

## WOMEN BARRISTERS' ASSOCIATION

5<sup>TH</sup> DECEMBER, 2003

### 10 YEAR ANNIVERSARY CELEBRATIONS

#### **My dear friends and honoured guests.**

It is my very great delight to welcome you today to celebrate our tenth birthday.

My own daughter is ten next year and like all ten year old girls these days is going on 17. Her maturity astounds me when I think of the gawky, awkward and self-conscious young thing I was and I sometimes wonder what the future holds for our daughters should their own dreams and aspirations be encouraged.

Their's is the future, but today we stop to reflect upon our past, to acknowledge where we are and to begin the process of moving on into the future.

#### ***So where have we come from?***

100 years ago is not a bad starting point.

An Act was passed through the Victorian parliament enabling Grata Flos Greig to be admitted to legal practice. The Act was entitled "An act to remove some anomalies in the law relating to women"<sup>1</sup>

The entire Act fits on to a single page and says in substance "No person shall, by reason of sex be deemed to be under any disability for admission to practice as a barrister and solicitor of the Supreme Court of Victoria any law or usage to the contrary notwithstanding."<sup>2</sup>

The section assumed of course that women were by reason of law or usage under such disability, as was strenuously argued by some in those days in parliament. Women were unable to face the rigors of the law – the long hours and aptitude required to understand judgments, the disposition required to cope with the gruesome facts presented in the criminal law and the strength of character required to boldly confront a hostile witness. They were strangely enough however, fit for childbirth and for keeping hearth and home for those that held these views.

The same year, in 1903 two bills were presented which also reflected the prevailing and legally sanctioned views of the day. The *Bar Maids Bill* restricting the employment of women from the moral dangers of working in public bars<sup>3</sup>; and a *Factories Bill* prohibiting a Chinese person from working in any factory or workplace without a special licence.

Thankfully, our expectations and our discrimination laws have certainly changed in the last century and we believe we have come a long way. Some of us would not have made it this far without bar maiding and factory working.

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<sup>1</sup> Act No. 1837 of 1903, 6 April, 2003

<sup>2</sup> Section 2

<sup>3</sup> Bar Maids Bill p. 257 Hansard

It is extraordinary to think that 100 years ago, during the life of our great grandmothers, that a person should be considered unable to work because they were born of a particular race, because the work was considered immoral, or because they were not born with testicles - or is it?

Our first bar maid, Joan Rosanove signed the bar roll in **1923**. She was our first Queen's Counsel, taking silk in 1965.

In **1976**, our first Victorian woman judge was appointed. Justice Margaret (Peg) Lusink, Joan's daughter, was appointed to the Family Court and nearly ten years later in **1985**, our first County Court judge, Lynnette Schifftan QC was appointed, showing that in those days for a while, the Federal Government was ahead of the State.

In **1987**, Mary Gaudron was appointed to the High Court, and although she is not a Victorian, we feel she was such a champion of women's advancement and such a shining light to those of us at University and in practice at the time that we must include her in our honour roll.

In **1993**, the WBA was formed and its objects have not changed from that day to this. They include providing a network for women barristers, the promotion of awareness, discussion and resolution of issues which particularly affect women; working to identify, highlight and eradicate discrimination against women in law and in the legal system; and working to advance equality for women at the Bar and the legal profession generally.

At about the same time WBA was formed in Melbourne Australia, the backlash against feminist thinking was gathering momentum in the United States.

In a quote attributed to the Rev. Pat Robertson, 1992, speaking at the Republican G.O.P. Convention, the Rev said to the party faithful:

"Feminism encourages women to leave their husbands, kill their children, practice witchcraft, destroy capitalism, and become lesbians."

The feminism WBA embraced was more concerned with women's friendships with each other, our under-representation in the senior ranks of the Bar and our high attrition rates than with deserting our husbands for our girlfriends, killing our children and sharing the proceeds of our potion brewing according to the needs of the collective!

### ***Where are we today?***

In the last ten years, we have seen an incredible acceleration of the pace of change.

Today, there are 280 women in active practice at the bar. Two weeks ago, the junior-most signed and is the 457<sup>th</sup> woman to sign the Bar Roll<sup>4</sup>. If current estimates are correct, we look forward to welcoming our 500<sup>th</sup> woman in 2005. Another excuse for a party!

Today we enjoy strong links with women barristers from other States and territories and have a national voice in the Australian Women Lawyers. In 1997, one of our own members was the founding President of AWL and today, one of our own is the President.<sup>5</sup>

<sup>4</sup> Simone Bingham signed on 20 November, 2003 bar roll number 3674.

