

'SIT DOWN GIRLIE'

Legal issues from a feminist perspective

HELLO

Girlie has now sat down and spread — Helen McKelvie and Hilary Bonney have been nominated to bring this column to you in the finest tradition of Girlie of old! We came up with the following possible names to commemorate the baton change: 'Girlie Gets Up', 'Girlie Gets Down', 'Girlie Speaks While Sitting Down' and 'Girlie Stands Up and Tells the Old Fool to "Stop calling me girlie"' but you will be relieved to know we rejected them all. If we fail to receive a brilliant suggestion from this column's devoted readers, we will happily keep our maiden name.

THE GOOD

Girlie is delighted to see some of her sisters movin' on up. Congratulations to Justice Susan Morgan and Justice Linda Dessau, recently appointed Family Court judges. Now, how about a few more women on Supreme Court benches, especially in Victoria where there are none.

A Girlie gold star goes to the Melbourne office of Mallesons Stephen Jacques who are acting in the Federal Court on a *pro bono* basis for Cheryl Le Huray in a social security matter involving family payments. Ms Le Huray's family allowance payments were cancelled when the Department of Social Security decided that her live-in partner and she were in a 'marriage like relationship' due to their cohabitation. The couple were completely financially independent and the decision was appealed to the Social Security Appeals Tribunal successfully, then to the AAT where Ms Le Huray was again successful. The Federal Court is to decide what a 'marriage like relationship' is for the purposes of DSS payments and Girlie hopes that it has enough common sense to challenge the presumption that women in *de facto* relationships are always financially dependent on their partners.

Girlie was pleased to read that our antipodean legal cousins have finally realised that the doctrine of provocation can be raised successfully in a trial for murder where the provocative acts are a series of events which have a cumula-

tive effect. The *Times* (8.7.95) reported the release in London by the Court of Criminal Appeal of Emma Humphreys after she spent ten years in prison for killing her violent partner, Trevor Armitage. Emma was 17 at the time of the killing and had been subjected by Armitage to months of hideous abuse, both mental and physical, including violent rapes, beatings and the threat of gang rape when she would not submit to sexual intercourse. On the night she stabbed Armitage, who was 33 and had a criminal history of violence and drug offences, she was at 'boiling point' through fear that he would carry out his threat and instigate another gang rape.

The Court of Criminal Appeal held that at her trial in 1985, the judge did not give proper directions on the history behind the killing to enable the jury to decide whether Emma had suffered the sort of provocation which would have caused a reasonable person to do as she did. Lord Justice Hirst, delivering the Court of Appeal decision, said 'we do not think that on the facts of this case a mere historical recital, devoid of analysis or guidance, was sufficient'. He noted that the trial judge had erred in failing to explain to the jury the various strands of provocation culminating with the killing. According to the *Times*, the decision is the first time the judges have made it clear that a defence of provocation can succeed in reducing murder to manslaughter where there is a series of provocative incidents over time which lead to the killing of the provoker.

Vera Baird, junior counsel who acted for Emma (in an all woman legal team), told reporters and supporters on the steps of the court, 'this is excellent news for battered women who classically suffer cruel conduct for a period of months or years. It improves their position quite significantly'. Girlie can only agree and wonders what the ruling will mean for the remaining 70 women still in English prisons for killing their violent partners in similar circumstances.

THE BAD

Recently in Victoria, the Government had a wonderful opportunity to appoint a sparkling, representative, diverse, sensible and sometimes female Court of Criminal Appeal in the Supreme Court and can you believe, it they blew it! The *Age* newspaper featured a photograph of the eight male appointees who looked so alike that they needed large name badges to wear like those seen on the staff at your local supermarket, so that people appearing in their court could tell them apart.

The Australian Federal Police force does not appear to be a nice place for a girlie if the sexual harassment scandal reported in the *Herald Sun* on 3 July is any guide. Three boys in blue have been dismissed and three others are facing dismissal after a four month joint inquiry by the AFP's internal affairs unit and the Human Rights Commission found that female officers in the force's ACT legal unit had suffered gross acts of sexual harassment. Their male work mates had allegedly 'exposed themselves' to the women, 'intimidated them' (call Girlie old-fashioned, but aren't these the same thing?) and displayed pornographic pictures. The intelligence of these hilarious tricksters was demonstrated by them filing copies of *Playboy* and *Penthouse* in the cabinet where the equal opportunity documents were meant to be. Women in the force told the inquiry that they believed that 'sexism is part of our lives' and they needed to be 'bigger, brighter and more beautiful' to get ahead. Girlie congratulates the women on being 'strong, savvy and sensible' in speaking out.

THE REALLY UGLY

In July, ABC's '7.30 Report' program reported a complaint from Mr Geoff Gibson, a partner at Blake Dawson Waldron, that Melbourne University law school is teaching subjects which do not reflect *his* version of what is politically correct and intellectually valid. Geoff is convinced that students are at risk of falling prey to a 'danger-



ous' and 'divisive' indoctrination that has men and women 'set to go for each others' throats'.

