

# 'SIT DOWN GIRLIE'

## Legal issues from a feminist perspective

### OBITUARY

When Senator Olive Zacharoff died in March 1995, Australia lost a determined fighter for women's rights. Senator Zacharoff was not the type to grab media headlines. She was respected instead as a woman of great integrity and principle who was a very hard worker. The columns of tributes to Olive Zacharoff which appeared in the death notices of newspapers throughout Australia were a litany of respect from individuals and associations representing a wide range of political and social perspectives.

There are many stories about Olive Zacharoff. Girlie's favourite comes from Jenny Lee in Melbourne. At a fund raising function for the ALP, four prominent citizens were asked to imagine themselves on an aeroplane which was about to crash land. As the plane descended each person had to argue why they should be given the only available parachute. Barry Jones, Evan Walker and Jocelyne Scutt described how much poorer the world would be without their various talents. Jones pleaded that the loss of his brain would leave a terrible gap in scientific and technical knowhow and described the gloomy spectre of a world without Pick-a-Box. Evan Walker pleaded his contribution to town planning and architecture and Jocelyne Scutt warned of a world deprived of her talents in advocacy and reforming the conditions of women. Olive Zacharoff unfazed by the great achievements and promises of her fellow passengers simply stuck a pillow up her dress and said, 'Well, you all know me, think how much better things will be when there are two of us!' If only.

### SAME SEX

Baltimore United States District Judge Alexander Harvey the Second has decided that harassing someone of the same sex does not violate federal sexual harassment laws. A former employee of the Baltimore Gas & Electric Company alleged that his male supervisor was a bisexual man who had subjected him to sexually explicit and unwanted language. In *Hopkins v. Baltimore Gas & Electric Co.* Civil H-93-

4167 (C.Md) Judge Harvey held that the *Civil Rights Act 1964* does not cover a person claiming to be the victim of sexual harassment by a superior or co-worker of the same gender. (Source: *National Law Journal* 16.12.95, p.A10)

### JUDGE JAILS BASHERS

In Olympia, USA, the State Supreme Court has found that Judge Christine Cary of the Spokane County District Court did not abuse her discretion by ordering all domestic violence offenders to be held without bail until their first court appearance. According to the *National Law Journal* (12.12.95) the Supreme Court was unanimous in its opinion that the order did not restrict the right to bail under the state constitution. In *Westerman v Cary*, 60383-9 Diane Emmons had pointed out that a person arrested for domestic violence often would pay a fine of \$50 to \$75 and be released from custody before the victim was discharged from a hospital emergency room.

### INVISIBLE RIGHTS

On International Women's Day, Amnesty International launched a year-long global campaign highlighting the human rights abuses against women and the girl-child: 'the invisible victims of the 1990s'. Amnesty points out that the majority of victims of war, refugees, displaced persons and the world's poor are women and girls. Governments have at best ignored women's human rights and at worst have given the green light to their police and soldiers to torture and rape. In a detailed report on human rights abuses, Amnesty records that most abuse of women is the result of wars, deeply rooted discrimination and repression of women's activism. The rape, sexual abuse, torture and murder of women and girls must be stopped and Amnesty has prepared a list of recommendations for the Fourth United Nations World Conference on

Women which will be held in Beijing in September 1995.

### AUSTRALIAN JOURNALISM

When Carmen Lawrence says that journalism is a tough business, one which is even more rugged for women than politics, she does not exaggerate. The unceremonious sacking of Michelle Gratton as Editor of the *Canberra Times* is a stark reminder that quality and excellence are insufficient qualities to ensure women obtain and retain top jobs with our newspapers. It is widely accepted that Michelle is the best political journalist in Australia. It is also accepted that she was doing an excellent job with the *Canberra Times*. Her vision was to turn it into a quality newspaper of the *Washington Post* style. Her 'owner' decided that the paper should be more 'city based'. Are Canberra readers really so parochial that they would prefer to read about Bill Bloggs being fined because his dog pissed on a post in Civic, or would they prefer in-depth analysis of federal politics? Michelle Gratton was the only woman editor on any newspaper in Australia. She is also damn good. Canberra's loss is however Melbourne's gain as Michelle has returned as political editor at the *Age*.

In the meantime Girlie notices a full page column in the *Herald-Sun* newspaper in Melbourne — *The Law Report*. Written in an accessible style, informative and interesting, the column is written by a lawyer and feminist, Fay Burstin. Congratulations to Fay and to the *Herald-Sun*.

### RAPE

The *New England Journal of Medicine* (26.1.95, pp.234-7) reports that rape is the fastest growing violent crime in the United States. In a review of the care of 'postmenarchal' women raped by men, Harriette Hampton notes that the incidence of rape peaks among girls and women 16 to 19 years old and more than 60,000 rapes of women older than fifty years are reported annually.



## SIT DOWN BOYO

The *Australian Administrative Law Bulletin* (January 1995) reports the case of *Bird v Volker* (20 October 1994, QG 132/94) in which Keifel J was asked to disqualify herself on the ground of apprehended bias. According to the applicant who appeared for the Australian Union of Students, Kiefel J, as a woman and a lawyer, fell within a class of person who all hold the belief that decisions ought to be determined on a political and not a legal basis. He also argued that the Federal Government or the Attorney-General could be seen to recognise this in their appointment of Keifel J. The applicant expressed concern about the timing of a press release announcing Keifel J's impending appointment to the Bench, which, he said, was made only a few days after his application was made. The applicant's third point was based on his belief that Kiefel J may be Jewish. He argued that her Honour might hold views opposed to those of people of Anglo-Saxon background.

