

## Launch of the Fay Marles Equal Opportunity Sub-Fund

7 August 2013

I want to start with particular thanks to VWT, for their constant and strategic work on behalf of Victorian women. Your work in campaigning to restore respect in Australian politics, your website designed to encourage young men to have respectful relationships with women and your media and research presence as a voice for women is all to be commended.

Over the years the Victorian Women's Benevolent Trust has provided for more than 400 grants that invest in social change. These small grants make such a positive difference in the lives of so many women and groups that work to improve the status of women in our community.

Tonight is entering another phase for the Trust.

In the same way that women over the ages have fought to establish their economic independence, a room of their own, the Women's trust is seeking to firm up its financial independence for the future too.

It has over recent years launched a number of funds for specific purposes, which attract donation, bequests and generous philanthropic support to keep doing its marvelous work. So far it has raised over \$3.5 million to investment in identified, strategic areas of work.

Tonight is a chance to take another step – and to do so in honor of a woman who cut a swathe through the jungle helping line a path forward for those of us to follow.

Tonight is the Launch of the Fay Marles Equal Opportunity Sub-Fund.

The Fund is being set up by the Victorian Women's Trust to provide support to community groups and individuals in three key areas:

- Leadership training to increase young women's working knowledge of equal opportunity legislation, structures and processes;
- Research regarding loopholes and gaps in equal opportunity legislation; and
- Education and engagement on equal opportunity issues in workplaces, organisations and the broader community.

These three purposes of the fund are extremely important and will provide a valuable resource for Victorian women into the future – your generous donations can be targeted to this particular part of the Trust's broad work.

So it is an exciting time for the Trust and INDEED it is indeed an historic time to be a woman.

It's a time where we can tell our daughters, with all honesty, that women in Australia can do anything.

We have come to a happy point in our public life where now we can look around and see that there are women in every field of endeavor and that there really isn't the need to limit the dreams or our hopes of our daughters.

As a carer, a lawyer, a production worker, a scientist, engineer, politician, designer, writer or whatever – there are no limits that we need to put on our daughters' dreams in any way.

The symbol of women filling high and powerful offices has been achieved. Remember it wasn't long ago that many of these offices had never once in our history been filled by women. We now have, or have had, a female Governor General, a female Prime Minister and a female Attorney-General.

In fact, I recall a funny anecdote of Julia as PM going to a primary school with a local MP, also a woman, and being asked to talk to the class about work, their hopes and aspirations. Along with the usual mix of teachers and rock stars, quite a few girls told Julia they wanted to be Prime Minister like her. When the teacher encouraged one usually boisterous little boy to tell the PM what he wanted to do, he quipped, "Oh but boys can't be Prime Minister in Australia" !!! What a turnaround!

So role models do matter – but they are only ever a small part of the story.

At the same time, no-one joins a social movement or political party just because they want to be “the first” to have done something, and then have it end there. I for one, am proud to have been the first female Attorney General in Australia but I’m interested in what we do to support and encourage the second, the third and the fourth woman too, whether it is an AG, PM, GG, a pilot, chief scientist or anything else.

We can take inspiration from Julia’s words delivered with characteristic poise on the night of the change of Prime Ministers – “It will be easier for the next woman and the woman after that and the woman after that, and I’m proud of that

In this particular regard I also personally want to thank the Trust for its work examining the media, debate, commentary, language and treatment of Australia’s first female PM. The “A Switch in Time” campaign was vital in helping to call out some of the commentary for what it truly was – and your ads in the paper on Friday 5 July 2013 were so enthusiastically received that you then also published these in Italian, Greek and Chinese newspapers with donations that had spontaneously flowed in.

For those who haven’t read it, you should. Similarly Anne Summers article in her new online magazine and Kerry Ann Walsh’s book make excellent reading too.

I suspect historians, researchers and social analysts will pore over this era into the future and find all sorts of interesting anecdotes and statistics for the period of our first female Prime Minister. Of course, they will do this with more distance and perspective than I can possibly bring to bear tonight.

I hope when they do this they consider policy and politics, real delivery as well as the politics shenanigans. In this way – a truer picture will be told than what we see now. I also hope political commentators will note the confluence of events – having a first woman PM, at the same time as having a minority government and also at the same time as we’ve had one of the most aggressive and irresponsible opposition leaders.

When we look at this altogether, we’ll see a strong and poised, clever political operator who got some incredible things done – in the most challenging of circumstances.

I think time will tell the story of the cause of women being well advanced in these recent years – but the journey is far from done.

But, given an election has just been called this very week, and I am not a candidate in this election, I think it might be best if that is the extent of political commentary I provide tonight!