Be warned, it seems that the law subjects you select in university can haunt you when you enter the 'real world' of large, luxurious, gold plated law firms, especially if the subject starts with an 'F' and ends with an 'ist' and contains some other words like 'theory' or 'jurisprudence'. So before you select the 'interesting' subjects, spare a thought for the poor partner who may interview you and be so embarrassed by his (let's be sadly realistic here) lack of knowledge of the area that he instantly classifies you as a P.U.R.E. (Previously Undetected Recruiting Error) and shows you the door. He may be so mortified by his ignorance of the 'modern' subjects (having only studied Law of the Cave) that he is compelled to write to the Vice Chancellor and ask what is happening to *his* law school. If you don't chose the 'right' subjects, you may not get the chance to work with such enlightened, sensitive and open-minded gentlemen.

Geoff may be surprised to know that all feminists have not been indoctrinated by those 'thought police' at his law school. *Some* women come up with the radical ideas of feminism just from living in the world. Sadly, only a few have the opportunity to develop their theoretical knowledge by studying the stuff.

Speaking of large law firms, Girlie has it on good authority that the partners in one of them hold the ledger in which sexual harassment complaints are recorded in such high esteem that it's called the 'Bonking Book'. Ha Ha. Perhaps they haven't heard about the US\$7.1 million damages award imposed upon the US office of Baker and McKenzie solicitors in 1994 as a result of the sexually harassing activities of one of their partners.

Girlie won't even mention Hugh (how much for one funeral and no wedding?) Grant!

WIVES IN WOE: SOME DANGERS OF MATRIMONY

We all know that for some women in Australia the home is not a safe place and it seems sadly that this is also the case in some of our neighbouring countries.

The *Jakarta Post* on 13 June carried two stories of wives in danger. In one,

Mr Wahono was imprisoned for 15 months for setting his wife alight and causing her permanent disfigurement. At his trial in Central Java he said 'I love my wife and I don't have the slightest intention of divorcing her. I did it out of jealous outrage.' He doused his wife in kerosene and set her ablaze while she slept because he suspected her of having an affair with an inmate at a local prison where she had a food stall.

In the same edition is the story of Yuni, a 29-year-old woman who was found strangled to death and without underwear. Her husband informed local detectives that she had not worn underwear for a long time. One detective told the *Jakarta Post*, 'We have no idea why because her husband gave no further explanation about it'. The article seemed to be dominated by the missing underwear question. Girlie wonders why the victim's underwear habits are the focus of a murder investigation? Is this another version of 'she asked for it'?

Reported in the *Herald Sun* on 29 June 1995 was the story of a man in Port Moresby convicted of sexually assaulting his 6-year-old step-daughter. The judge felt that the accused had unfairly 'punished the child, by assaulting her when her mother had refused to have sex with him'. The accused was told by Judge Salamo Injia that 'he was entitled to rape his wife to satisfy his desire for sex'.

THE NAKED TRUTH

Girlie spotted in the *Yarra Leader* (Melbourne) on 26 June 1995 a photograph of smiling stripper, Chrissie Lane who has just won exotic dancing's highest accolade when she was crowned Miss Nude World in Houston, Texas. When questioned about feminist criticisms of her career choice, Miss Nude World replied that she was a former school dux, supports equal opportunity and women's rights and that those principles are not at odds with her job!

MORE LEGAL FASHION DISASTERS

The *ABA Journal* (March 1995) puts our home-grown 'judicial apoplexy over spotty stockings' episode (see *Girlie* October 1993) into perspective. Some women lawyers in the United States have been copping more than a bad rap for their fashion sense and a few strong words on the proprieties of dress-

ing to impress in the courtroom. In September 1994, Crystal Holjes of Pompano Beach, Florida was dragged from the courtroom in handcuffs by armed deputies, having been ordered to leave by Circuit Court Judge Barry Goldstein. The reason? He did not allow women to appear before him wearing shorts. It seems her culottes ('half skirt, half shorts . . . very dressy and almost to the knee') were unacceptable attire for this judge who, this article states, has been known to hear male lawyers wearing blue jeans, and male police officers in shorts, in his courtroom.

In another fashion disaster, Crystal's Texan colleague, Mary Cohn was let down by her underwire nursing bra when it set off the metal detector on her way into the courthouse to appear for a criminal defendant. The armed attendant was unimpressed by the useful information Mary supplied about the metal content of women's underwear and asked Mary to remove jewellery and clothing until she could pass through the detector without activating it. She told him his machine was 'f...ed' and used the 'f-word' again in response to his warning that 'such vulgarities are not acceptable'. The deputy got out (yes, you guessed it) his handcuffs and shackled our heroine, throwing her up against the wall, charging her with disorderly conduct and reading her rights. After hearing three days of evidence, it took a jury only 20 minutes to find her not guilty. Evidence included that in Mary's part of the world, some male lawyers had been known to use the same 'f-word' inside the courtroom.

Back in Australia, one Victorian Supreme Court judge has shown that his reputation for prejudice is not reserved for women. When a senior barrister's mobile phone rang while she was addressing the court, His Honour observed that 'It's probably the babysitter'. Opposing counsel, an Aussie of Greek descent, consoled her after court by saying 'Don't worry, if it had been my phone, he'd have said "That'll be your local take-away to say that your souvlaki is ready"'.

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