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A JUDGE'S ATTEMPT TO EDUCATE THE EDUCATORS AND GRANDMA TO SUCK EGGS

by the Hon Justice Margaret McMurdo*

Thank you for inviting me to speak with you today. I have enormous respect and admiration for dedicated teachers and this makes it delightful to be breakfasting with you this morning even though I loathe going out for breakfast. Like most of you I would rather be home at 7.00 o'clock drinking my coffee and spilling my muesli over the Courier Mail. Even domestic chaos and chores are preferable to arriving in the city on an empty stomach, finding a park and attempting to make, if not sparkling, at least polite conversation with others. We are now, however, well-fed with our caffeine levels topped up but, somehow, it's still harder to get a laugh at making an after-breakfast speech than at an after-dinner speech. Can't think why?

Not so very long ago a judge would never have addressed a function like this. During the early part of the 20th century most judges saw their appointment as bringing with it substantial retirement from the world and public and social isolation to avoid any suggestion of compromise in judicial decision-making. In 1955 the Director-General of the BBC suggested to the Lord Chancellor, Lord Kilmuir, that senior judges might participate in radio programmes about the great judges of the past. The Lord Chancellor's response to that request became known as the "Kilmuir Rules" and provided guidance to English and other common law judges as to if and when they should speak publicly outside the court room. Lord Kilmuir refused the BBC request because of "the importance of keeping the judiciary … insulated from the controversies of the day. So long as a judge keeps silent his reputation for wisdom and impartiality remains unassailable: but every utterance which he makes in public, except in the course of the actual performance of his judicial duties, must necessarily bring him within the focus of criticism. It would moreover, be inappropriate for the judiciary to be associated with any series of talks or anything which could be fairly interpreted as entertainment … ".

So I hope you're not expecting to be entertained this morning!

Lord Kilmuir's statement seems curious and dated today. First, he exclusively uses the male pronoun: there were no female judges in 1955 in England or Australia; today the community is surprised if a court does not have some women members. Second, judges today frequently speak to community groups such as this because judges recognize the importance of communicating with the public to foster confidence in the courts by ensuring the community understands the role of the judiciary as an essential arm of democratic government and the

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role of judges in administering justice according to law. Public confidence in and understanding of the judiciary, even when judges make unpopular decisions, is the essence of what the Chief Justice of the High Court of Australia, the Honourable Murray Gleeson, refers to as "judicial legitimacy".[1] Of course judges must not neglect their core function: hearing and deciding cases in a timely fashion and administering justice according to law. Public confidence must be earned by the regular work of judges in the court room, which is performed in public, and in the publication of their reasons for judgments. This is our greatest opportunity to communicate courteously, rationally, efficiently and fairly with court users and the public. Some judges and commentators still believe that judges should not publicly explain the judicial system through speeches, media interviews and articles, arguing that this emphasizes the individual personality, the very thing the legal process and court dress aim to diminish.[2] Whilst conscious of that danger and appreciating that judicial legitimacy is best and primarily maintained by judges publicly performing their core function, the delivery of timely justice according to law, the community and the judiciary can only benefit from judges who make time in their busy schedules to enhance public understanding of the role of the judiciary and the courts through extra-judicial speaking or writing.

The Supreme Court of Queensland Library offers a flexible tailored program for schools and community groups which regularly visit the courts. They are usually addressed by a judge before observing court proceedings. The courts, with the assistance of the profession, have produced a quirky, fun, educational video and CD-ROM "Joel's Little Mistake" which is available to schools and other groups through the Supreme Court Library in DVD, CD-ROM and VHS format; it is aimed at the 15 to 17 year old, upper-secondary school level. The video and text format is also available on the court's website: www.courts.qld.gov.au. Each Queensland Day, 6 June, the court conducts regular public tours.

Despite this judicial community reach out to educate the public about the institution of the judiciary, there are firm limits upon judges who speak in public. First, a judge should never publicly discuss a case which the judge is hearing or in which the judge has delivered judgment. A case is heard and decided upon the material before the judge in open court; the judge gives public reasons for the decision which is usually subject to an appeal process. Public discussion by the judge risks the appearance of involvement of extraneous considerations and may obfuscate the judicial reasoning process.

