

'SIT DOWN GIRLIE'

Legal issues from a feminist perspective

WAS THIS SEXISM STUFF EVER FUNNY?

In a recent hearing in the County Court in Victoria a male barrister likened the actions of an insurance company to 'an 18 year old girl in the back seat of a car — can't make up her mind to say yes or no, come or go'. Huh? A female articulated clerk observing the case from the body of the court wondered why this remark (joke?) passed without comment. She found it offensive and also observed that other women in the courtroom were upset by it. This young woman, not a big fan of the Helen Garner just-ignore-the-minor-indiscretions-we've-put-up-with-worse-than-that approach, did not like to think the profession she had just joined condoned the use of insulting, sexist stereotypes in the course of 'legal argument' — she spoke up about it. The Bar Council responded positively to her firm's report of the incident, that that sort of behaviour is unacceptable'. Branded a 'Troublemaker' by some, she gets Girlie's coveted Cleaning up the Courtroom (speaking your truth) award for 1996.

BACK ON THE FLOOR

A settlement between Ms Julianne Ashton and her employers Bankers Trust (BT) has spared the NSW Equal Opportunity Commission a decision in a protracted sexual harassment case (see Girlie, April 1996). Under the terms of settlement, BT apologised to Ms Ashton for failing to deal with her complaints about what was clearly an unacceptable level of 'sexual banter' (read: pretty shocking harassment) from her male colleagues on the trading floor. Ms Ashton will continue to work for the firm, which has paid her an undisclosed sum in settlement and says it is 'currently correcting' the 'bad workplace behaviour' (The *Australian*, 13 July 1996).

Ms Ashton's stand against BT should be a cause for celebration amongst women in the finance industry, especially those who work in the boysie boy, cut and thrust trading end of the market. Girlie was, therefore, disappointed to read the comments of Ms Marea Laszok, Chief Executive Officer at Midland Bank, Australia, in an article about dealers displaying more responsi-

bility after their 'gung-ho trading in the eighties' (*Australian Financial Review*, 13 May 1996). Girlie was hoping to read that women with integrity and talent had been part of improving the credibility of the trading sector of the industry. But no, a senior woman was undermining the credibility of women in the 'tough, male domain' of trading: 'If you have girls on the trading side, they are good, but they don't seem to have that great confidence and aggression that guys have to get on the phone and make a two-way price'. Thanks Marea, always ready to celebrate male aggression.

Girlie echoes the sentiments of Amanda Coombs, a Melbourne foreign exchange dealer who wrote to the AFR on 21 May: 'It is rather disappointing that an executive with the seniority and responsibility that Ms Marea Laszok holds . . . would believe that women, as a group, are less suitable to any office job than a man. Surely many women and men will not be suited to this type of work, but should we not assess each person on their individual suitability? . . . It is exactly this type of statement, when made by senior executives, which is sustaining the myth that men are more suited to trading.'

FOR THOSE WHO DON'T DO BALL AND STICK

'I did what I had to do to get attention' says Rosalie Osias, an attorney with a practice in real estate and banking in Long Island NY. Not keen on playing golf and going out drinking with the predominantly male members of the mortgage banking industry, Rosalie used other means to bond with potential clients — she took out a series of advertisements in local trade newspapers, featuring photographs of herself in seductive poses. While business is booming, Rosalie has copped a lot of criticism from other female members of her profession who say her marketing approach demeans their gender. She rejects the criticism, arguing that 'women should use their assets to manipulate men' (*ABA Journal*, January 1996).

Yes, it's marketing legal services, nineties style. Who said law wasn't a classy profession that attracts the finest young minds to fight for truth and justice? It's just that these days you also need an iron gut, a reasonable golfing handicap, or good legs and some attitude.

GIRLS IN BLUE (WITH THE BLUES)

In late July, over 300 women police from around Australia, New Zealand, Papua New Guinea, and South-East Asia gathered in Sydney for the first Australasian Women Police Conference (The *Age*, 30 July 1996). The federal Attorney-General, Darryl Williams was also there to tell them a few things they had probably already worked out for themselves: 'women are joining police in increasing numbers, but they don't stay'; 'a lot of women are failing to find a career in policing'; 'police services especially needed to . . . implement policies to recruit and retain women in their workforce'. Mr Williams and a number of other speakers quoted the dismally small number of women who are currently amongst the commissioned (senior management) ranks of police in Australia.

The Attorney-General was critical of the police forces and had a stab at why women choose not to make a long-term commitment to law enforcement: 'the reason might be as simple as the shift work and the difficulties of work and family . . . However it seemed more likely that it could have something to do with the "highly gendered" nature of police organisations'. Hmm, 'highly gendered'. Girlie wonders just what Darryl is getting at with that phrase. He's already told us that there are lots more men than women in police forces, so maybe he means that the management ignore that women police are sexually harassed and sometimes raped by their male colleagues and that the culture of police organisations is hostile to women and condones systematic discrimination against them. Or maybe those were issues the conference par-



ticipants had worked out for themselves and discussed when he'd gone.