The purpose tonight is a broader and higher one than this moment in current political history.

We are here to honor a remarkable woman, a strong woman and determined trailblazer, Fay Marles.

And to launch a fund that will support those women and organizations working to take Fay’s legacy to the next stage, for the coming decades.

So this particular focus of this fund makes it a great opportunity to ask the fundamental questions – what do anti-discrimination laws protect against and why? How has society accepted these laws, and have they worked? Have they changed or improved our environment?

I must confess that my starting point is that for laws that have been around in Australia now for over 40 years, it is surprising that discrimination and equal opportunity remain concepts that are so commonly misunderstood. In fact, it is almost breathtaking.

At the most basic level – everyone gets it is:

- Treat people fairly on the basis of their ability.
- Don’t exclude or judge people on attributes they can’t control, like race, gender or age.
- No one any longer thinks it is Ok to exclude qualified women from professional jobs.
- No-one thinks you can decide you won’t employ people of a particular race in your restaurant.
- Or that it is Ok to “retire” women from the public service once they marry.

- You can't pay superannuation to your male staff but not your female staff.

There is a long list of extensive changes that are so well accepted that if you told most people under thirty that these practices used to apply you'd get that "You're kidding, aren't you?" perplexed answer back.

But all of this was not a given when Fay Marles began her work as the State's first Equal Opportunity Commissioner in 1977.

The idea was born from an international movement. When 1975 was declared International Women's Year, of course social change was already well underway, but I don't think many foresaw the breadth of what would come from this.

While many ideas were floated and discussed, one concrete outcome was the idea that legislation could be introduced in parliaments across the globe that aimed to eliminate discrimination on the basis of sex and marital status. Although a legal device – it would have extensive reach for women across so many areas of work, public service provision, education and life generally.

So, this exciting area of law reform and social change was born - Victoria was the third state in Australia to introduce such legislation, following New South Wales and South Australia.

The Victorian Equal Opportunity Act 1977 was passed with a stated purpose: "to render unlawful certain kinds of discrimination on the ground of sex or marital status, to promote equality of opportunity between men and women."

Discrimination was defined as "less favourable treatment."

Part of this complaint-based legislation involved the creation of the Equal Opportunity Board who would hear complaints of discrimination and an Equal Opportunity Commissioner who would receive such complaints.

Fay, like so many women before and after her, thought her application for this position as a long shot! But after a number of interviews she was the successful candidate and started in her new role in November 1977.

We'll explore more of this later – how her work changed the world we live in. How what was once normal is now decidedly not.

And how she used her brains and cunning and social skills and pure guts to get the law recognized, and got people to change the way they worked and thought.

Fay, and her small team from those days, must delight in the things we take for granted now.

We take so much for granted that there can be funny moments too. I remember giving a speech in Canberra at a conference as health minister and when we opened for Q & A the first question (as it almost always was) asked how I managed the heavy portfolio load and being the mother of a young child. I started to answer with a shrug and said "Luckily I have broad shoulders ..." when a woman at the back interrupted and called out "And great breasts"! there was a shocked intake of breath till we all remembered we were at a breast feeding conference and this was just a bit of friendly banter!

More seriously, at the more structural or indirect discrimination level, I don't believe we've moved quite as far as Fay might have hoped. We certainly haven't moved nearly as far as I expected, in my comparatively short time working in this broad area.

In 1984 the Equal Opportunity Act 1984 widened the grounds for discrimination, broadening protection beyond women. Interestingly, though, it was not these broader grounds that were hard for people to fathom – it was indirect discrimination, or barriers that were not so plain to see, that became the tricky area of law – and still is.

More subtle form of discrimination are very challenging, it seems.

Even the brightest of people often do not grasp how discrimination, sexism, racism or more affects people:

- How disempowering and corrosive it can be.

- How it sets out deliberately to diminish authority and sideline the real issues.

And sadly when this is played out on a public stage, like racism, it can be popular. We've seen that with Pauline Hanson. Being popular doesn't make it right, and all community leaders, commentators, business people and others need to consider whether they have stood up enough against this.

This perplexing problem, in my view this stubborn lack of understanding, is going to be central to my speech tonight.

I want to ask the question why it is that the concept of discrimination and equal opportunity are so hard for so many to grapple with?

I want to look at the life and work of Fay Marles – starting at the fascinating beginning of this area of law reform, acknowledge her bold sense of purpose and good choices which helped change so much and track some of the changes since then.

Of course, my thesis will make the ultimate point that there are still vast amounts of work to be done – work which you can help support but donating to this new fund!