Second, when speaking or writing extra-judicially, judges must be cautious not to breach the doctrine of the separation of powers. In Australia the judiciary is not elected and it is for the legislature to enunciate policy and the legislative means to achieve it. The judiciary's role includes the interpretation of laws passed by Parliament and it is essential to a working democracy that the legislature respect judicial independence. In return the judiciary must respect and be seen to respect the autonomy of the legislature and executive. It would be quite wrong, for example, for a judge to be a member of a political party or to publicly support a political candidate.

Third, judges' public statements must not lead to a perception of bias or lack of impartiality which could require judges to later withdraw or recuse from hearing and determining cases, after all, their core function.

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1 Gleeson, *Judicial Legitimacy*, Australian Bar Association Conference, New York, July 2000.

2 See for example, Dawson, "Judges and the Media" (1987) 10(1) *University of New South Wales Law Journal* 17, 17 - 18.

An example of how careful judicial officers must be in speaking publicly was when Justice Kirby in an address in 2000 on the occasion of his receipt of an Honorary Doctorate from the University of South Australia argued for a more generous allocation of the education budget for public schools. This view was shared by the Federal Opposition although Justice Kirby did not mention Opposition policy in his speech. The Prime Minister, the Federal Attorney-General and others criticized the judge for involving himself in a partisan political debate. The Opposition supported Justice Kirby, noting that judges were in a good position to comment on social issues; a Labour Government would be prepared to listen to reasoned debate on social equity issues, but cautioned: "If a member of the judiciary came out and attacked a specific government programme, there may certainly be questions as to whether that was appropriate".[3] I am far from persuaded that Justice Kirby's comments breached the doctrine of separation of powers; in context, his comments about desirable trends for the funding of secondary education in Australia were not inappropriate at a ceremony conferring university degrees. His address contained no overt political references, was not made during an election campaign, was well-researched and provided a useful intellectual contribution to the important social issue of education funding in Australia. The incident does well illustrate, however, the tightrope to be walked by judges who speak publicly.

I will not be discussing any party political controversy this morning but wish to reflect on and celebrate how far we as Queenslanders have come, with particular emphasis on educational and legal perspectives, since we first separated from New South Wales in 1859 and became a colony. Then women could not vote and nor could they become lawyers. Women had only recently earned the right to own property after marriage. There were no secondary schools and 70 per cent of children aged between five and 15 years had no formal schooling. The prevailing 19th century view was that educating the masses, and especially women, beyond elementary level was not desirable. Wealthy parents sent their sons to colleges in New South Wales or home to the mother country, England. Those educated sons became society's elite.[4]

Sir Charles Lilley, the Member of Parliament representing Fortitude Valley, and his supporters, recognized that the new colony of Queensland needed a strong educational base if its future was not to be jeopardized by a shortage of properly trained professionals to guide its future development.[5] Under Lilley's stewardship, the fledging Queensland Parliament which had its inaugural sittings in 1860 enacted both the *Education Act*, which placed all primary education under one general comprehensive system controlled by the colony's Board of General Education, and then the *Grammar Schools Act*, which allowed for the establishment of a grammar school in any town where at least £1,000 could be raised locally by donation or subscription. Ten per cent of subscriptions were to be used for scholarships.[6] The Act was revolutionary. It was the first attempt by any Australian colonial government to provide secondary education for all who might want it. Ipswich Grammar School was the first secondary school established in Queensland in 1863. Brisbane Grammar School followed in 1869. When BGS opened its doors, many saw it as a replica of the English public school system but Sir Charles Lilley had a wider vision. He apprehended that education was for

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3 B Haslem, "PM's attack on Kirby a first", *The Age* (Melbourne), 2 May 2001.

4 K Willey, *The First Hundred Years: The Story of Brisbane Grammar School 1868 - 1968* (MacMillan, 1968) 2.

5 J A Hancock, "Ahead of his time: Vision that became a Reality" (Speech given at "A Tribute to Sir Charles Lilley 1827 - 1897", Brisbane Grammar School, 16 August 1997).

6 *Grammar Schools Act* 1860 (Qld), s 4.

everybody, not just the elite.[7] It was this radical vision that led him to successfully push for the foundation of Brisbane Girls Grammar School to provide girls with the same educational opportunities as their brothers. He was supported by other local visionaries including the Catholic Bishop of Brisbane, Bishop Quinn.[8] BGGS, the first Queensland secondary school for girls, opened in 1875. In that year, Sir Charles Lilley, who continued to press for revolutionary education reform, was instrumental in having the Queensland Parliament pass the *State Education Act* which confirmed free secular and compulsory education in State schools for children aged from six to 12 years, a milestone piece of legislation which led the world in social justice.

