

100 girlies (and some boys) who filled the court to hear the application made by Dr Jocelyn Scutt on behalf of Osland. Osland was convicted of the murder of her less than pleasant husband, Frank, after a trial in October 1996 before His Honour Mr Justice Hedigan in the Bendigo Supreme Court. At the trial, evidence was given of the 13 years Osland endured as the wife of a man who displayed classic 'battering man syndrome' and of the fact that she fell within the classic symptoms of the 'battered woman syndrome' (BWS) or 'battered woman reality' as Dr Scutt fearlessly described it to the High Court. Osland's defence counsel, Felicity Hampel and Jane Dixon, ran the defences of self-defence and provocation

in the trial and attempted to link them to BWS. Osland's son, David Albion, was charged and jointly tried with his mother as he had clubbed his stepfather with an iron bar after his mother had drugged his dinner. The jury could not agree on their verdict in relation to David so he was re-tried and subsequently acquitted of the murder. His mother meanwhile was sentenced to imprisonment for 14 years and 6 months with a non-parole period of 9 years 6 months.

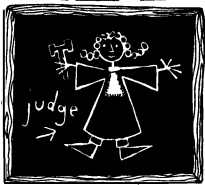
She appealed her conviction and sentence in the Court of Appeal of the Victorian Supreme Court without success. Her application for special leave to appeal to the High Court before Justices McHugh, Gaudron and Gummow

was granted, much to the joy of the supporters of the 'Free Heather' campaign who filled the courtroom, and of her all-woman legal team of Helen Delidis articulated clerk, Sue Wakeling solicitor, Hilary Bonney junior counsel, and Dr Scutt.

The next step for Osland is the appeal which will be heard some time after April. It is anticipated that the appeal will focus on the inconsistencies in the verdicts between the two accused as well as the way in which the BWS evidence should shape the appropriate directions given by trial judges on the issues of self-defence and provocation. *Girlie* will keep you all posted!

**Effie Davitt**

*Effie is a Melbourne-based feminist lawyer.*



## LEGAL STUDIES

The Constitutional Convention was held in Canberra on 2-6 and 9-13 February 1998. Popularly elected delegates from each State and Territory along with government-appointed delegates discussed their ideas for constitutional reform and for an Australian Republic. An article on the Convention can be found on pp.2-5 in this journal.

### Questions

1. What are the major arguments put forward for Australia becoming a republic? In particular, why is it no longer appropriate that the Queen of England remain Australia's head of state?
2. If Australia were to become a republic what would be the advantages and the disadvantages of having a popularly elected President? Should such a President have the power to dismiss the government? Why?
3. Will constitutional reform jeopardise Australia's system of democracy?
4. From your observations of the Constitutional Convention, and from your own experiences, what are the major issues facing young people in the process of constitutional reform? Were they adequately ad-

ressed by the Constitutional Convention?

5. Indigenous Australians are calling for recognition and protection of their rights in the Constitution. What form, if any, should such recognition take and what would be the advantages and disadvantages of each of these options? Discuss in particular the suggestion for a constitutional preamble.

### Discussion

1. There have been calls for the drafting of a Bill of Rights as part of the process of constitutional reform. What is a Bill of Rights? Should Australia have a Bill of Rights? Why? Discuss the advantages and disadvantages of such a codification of rights. What kinds of rights should such a document include — consider economic, social and cultural rights as well as civil and political rights. Should a Bill of Rights be enshrined in the Constitution? Why?
2. Aboriginal and Torres Strait Islander peoples have demanded that their distinct rights, like the right to native title and rights to culture and heritage, be recognised in the Constitution as well as their status as Australia's First Peoples. Many

people have rejected this statement claiming that such recognition will damage Australian sovereignty and cause division. Discuss.

### Research

Research constitutional reform in another country such as Canada, Norway or South Africa. Consider in particular:

- how the rights of the country's citizens are protected under the relevant constitution, if at all; and
- if the relevant document contains provisions particular to any group within a country such as women, indigenous people or ethnic minorities.

### Debate

Australia in 1998 is a very different country to the Australia of 1901. Although changing the Constitution might make the document more symbolic of Australia's identity in 1998 symbolism is not a good enough reason to change a system that has worked so well for so long.

**Catherine Duff**

*Catherine Duff is a Sydney human rights lawyer*

The issue of the republic and constitutional reform will be looked at in further depth in the April edition.