women* see what women can do, there will be more women out there doing things, and we’ll all be better off for it.⁷

⁵ *My Own Words*, 188.

⁶ *My Own Words*, 28.

⁷ *My Own Words*, xix.

I would like to add to this an adjective, another reflection and a tribute.

The adjective. The more that society sees what *older* women can do, ... there will be more *older* women out there doing things. Ruth is now 86. She is not affected by the statutory senility provisions that affect our judges. Margaret is a spry 67. And our other state governors include Kate Warner, 71 and Linda Dessau, 66. Nancy Pelosi, Speaker of the US House of Representatives, is 79. In a conversation in the banco court on 5 August, Michael McHugh said his 95-year-old mother is doing the books of the body corporate. And on 25 July I was captivated by the story of a 100-year-old German grandmother, Lisel Heise, who has entered politics and been elected to her town council to advance her campaign to reopen an outdoor swimming pool. She was galvanized by two issues close to her heart: young people and public health.

The reflection. Five years ago, Lady Hale, President of the Supreme Court of the UK, gave a speech on women in the judiciary.⁸ In it, she celebrated the many 'firsts' of women, and 'seconds', herself being the second woman Lord Justice of Appeal. Lady Hale quoted Madeleine Albright's view that 'there is a special place in Hell for women who do not help other women'. It is the responsibility of pioneering women to champion the cause of women generally, 'otherwise', she said, 'the world will slip back into its complacent old masculo-centric ways'.

Be proud of your own achievements, but don't be blinkered to the other women around you that you can help.

The tribute: Jane Mathews, our Patron has lived a life of helping other women—changing the legal landscape for women by her example, her leadership and, indeed, her judgments.

⁸ 'Women in the Judiciary', the Fiona Woolf Lecture for the Women Lawyers' Division of the Law Society, 27 June 2014.

Stop fretting

Ruth's father-in-law also gave her advice regarding starting law school in 1955 when she had a small infant in tow.

'Ruth, if you don't want to start law school, you have a good reason to resist the undertaking. No one will think less of you if you make that choice. But if you really want to study law, you stop worrying and find a way to manage child and school.'⁹

And so she did and, many times after, when the road was rocky, she said, she thought back to his wisdom, spent no time fretting, and found a way to do what she thought important to get done.

In other words, she let her life wrap itself around her children in a very pragmatic way. *And* she didn't fret.

She also found the way to be true to herself.

I want to finish with some thoughts about this theme. I have had many occasions where young lawyers have come to me, even fretting a bit, about having to 'give up' things to pursue their careers, to care for their kids, whatever. My answer is a simple one. You can't have everything at once, and at times you have to put a pause on some things, but it doesn't mean you have to leave things behind forever.

We *do* make choices and have to prioritise. Life is just like that.

I made a choice, to follow the path of law, not music. I was a professional musician in the Opera and Ballet Orchestra at the end of my Arts degree. I left it to finish law. But when children came along the oboe basically went into a cupboard—and stayed there for about (cough) 30 years. I kept choral singing throughout, but the oboe just sat there—until a few years ago when lawyer friends got me going again.

⁹ *My Own Words*, xvi.

There are now two lawyers' orchestras; and I play in both. One played recently at Government House to honour Margaret's appointment as Governor, and a group of us from the other orchestra, of which I am Patron, provided the background music for the Australian Lawyers Awards two weeks ago. We managed to get together a string quartet *and* a wind quintet and we thought we'd be happily invisible and inaudible while people ate their dinner: contented wallpaper, in other words. We were a bit shocked when we arrived to find that we were on the stage, indeed *centre* stage, and had individual mics. What a hoot! And a lot of fun. I encourage any of you who have these secret orchestral pasts and inklings by saying that there's plenty of room in Sydney's Lawyers Orchestras.

So, if I were to tie together the threads of these various observations, my 'trifle', it would be to say:

- Identify your 'departments'
- Don't fret, and
- In powering ahead, make sure you look out for your sisters—
younger, older—don't leave them behind
- Celebrate older women and embrace your own older selves,
where you may find the room to pick up things you may have
thought you'd abandoned forever.

And I pay my tribute to *all* of you, *wonderful* women! And to your 'constant uplifters'.