Two thousand and five has been a year of celebration in Queensland.

In January, the Queensland community celebrated the centenary of non-Indigenous women obtaining the right to vote in Queensland elections. Indigenous men were specifically excluded from voting in Queensland in 1885 when Queensland was still a small colony. Similar discriminatory legislation was also adopted in Western Australia in 1893 and the Northern Territory in 1922.[9] In the colonies of South Australia, Victoria, New South Wales and Tasmania, all adult male British subjects, including Indigenous men, had the right to vote, although Indigenous men were not encouraged to enrol.[10] South Australia was the first Australian colony to enact laws allowing women, including Indigenous women, to vote in 1894[11] - a right not fully granted in Queensland for another 75 years![12]

In 1902, the year after federation, the right to vote was extended to many women in Federal elections, but "aboriginal natives of Australia, Asia, Africa or the islands of the Pacific other than New Zealand" were not entitled to have their names placed on a Commonwealth electoral roll.[13] Section 41 of the *Constitution* provided that at least those Indigenous people entitled to enrol to vote at state level prior to federation could vote federally, but this section was strictly construed by the Commonwealth Solicitor-General, Sir Robert Garran, to mean that Indigenous people turning 21 and eligible to vote in a State election after federation were not entitled to enrol to vote federally.

In 1923, Mr Justice Higgins of the High Court of Australia rejected that narrow approach and gave a more liberal interpretation to s 41 of the *Constitution*. The High Court nevertheless found that Jiro Muramats, who was born in Japan, came to Australia in 1893, naturalised in Victoria in 1899 and resided in Western Australia since 1900, was not entitled to place his name on the Commonwealth electoral roll. This was because he was statutorily prohibited from voting in Western Australia as he was born in Japan and so was an "aboriginal native of … Asia or the islands of the Pacific".[14]

The following year in 1924, an Indian-born British subject, Mita Bullosh, who was enrolled to vote in Victoria, was refused enrolment by the Commonwealth electoral office.

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7 H R Cowie, "Charles Lilley and the establishment of Brisbane Grammar School and Secondary Education in Queensland" (Speech given at "A Tribute to Sir Charles Lilley 1827 - 1897", Brisbane Grammar School, 16 August 1997).

8 Hancock, above, fn 5.

9 Australian Electoral Commission, *History of the Indigenous Vote* (2002), 4, 13.

10 Ibid.

11 *Constitution Amendment Act* 1894 (SA), s 1.

12 See *Elections Act Amendment Act* 1971 (Qld), s 6.

13 *Commonwealth Franchise Act* (1902) (Cth), s 4.

14 *Muramats v Commonwealth Electoral Officer (WA)* (1923) 32 CLR 500.

Fortunately, a Victorian magistrate upheld Bullosh's eligibility to vote in Commonwealth elections.[15] The Commonwealth government then passed legislation giving all *Indians* the right to vote in Federal elections[16] but continued to deny that right to many Indigenous Australians and other applicants of colour.

It was not until 1949, in recognition of the sterling war service given by Indigenous Australians, that the Commonwealth government gave Indigenous people who had completed military service, or who had the right to vote at State level, the right to vote in Federal elections.[17] In 1962, all Indigenous people were at last given the right to vote in Federal elections if they wished. But whilst for other Australians enrolment was compulsory, it remained an option for Indigenous citizens; indeed, it was an offence to encourage Indigenous people to enrol to vote.[18] Compulsory voting in Federal elections for Indigenous Australians did not come into effect until 1984[19] (shades of Orwell). Indigenous Queenslanders were not given the right to vote until 1965[20] with enrolment becoming compulsory only in 1971.[21]

Universal suffrage for Queenslanders then is a surprisingly recent development and all the more treasured for the long struggle for it. Whilst universal suffrage was not completely achieved in January 1905 with the extension of suffrage to non-Indigenous women, it was, nevertheless, a giant step towards that goal and one worthy of celebration in 2005.

Queenslanders celebrated another important centenary on the 9th of this month: the right of women to be admitted as lawyers. The event was recognized by a ceremonial sitting of the judges of the Supreme Court which was attended by many members of the profession and the public; by an exhibition curated by the Supreme Court Library in the Supreme Court's Rare Books Room precinct and by the launch of *A Woman's Place*, a book celebrating the history of women in the law in Queensland. It can be ordered from the Supreme Court Library and every school should have at least one copy.

