Victorian Women Lawyers Achievement Awards 2005
Thursday, 2 June 2005

Acknowledgments:
- *Traditional custodians, people of the Kulin Nations*
- *Members of the Judiciary, Distinguished Ladies & Gentlemen*

In the 1908 Commonwealth Law Review, Flos Greig wrote:
"The first women lawyers are hardly likely to make their fortunes. The pioneer never does. The first man that finds his way into the primeval forest exhausts his strength in clearing the ground; the second... sows the seed and erects the buildings; the third...comes along and reaps the profits of another's labours."

As this audience is well aware, Flos Greig was certainly a pioneer. Over 40 years she cleared the ground *and* sowed the seeds, becoming the first woman in Australia to be admitted to practice in 1905, only after legislation removed the restriction of gender. That it took a further 16 years for another woman to be admitted indicates the resistant nature of the soil she ploughed, but women like Greig and then Joan Rosanove were the first among many whose labours and talent cleared the way for a profession from which we are all, male *or* female, now reaping the profits. More than 100 years since Greig became its first female practitioner, the profession is recognising that the expertise of women is something to be cultivated, rather than merely tolerated, if the law is to benefit from the best and brightest.

Similarly, I am proud to say that Victoria's judiciary is now far more reflective of the community it serves. In my time as Attorney-General, 14 of the 27 Magistrates and 14 of the 27 County Court Judges I have appointed have been women. During the same period, four of the 12 Supreme Court Judges appointed – including the nation's first female Supreme Court Chief Justice, Marilyn Warren – have been women. Despite the controversy that the proposal seems to have generated, I also believe that the acting judges legislation will add further flexibility that can only strengthen the diversity of the Bench.

I wish that, on occasions like this, the good news could be the end of the story. I wish that the deserved elevation of women to senior ranks within the profession went completely unremarked, that the momentum already generated would inevitably and irreversibly lead to genuine equality in the practice of the law. Frustratingly, however, the path to equality seems to be two steps forward, one step back. We've been singing the same tune for a number of years now, but some corners of the profession remain tone deaf. Yes, everyone has the sheet music – they know about the research and the push for equality in briefing practices and work distribution, the policies are in place and the brochures are suitably glossy.

Anecdotally, however, it seems that workplace practices in some firms are getting worse, rather than better. While aggregate statistics may show greater participation by women, they mask the more subtle forms of discrimination. It seems that, having paid lip service to equality and included it in their mission statements, some firms are regressing in terms of offering quality part-time work, family friendly arrangements, pay equity and promotion of women. No doubt the explanations are there – invidious inequities being overshadowed, deliberately or inadvertently, by the looming presence of the bottom line. It is these lurking injustices, these informal barriers that are, of course, the hardest to dismantle.

What can be done, then, in the face of such cultural intransigence? Obviously we must halt the army of talented but disillusioned women who are deserting the legal profession's ranks in frustration at the lack of decent promotion opportunities, the dearth of flexible work practices and a chauvinistic culture that is resolutely stuck in the Jurassic era. The Government can certainly get tougher in its direct sphere of influence and, while the 32 member firms on our Legal Services Panel are reporting increasingly flexible work practices, we're demanding to know not simply whether women are getting the work, but also the nature and quality of that work and whether they are briefed across a range of jurisdictions.

We must also, of course, try and influence those firms not directly courting Government work, or who remain steadfastly unevolved. Over many years in politics, I've learned that it is only once you have tired completely of saying something – once you're reciting it like a demented automaton in your sleep – that it begins to register with the target audience. *We* may feel like the equality message is old news, but some of the primeval forest that Greig started clearing remains standing. At the risk of losing the Green vote with this analogy, then, we must continue to hack at these termite infested attitudes.

As important as this message is, however, we must not forget the bigger picture. We must not forget what the law can do to improve the lives of *every* Victorian woman. To this end, we have been building a substantial foundation, reintroducing pain and suffering compensation to victims of crime and consequently establishing the Victims Support Agency; as well as establishing a Family Violence Division of the Magistrates' Court; and casting the common law's extraordinarily misogynist 'remarriage discount' onto the scrap heap of legal history, to name but a few reforms.

We have, of course, also received recommendations from the Law Reform Commission regarding the law relating to Sexual Offences and Defences to Homicide respectively. Both sets of recommendations are about effecting cultural change in how we deal with these issues, about encouraging people to come forward about sexual crime, about eradicating the propertied concepts of gender that allowed provocation to persist and limited the application of self-defence.

We will be introducing a package of reforms in the Spring session of Parliament which respond to the Commission's recommendations. In respect of sexual offences, we are considering changes which will, for example, prevent unrepresented accused persons from personally cross-examining victims, and

tightening controls on the cross-examination of children and allowing expert evidence about the nature of effects of sexual assault to ensure that judges and jury members have access to accurate information about sexual violence.

In respect of defences to homicide amongst other reforms, we *will* be abolishing provocation. The defence of provocation harks back to an era where it was acceptable, especially for men, to have a violent response to an alleged 'breach of honour.' It has often been criticised for excusing or condoning men's violence towards their wives or partners. Provocation belongs to an era when the man-made law (and it was made by men) treated women as chattels. It is time, then, to bring the law into the 21st century.

Of course, legislative or regulatory reform cannot, of itself, bring about the cultural shift that all of us here seek, whether it be in the realm of sexual offences or within the ranks of the legal profession. It can, however, send a message about the kind of legal system to which we aspire, just as acknowledging the achievements of those here tonight speaks of our collective values. Congratulations to all award recipients and thank you for inviting me to share this celebration with you.