Kiefel J refused to disqualify herself. She held that the application for disqualification did not meet the overriding requirement that the stated apprehension be one which can be seen to be reasonably basic given the substantive matter to be decided. A member of the public would not reasonably apprehend that the socio-political considerations about which the applicant was concerned would ever enter into the decision-making process. Further, if they were relevant, members of the public were unlikely to ascribe the particular points of view to the persons referred to by the applicant.

The substantive application involved a contention that a student eligible to receive payments under the *Student Assistance Act 1973* should be able to elect to join a participating student union using a payroll deduction form and that such a form should be presented to students offering them a choice.

## FEMINISTS SURVIVE DIVISION

While Girlie has always been proud to identify herself as a feminist, recent media reports on Germaine Greer's rape revelation and Helen Garner's lucrative *The First Stone* raise some complexities with the labelling process. When Germaine Greer revealed publicly that she had been raped the headlines went wild with claims such as: 'Feminists Divided Over Rape' 'Greer Should Cash In, Say Feminists', 'Feminists Divided on Call to "Out" Rapists'. Similar 'Feminists

Divided' headlines were a feature of the brou ha ha that greeted the publication of Helen Garner's book in which she questions the motives of young women who complain about sexual harassment.

The headlines imply that in this big world of ours there are 'feminists' and 'others'. Feminists are presented as divided and at each other's throats. Surely it is time our media accepted that the women's movement, like any other major social movement in modern times, has room within it for healthy debate and differences of opinion? We never see headlines like, 'Masculists Divided Over Rape' and so on. It is accepted that the men of this world will have differences of opinion. But when women disagree it is feminists versus humanity and feminists versus feminists. Feminism is portrayed as a crumbling edifice of dissension and wrangling.

This kind of reporting is far from new of course and feminism has survived despite these constant attacks. The women's movement is a powerful social force which is here to stay. Debate is a good healthy process. This feminist has no hesitation in saying that she personally agrees with Greer that rapists should be (inter alia) outed, and this feminist strongly disagrees with Helen Garner's assessment of the college sexual harassment case. The young women were in a most difficult situation. They acted appropriately and they were entirely justified in doing what they did. So there! And if any of you don't like the views expressed in this column you are more than welcome to say so. A bit of controversy never scared Girlie off!

## MASCULISTS DIVIDED

On 2 February 1995 the *Australian* reported that a male academic had accused feminists of highjacking a major national conference to discuss gender equity in education. Dr Peter West, a senior lecturer in education at the University of Western Sydney is reported to have boycotted the *Promoting Gender Equity Conference* on the grounds that it was one-sided and unjust to boys and their parents by excluding advocates of special programs for boys. Dr West is quoted as saying: 'There are some academics who characterise all those in favour of boys as part of the feminist backlash. The problem of boys underperforming and under-achieving socially is very real.' Dr West is said to support a boys education strategy based on understanding masculinity — which he feels female experts on gender are not equipped for. Girlie has it on good

authority that not all masculinists agree with Dr West. Why Girlie spoke personally to three men working in education who considered that the conference on gender equity was about providing fair access to education for both girls and boys!

## GIRLIE GETS ON TOP

While Girlie has often been told to 'sit down' and 'take it' she rarely gets a turn on top. But Justice Spender's remarks that it is 'not unknown for a woman to sleep her way to the top' may be of assistance. Poor old Girlie, like most women in the law, has struggled against society's sexist attitudes, sat up late into the night with the only hard thing in sight being a dog-eared copy of Cheshire and Fifoot. She has worried over essays and exams, applied at hundreds of firms for articles, and after finally getting a job way out in the Mulga, joined the local basket ball club, went to pie nights, was nice to clients who asked her if they could 'please see the solicitor dear?' But for all her diligence Girlie didn't get anywhere near the top. Justice Spender's gratuitous tip may be the way to go. Forget the outdated work ethic. Stop staying up late at night trying to untangle the verbal gymnastics of the High Court under Sir Garfield Barwick. Instead, Women Who Want to be on Top (WWWOT?) should make sure they get to bed early and catch up on lost sleep. Justice Spender's comments may have been taken out of context after all. Attorney-General Lavarch thinks the judge was not being sexist even though his remarks were made during the course of a sexual harassment case in the Federal Court. Perhaps he was right. Perhaps the judge was merely concerned for women's health and well-being. After all he didn't say, 'It is not unknown for a woman to have it off with the boss on her way to the top' and his advice is little different to that given to Girlie by her own dear old granny, 'Go to bed early dear, get your beauty sleep and you'll be on top of everything'.

## THE GREAT PRETENDER

Girlie has it from reliable sources that a certain well-proportioned, if not well-intentioned, QC from Melbourne is claiming that it was one of his indiscretions towards a woman solicitor from which the title of this column 'Sit down Girlie' was derived. Not true.

That dubious honour goes to a certain family court registrar who directed the offending words at Renata Alexander, the then convenor of Feminist Lawyers.

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