At the risk of sounding like Mr Ripley, believe it or not, in the late 19th and early 20th centuries the term "person" in statutes throughout the western world authorizing admission to the legal profession was widely understood not to include "women". If women were to be confident of their right to become lawyers, enabling legislation was needed. The right of women to be admitted as lawyers was an essential step in enabling women to exercise their full democratic rights. To fully appreciate why, it is helpful to reflect on our institutions of government.

I have already touched on the doctrine of the separation of powers: the separation of the three arms of government, the legislature, the executive and the judiciary to provide effective democratic government, to provide checks and balances so that no one area of government can exercise - or abuse - total power. The elected legislature makes the laws but it is an independent judiciary which interprets those laws and ensures citizens' rights under them are

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15 Commonwealth of Australia, *The Parliament of the Commonwealth of Australia and Indigenous Peoples 1901-1967* (Department of the Parliamentary Library, Research Paper No 10, 2000-01, 2000) 14.

16 *Commonwealth Electoral Act* 1925 (Cth), s 2.

17 *Commonwealth Electoral Act* 1949 (Cth), s 3.

18 See *Commonwealth Electoral Act* 1962.

19 *Commonwealth Electoral Legislation Amendment Act* 1983 (Cth), s 28.

20 *Elections Act Amendment Act* 1965 (Qld), s 4.

21 *Elections Act Amendment Act* 1971 (Qld), s 6.

recognized, doing justice according to law. An independent executive ensures that court orders in respect of those rights are enforced. An independent legal profession plays a vital role in a democracy, ensuring that every citizen has access to the rule of law, which provides equal justice for all regardless of gender, race, skin colour, religion, power or wealth. Independent lawyers are duty-bound to protect and pursue their clients' rights, unswayed by the power, privilege or wealth of others, in independent courts and subject only to their professional duty to the court. This will sometimes involve advocating on behalf of the least popular and least attractive members of society against governments, the rich and powerful or populist views. As New South Wales Chief Justice Spigelman explained at his swearing-in:

> "The independence and integrity of the legal profession, with professional standards and professional means of enforcement, is of institutional significance in our society. It is an essential adjunct to the independence of the judiciary. …
> … a bulwark of personal freedom, particularly against the hydra-headed executive arm of government, which history suggests is the most likely threat to that freedom. The profession, no less than the judiciary, operates as a check on executive power. Indeed, if there should ever be an indication that a member of the judiciary was unduly favouring the executive, the profession would play a primary role in preventing such conduct."[22]

The right of women as lawyers, to contribute to the independence of the legal profession and the jurisprudence upon which the profession and the courts act, is not only critical to the active participation of women in a democracy but also invariably enriches the institutions on which that democracy is based and the lives of the individuals, male and female, within the democracy.

I would like to briefly explain something of the work of the Queensland judiciary. I was privileged in 1998 to be appointed President of the Court of Appeal Division of the Supreme Court of Queensland. This is a stimulating and demanding role. The jurisdiction of the Queensland Court of Appeal is diverse, covering both civil and criminal appeals. For most purposes, the Court of Appeal is the final appellate court, as special leave is needed to appeal to the High Court, the ultimate Australian appellate court. Every case is unique, with its own challenges; it is always important to those directly or indirectly touched by it. The work is often intellectually rigorous. My role as President of the Court of Appeal provides an opportunity to play a part in the good government of Queensland, for, as I have explained, the courts and the judiciary are themselves an arm of government, independent of the legislature.

Every magistrate and judge in Queensland brings to the bench not only their legal qualifications and professional experience, but also their personal attributes and unique life experiences, rather like teachers. In 1990, there were no women judges or magistrates in Queensland. Today there are 25 women magistrates from a bench of 85; six women District Court judges from a bench of 36 and seven women Supreme Court judges from a bench of 24. Four magistrates have an Indigenous or Torres Strait Island background. A number of judicial officers are first or second generation migrants. Increasingly, the composition of the judiciary reflects the qualifications and talents of our multicultural society of Indigenous and migrant Australians, in which women are playing their rightful role.

This diverse body of men and women, the Queensland judiciary, is enthusiastic to ensure the public understands its important constitutional role as an independent arm of government to

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[22] (1998) 17 *Australian Bar Review* 105.

which individuals can turn to impartially enforce their rights against other citizens, corporations or the State. The courts are proud of their tradition of openness and encourage the public to exercise their right to attend court hearings or visit the court precinct.