It will emphasize how the Fund being set up by the VWT in Fay's name and honour is needed to support the many projects, groups and ideas that need more nurturing, or that are still in gestation.

I was especially delighted to be asked to give this speech because for well over twenty years, this is an area I've been passionate about – studying national industrial laws to see if their application was discriminatory or not, acting as an industrial lawyer for individuals primarily in employment contexts, helping unions write their sexual harassment policies - and of course most recently as a legislator and the Attorney General.

So I was absolutely thrilled to be asked to speak in honor of a woman whose groundbreaking work came BEFORE all this.

Fay commenced her work in the anti-discrimination field before people really even knew what the concepts were or how the law would apply.

Even the concept of "less favorable treatment" people found hard to grapple with. Could you really compare a man's position, going into an area that had never had women?

Fay's autobiography, 'Aiming for the Skies' talks of the awkward and often hostile social animosity to her during this period – of men complaining to their wives about her - often to then find them sympathizing with and supporting Fay!

Fay's good sense and persistence, her strategic choices and ability to find champions to the cause paid off.

I don't imagine Fay instantly knew what she was getting herself into when Deborah Lawrie first walked into her boardroom, but it can't have taken her long to see its potential. Those were the days when it was very easy to get appointments with people directly and Deborah was Fay's last appointment for the day.

While those of you here who are students of equal opportunity law will be familiar with the case of aspiring pilot, Deborah Lawrie, and Ansett Airlines, let me give others the brief basics.

In 1978, Deborah had applied to be a trainee pilot with Ansett, but was refused admission to the training program on the grounds that she was a woman. She had, however, already excelled in her practical tests - with her performance rated as excellent and there was no technical reason for denying her entry into the program.

I would have loved to be a fly on the wall at Fay's meeting with Sir Reginald Ansett a few days later. After Fay had explained Deborah's case as it had been presented to her, Sir Reginald with great passion and detail outlined how women were unsuitable to be pilots, referring to the 'emotional and physical characteristics of women'.

In her book Fay recalls that Sir Reginald was very uncomfortable with her matter of fact discussion of menstruation and thought it distasteful. You can only imagine what Sir Reg said at the club that night!

Fay knew this case was clearly discrimination on the basis of gender. Deborah was determined to take this further, and Fay could easily see how this case would put her new role as Equal Opportunity Commissioner on the map. And it certainly did.

The case was heard before many various courts over the coming 18 months including the Equal Opportunity Board, the Supreme Court, the Court of Appeal and the High Court.

Each time Deborah restated her case that she wanted to be a pilot, produced her excellent results and repeated that her gender was not a factor.

After various hearings, appeals and re-hearings, the courts determined in favour of Deborah Lawrie and she was permitted to join Ansett's ranks as a pilot.

Fay and the Equal Opportunity Commission had been at her side all the way.

The pilots case had an explosive impact.

It was such a perfect and clear example of unfairness, and ultimately easy to understand, given the good evidence about how well Ms Lawrie had scored in tests and practical examinations.

But even with this, and even with willing employers, people found the laws hard to apply in lots of contexts – to always know what was fair and what wasn't.

Not everything had tests and exams that differentiated as clearly as the pilot's tests.

In my practice as a lawyer there were clear cases, often so clear that some were likely also to have been breaches of the criminal law. I remember the TAFE tutor who had her boss propositioning her constantly, even sending her semen stained letters, or the owner of the pizza parlour who demanded a young woman take off the company t-shirt before going home, even though this left her just in her bra to walk home at night through the streets of Bacchus Marsh.

I do remember the amazing strength of some women. One exploited migrant woman production workers, was even able to be amused by the astounding denials from her supervisor he was not forcing her to have sex with him in his office. He was emphatic that they were not having sex at all, and I wondered how this case would progress. I couldn't quite understand my client's relative calm in face of this horrid situation until she mentioned in discussions some rather unique markings on his rather private parts! Once I was armed with this information, the case settled generously and quickly, much to my relief as the thought of requiring a "show and tell" in hearings did not really appeal to me!

But there were thousands of trickier, more subtle cases too:

- Where the actual cause of poor treatment was harder to identify;
- The exclusion from decision making,
- Policies that locked out women but were made to look like a legitimate job requirement; or
- being given the worst shifts; or
- Small slights repeated day after day after day.

These were not overt policies to block women, or indigenous people or those of other races – but policies and practices that indirectly had that impact. Or structurally had it.

I couldn't, for example, win a case against the casino for a brain damaged client whose slurred speech and uneven gait, led bouncers to refuse him entry as they thought he was drunk.

Nor could people always see how many small slights, insignificant on their own, could mount up to substantial and persistent discrimination.