The Victoria Police certainly showed their support for senior women in their ranks. The Force paid the airfares and conference fees for two women officers, but declined to fund two of its most senior female commissioned officers, who were forced to take annual leave to attend and pay their own way to the conference.

DEALING WITH MORE INAPPROPRIATE COMMENTS

The Chief Magistrate in Western Australia, Mr Con Zempilas has pre-empted possible government action to deal with complaints about Perth-based stipendiary magistrate, Ron Gethring, by barring him from hearing restraining order applications for 'the foreseeable future' (The *Australian*, 31 July 1996). Mr Gethring attracted some negative attention earlier this year when he was reported to have described an alleged stalker as 'a little puppy dog who meant no harm' to the woman he had pursued for seven years. In 1993, in a case where a man was accused of injuring his de facto wife, the same magistrate made the comment that 'to my mind she shouldn't complain about being punched'. Mr Zempilas agreed that 'some of Mr Gethring's comments were totally inappropriate and any views he wished to convey should have been couched in more sensitive and restrained language'.

Dealing with 'inappropriate comments' from the bench with an administrative decision to effectively rig the roster has advantages. In an immediate way, women who have already been victimised by male violence are less likely to have it verbally reinforced by someone in a position of authority. A more permanent removal would take a lot longer and inevitably run into problems with the government intervening and risking compromise of the separation of powers and the independence of the judiciary. As the WA Premier, Mr Court commented, 'it would take extreme circumstances for the Parliament to vote for the removal of a judge or magistrate', and it's anyone's guess whether being unable to disguise your sexist attitudes beneath appropriately sensitive language would be considered 'extreme' enough. The disadvantage is that it does not address the underlying problem of bias and the under-representation of women in the judiciary.

A more hopeful development is the current trend towards acceptance of judicial 'education', exposing judges to other points of view, testing their own conditioned assumptions about life, human interactions and the legal process. On that score, The *Australian* also reports that the stipendiary magistrates in WA will be attending a gender awareness workshop in November. The wheels turn slowly . . .

And it's not a new problem. What to do when those entrusted with the task of upholding the slippery notion of justice for all start making utterances unbecoming to their position? *The Bulletin* (9 July 1996) reported on the decisive action taken to silence an English judge in 1890. In a trial of a woman for the murder of her abusive husband, Justice Stephen ensured a guilty verdict by repeatedly referring to the accused as 'that horrible woman, the epitome of all that is loathsome and evil'. No mucking about, a year later a verdict was handed down on the judge. He too was locked up — in a madhouse.

VERY PERSONAL INJURIES

Social change over the last 20 years may have had *some* positive effects on the way women are regarded by the law (and the lawmakers). However, *Girlie* recommends you read an article by Karen O'Connell in the Autumn issue of *Refractory Girl* (Issue 50 1996) which looks at judicial attitudes to some basic human functions. O'Connell argues that there is still a long way to go before compensation awards for personal injuries reflects more than 'dominant perspectives . . . in which male sexuality is identified with the penis, and (heterosexual) sex with the penetration of the female body'.

The author identifies a number of personal injury cases that highlight the different values placed on the expression of male and female sexuality. For example, a recent case where the payout for an 18-year-old boy injured in a car accident allowed for him to be visited by a sex worker once a week for the following 47 years. The trial judge decided that this compensation would 'go some way to satisfying this young gentleman's sexuality needs'. In Queensland, the Court of Appeal awarded \$20,000 to a woman injured as a result of medical negligence, for the loss of her ability to have pain-free sex. The respondent argued against the award and suggested that the woman should remain celibate — 'she need not suffer

any pain . . . if she abstained from sexual intercourse'.

Other cases cited point to the capacity of the judiciary to display huge depths of compassion and empathise closely with certain plaintiffs, resulting in exceptionally high payouts for injuries to penises, testicles and ejaculatory function.

Girlie is with O'Connell when she challenges the law to 'recognise that the diversity of human sexual behaviour defies the narrowness of its current definitions, and to value male and female sexuality equally'.

MORE ON MEMBERS

One Hollywood film studio is not taking a chance on having to sue for compensation for the loss of sexual function for one of its employees (*Australian Financial Review* June 1996). They have taken out an insurance policy worth \$1,000,000 in case of accidental injury to Steven St Croix's hard working member. The risk for the studio was just too great when Steven, their top porn star, bought a motorcycle, and refused their unconscionable demand to not ride it while he was under contract to them to perform more socially relevant and meaningful work.

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