Judges, like others in modern public life, are frequently criticized in the media. Judges are most often attacked about the sentences they impose, and are frequently said to be out of touch with the community and its values. That criticism is not always fair or informed.

Please do not think that I am anti-media: the media plays a crucial role in democracies like Australia. I have enormous respect for those journalists who fearlessly and impartially scrutinise all arms of government, including the judiciary, in the interests of the protection of democracy and better government. Time and again throughout the world, when the pillars of democracy are shaken, the first casualty is the free press and the brave journalists who work to defend it. Inappropriate judicial behaviour should be exposed to the public by a vigilant media. In the long term, this can only result in a more accountable, stronger and better judiciary. But if the community is well-served by its judiciary, as I believe it is in Queensland, it is essential that the public has confidence in it. Unfair reporting can wrongly undermine that confidence.

Generally, the quality of reporting in Queensland of legal cases by the print media is reasonably responsible, accurate and fair. But certain elements of the media, particularly some talk-back radio shock jocks, find irresistible the easy target of a judge's or magistrate's sentence and unfairly snipe at it. As Jim Killen has said: "They could not report a minute's silence accurately!". It is not demanding, investigative journalism to state only some facts and conveniently ignore others so as to make a sentence for a crime of human interest appear peculiar and to invoke a strong public reaction and media-pleasing controversy. A victim, or the victim's family, will often, understandably, feel aggrieved, even by a measured and appropriate sentence. A judge must balance on the one hand society's and the victim's interest in punishment and deterrence and on the other, society's and the offender's interest in rehabilitation. Unfortunately, complex issues such as sentencing, which turn on the unique facts of a particular case, are too often trivialized by cries for the appealingly simple solution of heavier penalties.

Heavier penalties do not always provide the answer. The punitive treatment of Germany after World War I in the Treaty of Versailles created a milieu of resentment and injustice in which Hitler and Nazism flourished; it is now recognized as a major cause of World War II. Where appropriate, salutary punishment should be tempered by rehabilitative considerations. Interestingly, the prison sentences imposed in common law countries like the UK, USA and Australia are considerably heavier than those imposed in Western Europe. On my visits there I did not perceive that Western European societies are less safe than those in the UK, USA or Australia.

I believe that, in the great majority of cases, if the public had access to all the information placed before the sentencing judge, they would appreciate these competing interests and understand why a judge imposed a particular sentence. The correctness of this view is borne out by case studies which have found that the hypothetical sentences imposed by lay people with full details of the case were the same, or more lenient, than the actual sentences imposed by judges.

In a recent public lecture Judge Robertson of the Queensland District Court[23] demonstrated by reference to Court of Appeal statistics that the Attorney-General appeals in less than one per cent of sentences imposed in Queensland courts on the basis of an inadequate sentence and succeeds in only .25 per cent. Prisoners, on the other hand, appeal in seven per cent of cases on the basis of a manifestly excessive sentence and succeed in just over two per cent. Judge Robertson argues, and I agree with him, that these hard statistics demonstrate that despite the overwhelming focus of media reporting of allegedly "soft sentences" the reality is that the courts are getting it basically right but are perhaps marginally too severe.

Although judges should never be influenced by knee-jerk, uninformed public opinion, they are responsive to sensible, informed, community ideas about justice. Over my 30 years in the law, I have seen a significant increase in penalties for dangerous driving offences, offences involving sexual abuse of children and offences of physical violence, especially armed robbery and domestic violence. There have also been important improvements in the practice and procedure relating to the giving of evidence by children and by complainants in sexual cases. The thoughtful, informed views of Joe and Gina Citizen do count.

It is important to understand that judges give reasons in open court for the sentences they impose. A sentence which is plainly too lenient, too heavy or otherwise inappropriate, or which is unjustifiably inconsistent with comparable cases will be corrected on appeal. The Court of Appeal encourages quality media reporting of cases by ensuring all branches of the media and the public have immediate access to its delivered judgments. I urge you when next you hear or see a media report about a sentencing matter before my Court, the Court of Appeal, which you think seems odd or just plain crazy, go to the courts' website, follow the prompts, read the judgment and reach an informed opinion. If you, your colleagues, friends, families or students are interested in the justice system, visit the courts in person or virtually: they are your courts.