I guess a very contemporary example of this is looking at Julia's misogyny speech and the fact that it resonated so strongly with so many women around the world.

It IS true that awareness about treating people fairly or not stereotyping those of different races, gender, age or religion has grown exponentially. Fay's groundbreaking work has moved the community in a multitude of ways.

That the world of work, in particular, is far more embracing of change and of difference than before. Many thousands of workplaces are now free of the overt discrimination that Fay first battled like that in the pilot's cases.

But there are still significant, direct problems in lots of fields.

Just talk to women engineers or scientists or tradespeople or soldiers– breaking into non-traditional areas is still a big challenge for a lot of women. And it is the same issues again, just in a different setting.

On top of this, add the commonly held view that “feminism has done its work”, so there is no need to “bang on about it any more”. And these age old problems in new setting are just as hard to tackle as they were when Fay began her work.

And the ready line telling women not to “play the gender card” has also created a climate of backlash, making complaints difficult, even when women have legitimate issues to raise. Similarly cries of “political correctness” can silence people quite unfairly.

You don't have to scratch the surface too far to find persistent problems. In the housing market, in car sales, in defence, in the media, in family law – we see all sorts of unfair treatment persisting.

Another example of subtle different treatment men and women received was the commentary along the lines of Julia having “let down women”, that she was a failed experiment as a woman leader. Similarly this was said at my resignation, that I was letting down working women by even mentioning my desire to have more time with my family.

Lets examine this further, but when have we ever heard even the most hopeless man be accused of letting down his gender?

In my situation, despite a very clear and detailed statement about the pride in my record and the expansive achievements in health, or my work as the first female AG, most of the media coverage that followed my resignation was about work and family balance.

I don't object to this – my family is vitally important to me, part of who I am and a key reason for my retirement. But it was only part of the story – and like my whole political career, there has been more interest in this than in actually policy work or political achievements.

All this reminded me of candidacy of Mal Maninga, as a study in contrasts. He is a well known former rugby player, hero amongst men – a real bloke's bloke. He put his hand up to run in the ACT elections in 2001 and fronted for his first interview on ABC radio with Chris Uhlman. Mal was asked why he was running to which after a long 15 seconds or so of silence, he replied, “I was....., I'm buggered. I'm sorry. I have to resign.”

This was a spectacular political moment that many of you may have missed as it was in ACT politics. His candidacy lasted not even one interview BUT was he accused of letting men down? Rugby fans? His family? – not a word of this. It was a stunning rethink, a stunning backflip and totally embarrassing – but nothing about this its impact on men was seen or heard.

When this sort of different treatment is built into every day life it is no wonder that some people can't cope well with what “differential treatment” means in a legal sense.

In my view our deeper understanding of what the actual laws require are hampered by misconceptions about the breadth of the law, so public engagement if vital and the Trust does this magnificently.

These misconceptions are often fed by common chat – passing jokes about discrimination against the broccoli eater, or those who dress in black or some silly irrelevance that inevitably seeps into our social norms, but ends up devaluing the seriousness of the real issues, bringing the concept of discrimination into disrepute.

I was interested and delighted to see the Commonwealth Race Discrimination Commissioner's work culminate last year in the launch of a "Racism, it stops with me campaign". Interestingly, it wasn't targeted at the employer or the service provider – but at you and I, at friends, at colleagues and team mates.

Its central call to action was not about the direct denial of an employment opportunity or refusal to enter a bar – it was about not standing by quietly when you hear a racist joke, not letting others rant and rave, even if their rant was not aimed at you, it could have untold harm on someone else.

Recent stories of a French woman in Melbourne subjected to racial abuse while riding a bus, or two Indian women who were followed by a woman screaming racial epithets, have brought this home. This type of conduct is unacceptable and to our credit as a nation, reactions to these events show that the vast majority of people in our community do not accept it.

A similar approach has been adopted in the new domestic violence campaign. These campaigns aim to change social norms, to not just put legal protections in place but also to help move what we as a community think is acceptable.

And I really think they are vitally important part of change for the good.

We've just taken another step with our investment and innovative leadership in a National Domestic Violence strategy. A new foundation was launched just last fortnight – the Foundation to Prevent Violence against Women and their Children, and initiative of the Australian and Victorian governments. The role of the Foundation is to drive cultural and attitudinal change to prevent violence against women and their children from the ground up through community engagement and advocacy – it is being chaired by former Democrat Senator Natasha Stott-Despoja.

The Foundation will, at a national level, bring together the vital work being done to prevent violence against women and their children. It aims to strengthen engagement on these issues across the broader Australian community, provide opportunities for community leadership as well as support future work in primary prevention.

