

'SIT DOWN GIRLIE'

Legal issues from a feminist perspective

DOWN WITH THE LAVATORY BARRIER

Call in the plumbers! Victoria has a woman judge. Congratulations to Judge Rosemary Balmford on her appointment to the Bench of the County Court. She has had a distinguished career including many years as a Senior Member of the Administrative Appeals Tribunal. She was the first woman lecturer in law at the University of Melbourne and during her student days was a Supreme Court Prize winner. Who knows, perhaps one day she'll be elevated to the Supreme Court – there is after all a precedent. Her father, Sir John Norris, became a judge of the County Court in 1955 and was appointed to the Supreme Court in 1973. Nor was her mother, Dame Ada Norris, a woman to be sneered at. Dame Ada represented Australia on several United Nations Committees and in her book *Champions of the Impossible: A History of the National Council of Women of Victoria 1902-1977* she wrote:

The reasons given for refusing jury service to women sounded more like excuses. Governments of all political views reacted in the same way – horrified at the prospect of women jurors, the lavatory barrier . . . was raised.

Dame Ada was not the only one to attack the lavatory barrier – it was in the 1930s that Jessie Street put the rhetorical question:

Are the sensibilities of Australian men jurors so highly developed that their natural functions would be stimulated or inhibited by having to share lavatory facilities with women? If so, they must be a race apart. I have travelled all over the world in aeroplanes where people are at closer quarters than in court houses and usually the lavatories are for the use of either sex.

Dame Ada Norris broke with tradition by being honoured prior to her husband being knighted, causing a dilemma for those interested in protocol. In the modestly titled *Judges Through the Years: Being a Chronology of the Judges of the County Court of Victoria from its Inception (1852) Written for the sesquicentenary of the foundation of Victoria (Port Phillip)* by Eric Edgar

Hewitt One of Her Majesty's Counsel A Judge of the County Court of the State of Victoria it is noted:

He [Sir John] has been the recipient on occasions of good-natured banter because his wife had been created in 1976 a Dame of the British Empire, it being suggested that the couple would be introduced as Mr Norris and Dame Ada Norris. Then, lo and behold, in 1982, he himself was knighted.

Judge Balmford is the second woman judge ever to have been appointed to a Victorian Court. Lyn Shifftan was appointed to the County Court in 1985 and resigned in 1988 – she was replaced by a man. The High Court has one woman judge, Mary Gaudron, and the Family Court of Australia has six women judges (out of a total of 52). The Federal Court of Australia has 33 judges, only one of whom is a woman. The lavatory barrier may be down but the glass ceiling remains.

TOUGH NEW CONTROLS ON MEDIA!

The Attorney-General, Mr Lavarch, and the Minister Assisting the Prime Minister on the Status of Women, Rosemary Crowley, have startled the media by announcing tough new measures to ensure fair treatment for women – self-regulation (yawn). Mr Lavarch told a national forum in Sydney that community attitudes, standards and guidelines, rather than legislation, promote change. Acknowledging that the Australian media portrays women in 'grossly insufficient and inappropriate' ways he told the forum on the 'Portrayal of Women in the Media' that a media code of practice and greater self-regulation were needed. Senator Crowley called for increased employment of women in the media and less sexism. That should really make them sit up and take notice.

Girlie interprets the Government's reaction thus: 'We think this is a very poor show but we won't or can't do anything much about it and we hope that you boys in spite of your past record will'. It's difficult to visualise self-regulation having any impact when

the media bosses either don't know, or won't acknowledge, a problem exists. The *Australian* recently reported: 'Media bosses attack gender bias claim in Deveson study' (1.7.93). The Deveson Report for the Office of the Status of Women indicates that only 25% of reporters are female, 25% of interviewees are female, 27% of front page news stories are written by women and 14% of people quoted in items are women. The media bosses are quoted as saying the report doesn't even bear cursory scrutiny. According to them Anne Deveson wanted to come to a particular conclusion and did so, and anyway it might not even be long before the *Sunday Telegraph* has a woman editor. *Girlie* can hardly wait.

ENIGMATIC UTTERANCES

Feminine logic

'I think probably that for the last ten years it would have been possible to have competent women on the bench . . . I don't call myself a feminist . . . [I believe in] equality of women and their ability to practise any professions, to do anything they set their minds to and to be regarded as the equal of men in those kinds of ways'. Judge Rosemary Balmford, County Court, Melbourne.

Intuition

'In my lifetime I expect to see three, four and perhaps even more women on the high court Bench'. Justice Ruth Ginsberg, Supreme Court, USA.

Presidential decree

'A person that has a fine mind, good judgment, wide experience of the law and in the problems of real people, and someone with a big heart.' President Clinton on the qualities required for potential Supreme Court judges.

