

Mason on Gaudron

Being an extract of Sir Anthony Mason's speech launching *From Moree to Mabo – The Mary Gaudron Story* by Pamela Burton (UWA Press, 2010)



That Mary has had a great and beneficial impact on the law and the practice of the law cannot be doubted. She is a fine and principled lawyer who has been a resolute defender of the rule of law and the values of the common law. She is noted for her insight into constitutional law and her command of administrative law and criminal law. Mary has fought vigorously for equality of opportunity and treatment of women in the law and she has taken up other causes where she has perceived that injustice has been done. Though a strong opponent of discrimination against women, she has been equally strong in her insistence on merit-based advancement. One of her very important victories as a barrister was in appearing for the Commonwealth before the Arbitration Commission

in what was known as the 1972 'equal pay decision', a major step on the road to equal pay for women.

Times have changed. When I entered the Faculty of Law at Sydney University at the end of World War II there would not have been more than 30-40 females in a year of over 300 students. Now female law students outnumber male students in most, if not all, law faculties in Australia.

That situation is not replicated at the Bar which remains a male-dominated profession. And this has consequences for the judiciary because it is from the bar that most judicial appointments are made. The imbalance was even greater when Mary Gaudron was at the bar. Only a woman who had her courage and determination could succeed as she did and follow in the footsteps of that notable Australian Dame Roma Mitchell in South Australia.

It has been suggested that Mary's outspokenness in support of equality for women may have hindered rather than helped her own advancement. You should read the account in the book of her controversial speech at the annual Bar Dinner in the early 1970s. David Bennett is reported by the author as saying:

Whether or not [her] speech advanced or impeded her career prospects must be left for her biographer to explain.

The answer to the Bennett question must be a resounding negative. Mary was appointed a deputy president of the Arbitration Commission some three years later and, in 1981, New South Wales solicitor general. Her appointment as solicitor general, followed by that of Keith Mason, coinciding with the appointment of John Doyle in South Australia and of others in the other states meant that quality of state representation in the High Court was extremely high.

The biography paints a vivid picture of Mary's personality largely through her words and actions. Her personality is described as 'formidable'. She is described as having 'tantrums'. I was not aware of them being directed at me or perhaps I have forgotten them. In my experience, while always vigorously maintaining her own view, she was an extremely co-operative member of the court and would volunteer to do things beyond the call of duty.

Pamela Burton's biography is the story of a career full of life, incident and achievement, of a female barrister who started out without any advantages except ambition, determination, a first-class mind and nimble tongue – mind you, they are themselves advantages which few of us possess - and who became the first female Justice of the High Court and a very fine one at that.