So although there is so much to be done, we mustn't forget to reflect how much has changed for the good, as well.

When you read Fay's book and hear about those tough early fights, even struggling to have her position and the Commission take seriously was a challenge. So much been delivered for women since those early days. But of course there is a lot more to tackle.

You may think it is shameless promotion, but I couldn't speak tonight without being able to tell you a little bit about my pride being part of a Labor Government that delivered so much for women.

There will be those of you here tonight that vote Labor or Liberal or Green or maybe even for Clive Palmer or Bob Katter (but I'm taking a wild guess that these last two might be less likely!!) and that is fine.

Nevertheless, facts are facts, and I think it is important to spend some time, if not a lot, looking at the range of social issues the Government has acted on over the last six years, especially as people ask me all the time, as they have again tonight, if I think that being a woman in parliament, or having more women in parliament, actually changes things.

I personally believe, and strongly, that having an historic number of women in the cabinet it has helped to ensure in Australia that many issues that have been neglected over the years have been addressed or tackled. We're proud of the active decisions, like appointing a female Governor-General, they have enormous symbolic impact. But I'm also very proud of the many practical changes, too.

The changes we have delivered are starting to make a big difference: 270,000 women across Australia who've taken parental leave already, the pay equity decision means that now 150,000 of Australia's lowest paid women workers are seeing pay rises of between 23 and 45 per cent.

And even changing the tax-free threshold so that now you can earn up to \$18,000 a year before you pay tax, is something with an impact that is particularly on women.

One of the most exciting things that is on the agenda now that will have a very big impact on women is our National Disability Insurance Scheme. The disability scheme is part of our broad justice campaign to ensure that those 220,000 people who are co-resident as primary carers for a person with a disability actually get the support that they deserve.

Seventy per cent of those carers are women. Over 150,000 women.

I truly believe that having women in leadership and senior roles has turned into action for us – on this but also so much more – from industrial relations, to child care support, family law or stamping out sexism in the defence force and much more.

As some issues get tackled after decades of campaigning, other new areas of growing interest pop up, one being age discrimination, against young and old. Elder abuse has been added to child abuse as a much neglected area.

And it is a different frontier with different sensitivities than laws that apply in public or semi public places like workplaces, shops, schools and public services.

10 years after I first proposed it in Opposition, I'm delighted we now have a national Children's Commissioner, although decades after the states.

While the new Royal Commission into child abuse in institutions is expressly not focused on violence or abuse in families, I'm actually quite optimistic that the work will ultimately entail recommendations that help more broadly in the protection of children.

For example, perhaps how we take evidence from children, how we react and trust, or don't, information that would not meet our existing rules of evidence will be considered. If we want to better protect children we need ways to challenge assumptions that we always believe an adult before a child – whether in day to day life or in courts.

Whilst the focus of the Commission and centre of being is around children, the harsh truth is the importance of this for women is undeniable.

I believe it is the start of something really big.

People will have different views about the cost and time of undertaking a Royal Commission, but I am now convinced and am firmly in the camp that believes the whole process of the Royal Commission is an important part of discovery and healing that would not be achieved by just legislating.

I don't believe the shift in thinking and social change that clearly is needed to go with any change to our laws would be accepted or adopted by the community, churches and other organisations or governments, without this process being undertaken.

Which is an interesting comparison, since we are focused tonight on the realm of law and social change, and questions about what really drives change.

How we use laws, or don't, in our society is often a fault line between Labor and conservative parties.

There is no denying that as a Government we have often used laws to help deliver change – and we are often criticised as a Labor party for over regulating.

But ask yourself this question - how would many important changes ever be achieved if we didn't?

The law is often key to delivering change – whether it is allowing pay equity cases to be brought, or family law emphasizing children's safety or criminalising forced marriage, or protecting witnesses in sex slavery cases, not to mention equal opportunity legislation that is the focus of tonight.

Those who think this is overly interfering seem to have forgotten the purpose of making laws and of governments.

Then again, I'm the one who gets called "nanny Nicola" so who am I to say??

The point I'm bringing this all too is that laws matter. Equal opportunity laws matter. The way they are administered matters. The way they are debated matters.

And in order to honour Fay Marles' amazing early work, generation after generation of women need to continue to assess where we've got to, what needs improving, what needs new action, what needs funds and campaigning and what laws might need to change.

And all these next steps need funds – money that you can help raise by donating to the Fay Marles sub-fund for this very noble purpose.

Thank you all for coming tonight and it gives me great pleasure to declare the fund open, and invite you to contribute.