Queenslanders today are infinitely better educated and have more civil rights than in 1859 at Queensland's birth. Leaders in the teaching and legal profession have helped facilitate that change. How fortunate we are now to live in a prosperous western liberal democracy where men and women can contribute to every facet of society, regardless of gender, race, colour or religion, knowing that their contributions will be fully valued, appreciated and utilized. We must remain vigilant to preserve what we have achieved and to continue to meet existing and future challenges.

- Whilst recognizing that we must adapt to live in an age of global terrorism we must also remember that for centuries atrocities have been committed throughout the world in the name of all religions; the overwhelming majority of Australian Muslims wish only to be valued by their fellow Australians and to fully contribute to its peaceful and prosperous democracy.
- The Equity Statistics 2004 Report of the Australian Government's Equal Opportunity for Women in the Workplace Agency records that women comprise only 44 per cent of people in total employment and are more likely than men to work part-time, making up 70.5 per cent of the part-time workforce and 33.7 per cent of the full-time workforce. Men continue to outnumber women in managerial and administrative jobs by almost 3:1. Women earn only 65.1 per cent of male total average weekly earnings and if women in full-time work are

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[23] Robertson, *A Short Sentence - Public Opinion and Criminal Sentencing*, Public lecture delivered at QUT, 31 August 2005.

compared to men in full-time work, excluding overtime, this rises but only to 84.3 per cent.[24]

- Many in this room can remember the 1960s when women public servants and teachers were required to resign on marriage. One of my vivid primary school memories was seeing my Grade 5 teacher in the 1960s reading a letter in tears. She was a single parent of a handsome little boy in early primary. She had separated from her husband but had not then divorced. I found out that her tears were because the letter was from the Department of Education informing her that she was required to resign at the commencement of the summer holidays and apply for re-instatement in January the following year. Things have improved since then but the statistics I quoted do not suggest equality in the workplace is yet a reality.
- In the legal profession, although for decades about 50 per cent of law graduates are women and they win the bulk of the glittering prizes, women remain grossly under-represented as partners in significant law firms, at the bar and in the judiciary.
- Australian men and women continue to grapple with the work/family life balance, especially when their children are small. Studies show that women spend much more time on unpaid care labour than do men and that this imbalance persists even when women have full-time paid jobs. It is certainly true in my household.
- Today, Queensland young people have access to 12 years of free education and the opportunity to pursue tertiary studies. The burden of HECS fees is less than ideal but it is not an entirely unsatisfactory compromise. But only one-third of Indigenous children reach Year 12 at school.[25]
- Globally, of the 150 million children aged between six and 11 not in school, over 90 million, 60 per cent, are girls.[26]
- In 2004, 21 per cent of the Australian prison population was Indigenous although Indigenous persons comprise no more than 2.5 per cent of the Australian population. Indigenous women and young people are about 20 times more likely to be detained in custody than non-Indigenous women and young people.[27]

As educators and judicial officers we still all have a lot of work to do. Thank you for the fine work you are doing as leading teachers in our community. Your job, like mine, is privileged, responsible, and has an enormous impact on people's lives. We all remember our teachers, especially the very good ones and the very bad ones. My Grade 1 teacher, Mrs Goforth, taught me and all my five older siblings at New Farm State School. She handled her class of almost 60 five and six year olds by telling us that she had eyes in the back of her head and could see if anyone was misbehaving even when her back was turned. And this seemed to be true! At the end of the year she shared her secret: she used the reflection in her very thick glasses as a mirror to watch and catch out fidgety and talkative Grade One-ers. Even bad teachers do some good: some of the injustices inflicted on me by unfair teachers helped me develop a love of advocacy and a desire to

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24 Australian Government Equal Opportunity for Women in the Workplace Agency, *Equity Statistics 2004* (Commonwealth of Australia, 2004) 2.

25 Australian Bureau of Statistics, *Australian Social Trends 2002* (ABS, Cat No 4102.0, 2002) 111.

26 J Shapiro, "Girls' Education: A Top Priority for the United Nations", *The Zontian*, 2004-2006 Biennial Issue Six, October 2005, vol 86. No 3, 12.

27 Human Rights and Equal Opportunity Commission, *A Statistical Overview of Aboriginal and Torres Strait Islander Peoples in Australia* <http://www.hreoc.gov.au/social_justice/statistics> at 11 November 2005.

speak out to see justice done. I also shared with my siblings a wonderful Grade 7 teacher Ms Suttee. She would tap one foot and chant the following mantra at least once every day. It provides a fitting end to this judge's attempt to educate the educators: "The more you learn the more you realize how little you know".