STOP IT SUPER FUNDS

An amendment to the *Sex Discrimination Act 1984* (Cth) in July 1993 gives superannuation funds one year to stop discrimination on the basis of sex, marital status or pregnancy. The Common-

wealth Sex Discrimination Commissioner, Susan Walpole, has released a set of guidelines to 'help' the funds comply and the amendment lifts an exemption which has been in force since 1984.

SURROGACY

Forces described by the *Herald-Sun* as 'IVF scientists' have wheeled out the happy Kirkman family once again in a bid to have surrogacy arrangements legalised in Victoria. The issue is to be debated in the spring sitting of Parliament and, if passed, legislation allowing surrogacy would be contrary to that applicable in the rest of the country. Tricia Harper, Director of Policy and Planning for VCOSS compares surrogacy with adoption and warns against the long-term trauma suffered by many children and mothers who have been involved in adoption. She says that for some women, giving up a child involves a lifetime of grieving. Some IVF exponents argue that it will be easier for a woman to give up a child which she has 'hosted' when it is formed from a commissioning couple's embryo. Others say that bonding still occurs during pregnancy. Meanwhile the First World Congress on Family Law and Children's Rights which was held in Sydney in July has been told that couples who hire surrogates overseas could risk charges of child abduction.

In a paper entitled 'Surrogate Parenting', Professor Louis Waller told the Conference that surrogacy has been the subject of two substantial enquiries since the Kirkman episode. In December 1988 the New South Wales Law Reform Commission published its Final Report 'Surrogate Motherhood' following an extensive consultation process and stated its clear opposition to surrogacy. In 1990 the National Bioethics Consultative Committee recommended that surrogacy arrangements be permitted under strict legislative controls based on the principles of autonomy and freedom of choice, justice and the common good. The Australian Health Ministers Advisory Group established a National Reproductive Technology Working Group to consider the report and subsequently recommended that all surrogacy arrangements be illegal and void and that commercial surrogacy, advertising

of and for surrogacy, be prohibited, and the provision of technical or professional services to facilitate surrogacy should be made an offence. The Working Party concluded that 'surrogacy is a practice which involves real risk of harm'.

In a communique of 26 March 1991 the Health and Welfare Ministers accepted all these recommendations and supported proposals for harmonious legislation throughout the country. Subsequently, the Victorian Minister for Health has stated that revised and reformulated legislation will be introduced following a full consultation process. In Tasmania, the *Surrogacy Contracts Act* 1993 prohibits surrogacy contracts but imposes penalties only on commercial arrangements. It is the first legislation to give effect to the Australian Social Welfare and Health Ministers' resolution by making it an offence to provide technical or professional services to achieve a pregnancy by surrogacy contract.

Professor Waller's paper noted that, in Victoria, private and public representations are being made to amend Victorian law so that surrogacy will be permitted, using IVF for married couples where the wife is unable to sustain a healthy pregnancy. Media accounts of surrogates hired in the United States through commercial agencies using embryos from a Victorian couple's gametes raises serious questions including those relating to the transfer of children from country to country.

WHY DON'T WOMEN WHINGE?

A study of women's experiences with real estate agents, caravan park managers, landlords and housing workers has found that sexual harassment is rife but over half the women affected do not complain. The report compiled by VCOSS indicates that women are put in terrifying situations. These included reports of inappropriate visits (very early or very late) intimidation and threats, rape, physical violence or sexual abuse and over familiarity.

VITALLY IMPORTANT ALRC DISCUSSION PAPER

As part of its reference 'Equity Before the Law', the Australian Law Reform Commission has released a most important Discussion Paper. Submissions are invited from the public and the closing date is 31 October 1993. Please, pleads *Girlie*, take some time to read the paper and make submissions. Hand written, typed, quilled or taped doesn't matter – just do it. Don't leave it up to the strident minorities, let the voice of feminism be heard and taken into account.



DEAR JOHN

The Women of the New Covenant have written to the Pope petitioning him to allow the ordination of women priests. Opponents have responded by distributing pamphlets to all Roman Catholic schools throughout Australia claiming that women can never be ordained as priests because Jesus and the apostles did not authorise it. Might be a bit hard to get that one amended retrospectively! In the meantime, Babette Francis (*Herald-Sun* 21 July) agrees with Pope John that celibacy is not essential but is desirable so that priests are not distracted from devoting their time and energies to their vocation. Bit like footballers really – before a match they used to put cotton reels on their backs to prevent them rolling over into a position which apparently encouraged activities likely to dissipate their energy. Celibacy, it could be argued, is in itself a distraction, making it difficult to keep your mind on what must be a very frustrating calling, especially when your congregation insists on ignoring your advice on the evils of contraception.

GIRLIE'S WOMEN OF THE MONTH

Congratulations to the Australian Feminist Law Foundation Inc. on the publication of the first issue of the *Australian Feminist Law Journal* and to Feminist Lawyer, Deb Cass, winner of the Caltex National Scholarship for Women.

Ms Appropriate

Ms Appropriate is a Feminist Lawyer.