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ATTORNEY-GENERAL
THE HON ROBERT McCLELLAND MP

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TRANSCRIPT OF INTERVIEW WITH FRAN KELLY, RADIO NATIONAL

FRAN KELLY: Equal rights for same sex couples, military surveillance of Japanese whalers, how to incorporate the recognition of indigenous Australians into our constitution and the fallout from the Haneef affair. These are just some of the legal knots crowding the in-tray of new federal Attorney-General Robert McClelland. He's only been in the job two days. Robert McClelland, good morning.

ROBERT McCLELLAND: Good morning, Fran.

JOURNALIST: Now that the new Opposition leader Brendan Nelson has supported equal rights for same sex couples there's nothing stopping Labor in fulfilling its election pledge to end the discrimination faced by same sex couples and amend those 58 laws that the Human Rights and Equal Opportunities Commission identified. How soon will the Labor Government move on this?

ROBERT McCLELLAND: As soon as we possibly can. We need to do it in a comprehensive way. I mean, in one sense some 58 laws have been identified and, in fact, it's more realistically the case that probably there are additional laws that require amendment. If you're going to do this it's worth doing it properly, so we'll be taking advice on both the whole range of laws but also the appropriate mechanisms.

JOURNALIST: Those laws that HREOC has identified deal mainly with financial equality. Labor doesn't support gay marriage, it doesn't support IVF for gays, it doesn't support gay adoption. Aren't these discriminatory practices too? Why doesn't Labor support those?

ROBERT McCLELLAND: Well, we're basically taking one step at a time. We're basically committed to removing discrimination. The Labor Party in Opposition supported in federal Parliament legislation defining marriage as being between a male and a female, in the traditional sense, however, clearly we intend to sit down with state and territory governments to work through hopefully a national - a nationally consistent method of registration that the state and territories may adopt. We think that would be desirable and clearly that's going to be a live issue in the ACT, we anticipate.

JOURNALIST: It looks like it's going to be...

ROBERT McCLELLAND: In the coming months.

JOURNALIST: ...a live issue very soon in the ACT because the ACT Government has indicated it wants to have another crack at introducing its civil unions for same sex couples. Are you suggesting that the federal Labor Government won't intervene to block that as the Howard Government has and, in fact, you'd support all states looking at something like civil unions?

ROBERT McCLELLAND: I'm sitting down with Simon Corbell on Friday. I have considerable respect for him. He's a very decent - a very decent man and also an intelligent man. I haven't seen the text of what he's proposing but I'll certainly be putting to him, look, it's in everyone's interest that there's a nationally consistent standard. Some states already have a registration process, basically sitting down, looking at what's already been done, and looking at other areas where we can - where states have got other intentions and just trying to develop a nationally consistent framework. I mean, I think in this area it's unseemly for there to be effectively tourism based on what state or territory has more lenient or differing registration or ceremonial processes. I don't think that is a desirable way that we should approach the issue.

JOURNALIST: Robert McClelland, one decision where you might have to act on - almost immediately is the whole issue of whaling. Japanese whalers are on their way now to the Antarctic for this season's hunt. Humpback whales will be targeted. Labor has promised sea and air military surveillance of that hunt, to gather evidence to take the whalers to international courts. When will that surveillance start?

ROBERT McCLELLAND: Well, these are issues that, well, not so much me, I'm getting advice on the legal issues but certainly my colleagues are obtaining advice on from their own departments, but from a legal perspective I've already requested advice in respect to the potential for international legal action and also looking at one domestic case that's before the Federal Court of Australia as to the appropriate course of action in light of submissions made by my predecessor, Philip Ruddock. So these are issues immediately under active - active consideration.

JOURNALIST: What about sending the navy out though to at least start the surveillance? I mean, presumably you're gathering advice on the likelihood of success in the International Court of Justice. Former Environment Minister Malcolm Turnbull had said all the advice the Government had is that that could fail, very well fail, which could backfire, could give a cloak of legitimacy to Japan's actions, but that aside, is the Australian Government preparing to send the military out to at least keep surveillance, the navy out, rather?

ROBERT McCLELLAND: Well, I've, as you'd expect, I've had some discussions with Joel Fitzgibbon, the Minister for Defence. I know this is a matter that he is obtaining advice on but clearly he would be the best person to discuss that issue, in light of the advice he's received. It would be inappropriate for me to comment on that.

JOURNALIST: Are you getting legal advice about the likelihood of success in the International Court of Justice?

ROBERT McCLELLAND: Obviously these are very complex. There's been effectively four major streams of advice that have been presented in respect to the issue. We're certainly getting expertise, legal expertise to draw together existing work but also looking at - looking at obviously the potential for future action. So it's

complex but we're committed to do it and there's some very talented people looking at the issue.

JOURNALIST: Robert McClelland, obviously Australia's terrorism laws will be a big issue for you over the next three years. In the more immediate, the case of Dr Mohamed Haneef, Labor had suggested, had been pushing for some sort of judicial inquiry and I think you're still getting advice on perhaps a broader inquiry, but will Labor rule in or out Dr Haneef receiving compensation and having his visa reinstated?

ROBERT McCLELLAND: Again, in terms of the immigration issues, that's again not my call. In respect to issues of compensation, I mean, I think you've got to take all these things one step at a time. I, again, have obviously been speaking to agencies within my portfolio area and I must say, as they've pointed out, you'd be naïve not to have internally reviewed what's occurred in respect to the Haneef case so I'm in the process of gathering together what those internal reviews have revealed or suggested, the extent to which practices have been modified and so forth. In terms of any issues of culpability, obviously they're things that we want to get a handle on and ensure that any either representations or acknowledgments are soundly based. Obviously we need to look at that.

JOURNALIST: Robert McClelland, mindful that you have to go and catch a plane, there's lots of other issues to bring to your attention but just could I ask you briefly, some time in the next three years, I understand the Government is planning to introduce a landmark piece of legislation, a charter enshrining the rights and responsibilities of the nation's legislators. Is this a bill of rights or something less than that? What will this do?

ROBERT McCLELLAND: We're committed to a process of public consultation. Again, insofar as the rights and perhaps even obligations, would be those of the Australian public. It's something that we've committed to engaging with the public on but certainly from own perspective, I do think it's odd that we, as one of the only western democracies, don't have such a charter of rights. That's a view. But we're committed to getting the public's view on it. Certainly we're looking at a framework that refers to government action, that is legislation, regulations and administrative action, rather than which applies to citizens or corporations but I think it most certainly is something that we should and intend to engage the public on and canvass public views on the matter.

JOURNALIST: Robert McClelland, we look forward to part two of the interview with the Attorney-General. Thanks very much for joining us.

ROBERT McCLELLAND: That's my pleasure.

JOURNALIST: Australia's new Attorney-General, Robert McClelland.