<sup>5</sup> Alexandra Richards QC 1997-1999 and Jennifer Batrouney SC 2003

Today, men and women who thought the Association was unnecessary at its creation have become our greatest allies.

Today, we have seen our first woman attorney general<sup>6</sup>, first chair of the Bar Council<sup>7</sup> and others likely to soon follow.<sup>8</sup> Other chairmen<sup>9</sup> have vocally and significantly supported the interests of women through the commissioning of reports<sup>10</sup>, surveys<sup>11</sup> and the creation of working parties and committees to address the issues that arise.

Today, we have a female Chief Justice, a female solicitor general, many female judges and magistrates and tribunal members. We have a female master in this Court. In the last two years, our women silks have increased 7 to 18.

Today, our issues are firmly on the agenda. We contribute to discussions on law reform. We may not be equitably represented in Court room appearances, yet, but we have some significant allies in changing this situation. Our State Attorney has adopted a model briefing policy<sup>12</sup> and has encouraged the Commonwealth Attorney and other state Attorneys to adopt principles of equality in the allocation of lucrative government work. Our Bar Council endorsed a proposed national equality of opportunity briefing policy last night and will take the policy to the Law Council this weekend.

Our Attorney has embraced his responsibility to gender. He said in welcoming the Chief Justice on Monday morning:

“It seems that the complexities, and the subtleties, of issues of gender are lost on some otherwise capable intellects. As a consequence, they are unable to appreciate that, in pursuing the interests of the legal system, ensuring that women are considered for appointment and encouraging the profession to provide opportunities for women to shine and gain experience, we must acknowledge the barriers that women have traditionally faced.

In doing so we are not, as some would have it, doing women any favours. Nor are we appointing women beyond their capabilities. We are simply trying to lift the curtain of invisibility, of direct and indirect discrimination, of baseless assumptions, paternalism and the invidious and territorial fear of difference that greets women at the door of the profession. We are, in short, simply ensuring that, where women were overlooked in the past because of this invisibility, they are considered - on their merits as competent and capable professionals, and on an equal footing with their male colleagues.”

Today, the fortunes of women lawyers are frequently discussed in the press, on current affairs and talk-back radio, in chambers, coffee shops and the halls of power.

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<sup>6</sup> Jan Wade, Attorney General in 1999

<sup>7</sup> Susan Crennan QC

<sup>8</sup> Kate McMillan SC is now junior vice-chairman of the Victorian Bar Council. Michelle Quigley SC is a member of the Bar Council executive and other women are Bar Council members.

<sup>9</sup> Neil Young QC, David Curtain QC, Mark Derham QC, Robert Redlich QC (now His Honour Justice Redlich), Jack Rush QC and Robin Brett QC

<sup>10</sup> Victorian Bar Council commissioned Hunter and McKelvie's *Equality of Opportunity for Women at the Victorian Report* – a landmark report on systemic discrimination at the bar 1998. The Victorian Bar Council established a working party to develop response to Report and Model briefing policy 1998.

<sup>11</sup> 1998 Court survey, results reported in the Hunter and McKelvie Report. 2002 surveys reported by the Victorian Bar in 2003.

<sup>12</sup> Adopted as condition of tendering for government work in 2000; State and Commonwealth Attorneys General resolved to adopt an equality of opportunity briefing policy November 2003 and referred the policy to the Law Council.

Today we have a sense of great anticipation, as we break through 100 years of secret men's business and truly come into our own. What a grand adventure it has been.

***And tomorrow?***

The possibility of true equality, where gender is no longer an issue, lies ahead.

How nice it would be in the long term for WBA to be consigned to history as a powerful catalyst for change, but no longer necessary.

But in the short term, we must continue to bang our drums and blow our whistles, not just for a fair go for women, but for all of us, regardless of gender, race, religion, sexual preference or any other irrelevant and insidious means of exclusion.

Tonight's film, ***Raising the Bar*** is a collaboration of many talents. In addition to all of those who took part, I must thank CJ Phillips and CJ Warren for graciously and literally opening the doors of the court for us; the Bar Council and Mark Laurence who persuaded Suncorp to grease the hinges of those doors, as it were, with their financial contribution - and of course my beloved sister (Sarah McLeod), our film-maker extraordinaire.

Our production is part documentary and part theatre, and its aim is to record and reflect in some small way the views of a generation.

It is a record of one generation for the entertainment and instruction of the next. It is a record of our appreciation for the determination of our pioneering women, an acknowledgment of the spirit with which they persevered and their willingness to take the lead.

I give you "***Raising the Bar***" - a celebration of the women of the Victorian bar.

**Fiona McLeod SC**  
**Convenor**