

'SIT DOWN GIRLIE'

Legal issues from a feminist perspective

Only in America

Girlie readers looking to travel should plan to be in New York in mid February. The V-Day initiative, a movement designed to eliminate violence against women, will hold a performance on Valentine's Day each year, with a particularly momentous one at Madison Square Garden planned for the year 2000. This year's performance included numerous well known Hollywood women taking the starring roles in an Obie award winning play, 'The Vagina Monologues'.

In addition to hysterically titled plays, part of the V-Day initiative involves promoting the Violence Against Women Act II, a bi-partisan Act introduced into the US Assembly in March this year. Drafted in large part by the 2000+ member National Task Force on Violence Against Women and chaired by the National Organisation for Women (NOW) Legal Education and Defense Fund (LEDF), the Act adds various initiatives to existing 1994 legislation. One of the focuses is on workplace protections and support for working women experiencing domestic violence, to help them maintain economic independence while extricating themselves from violent situations. The Victims Employment Rights Act (VERA) prohibits employers from taking adverse job actions against an employee because of any effects domestic violence, rape, or sexual assault may have on her job performance. Additionally, it allows women to take time off under the Family and Medical Leave Act for non-medical reasons such as court appointments; provides unemployment compensation for victims of domestic violence; and gives a tax credit to businesses that create violence against women workplace safety programs.

With friends like these

When faced with the recent battles in WA, spare a thought for US abortion rights activists, who are currently facing their latest federal challenge. Recently a Michigan judge blocked the parents of a 12-year-old girl, pregnant by her older brother, from taking her to Kansas for a late term abortion. Following hot on this decision's heels, the

House passed the invidiously named Child Custody Protection Act, making it a federal crime to take minors across State borders for abortions. While the Bill exempts parents from prosecution, other adult family members, such as siblings or grandparents face imprisonment if they assist a pregnant minor. The Bill faces the Senate soon and US feminists are currently urging their local Senators to vote against it. Considering the frequent attacks on abortion clinics in the US, however, including recent ones in Florida involving butynic acid bombs, feminists are not confident that their concerns will be heard.

Leading the way

In the first action of its kind, the NOW LEDF, together with the Welfare Law Center, have filed a sexual harassment complaint in the Equal Employment Opportunity Commission against New York City's Workfare program, alleging a lack of work protections for its participants. The Workfare program, somewhat like our Work for the Dole scheme, requires welfare recipients to engage in work assignments supervised by the City. The complaint claims that a supervisor repeatedly harassed a workfare participant, promising her better work assignments if she complied with his sexual advances. Being homeless at the time with two young children, the woman was faced with the prospect of continued harassment or leaving her work placement and losing her benefits. NOW LEDF legal director Martha Davis has noted that women in these kinds of programs are in a particularly vulnerable position.

Also in a vulnerable position was the complainant in *Murrell v School District No. 1*, heard in the 10th Circuit Court of Appeals recently. This case involved the severe sexual harassment by a high school student of another student with spastic cerebral palsy and a serious developmental disability. Appearing as *amicus*, the NOW representative argued that the school must address charges of sexual harassment, asserting Title IX of the Education Amendments of 1972 required schools to respond to complaints of hostile environment sex-

ual harassment just as Title VII of the Civil Rights Act of 1964 requires employers to respond to hostile environment sexual harassment in the workplace.



NOW's LEDF has also taken the initiative on the issue of sexual harassment in housing, releasing a legal resources kit, providing information and support for women fighting harassment from landlords, superintendents and housing authority representatives. These kinds of initiatives set an exciting example for feminists everywhere, and

Girlie will try to keep readers up to date with any developments.

Welcome protection

On the other side of the globe, the English Court of Appeal has recently issued guidelines to judges to protect victims of rape or sexual assault during cross-examination. Lord Bingham, the Lord Chief Justice of the Court of Appeal stated that in some circumstances, judges should take over the questioning themselves in order to avoid unnecessary distress for complainants. This initiative has come largely in response to concerns over cross-examinations by defendants representing themselves who had sought to dominate, intimidate or humiliate the complainant. It was noted that while the line of questioning adopted by some defendants was offensive and needed direction from the presiding judge, other defendants sought to intimidate by their dress, manner or bearing, prompting the suggestion that a screen be positioned between the defendant and complainant during cross-examination. Government spokespeople have suggested that legislation may be needed to give rape victims full protection while British victim support groups have argued that defendants should be completely prohibited from cross-examining their alleged victims.

Girlie is pleased to note that the Australian judiciary was one of the first to take similar initiatives and attempt to educate itself about the impacts of cross-examination on victims of rape and sexual violence. However, there is certainly no room for complacency in

Australian courts. In particular, the dramatic cuts to legal aid have seen increasing numbers of women and children in Family Court cases subject to lengthy cross-examination from their abusers, and *Girlie* suggests that further attention needs to be paid to these issues at home as well as abroad.

Mention/In Brief

Girlie notes that Victorian Women Lawyers are launching a number of initiatives in the coming months, including its Flexible Work Practice guidelines in the first week of September and its Child Care Kit in the third week of the month. Both launches will be at the Law Institute of Victoria.

Bar Girls

Girlie was pleased to note recently that the Victorian Bar Council has released a report it commissioned from independent researchers, entitled 'Equality of Opportunity for Women at the Victorian Bar'. The report was based on analysis of 125 interviews with male and female barristers, judges, solicitors, clerks and people who had re-

cently left the Bar, as well as on data collected from the courts about appearances by male and female barristers. *Girlie* was not overly startled by the major findings — that the male dominated nature of the Bar's culture and traditions make it more difficult for women to become part of and succeed in the 'mainstream', that women are less likely to be briefed as regularly as men, have a lower representation in longer cases, and that the careers of male barristers are not hampered by family responsibilities in the same way as their female counterparts.

However, *Girlie* was pleasantly surprised to learn from the interview data that the kind of judicial comment that led to her inglorious naming seems to be dying out. As the report states, this could be for a number of reasons: there is more respect for women in the courts these days, the judicial officers who could not handle female professionals in their courts have either died or retired, or the misogynists have just learned to shut up.

Most pleasing for *Girlie* in relation to the report was the Bar Council's response. The Chairman Neil Young,

welcomed the report, describing it as 'well-researched, extensive and challenging'. He indicated that the Council would be swift in reviewing the recommendations made by the researchers and that the council accepted the challenge issued by the report to 'lead from the front'. The Law Institute of Victoria has also welcomed the report, stating that it will consult with groups such as the Women Lawyers Association and publicise the essential findings of the report, with particular emphasis on briefing practices. This attitude can only be commended and is in stunning contrast to the not-so-public response earlier this year when a first draft of the report was unfortunately leaked to the *Age*. *Girlie* was reliably informed that some members of the Bar Council, unable to distinguish between a newspaper report, (designed to sell newspapers), and a research report, (designed to provide considered findings), were heard to utter statements about the whole project that could only lend strong support to the notion that gender bias and 'attitude problems' about equality at the Bar do continue to exist.

Barri Starr

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Tim McCoy Trust

11th ANNIVERSARY TIM MCCOY MEMORIAL DINNER 1998

Tim McCoy (1956–1987)

Student radical; community worker; solicitor, political activist, law teacher; National Community Legal Centre representative; larrikin, inspiration and friend to all in the community legal centre movement. A life too short.

The trustees invite you to join them at the annual dinner to commemorate the life and work of Tim McCoy. This year's dinner is to be held on Friday, 6 November 1998.

Guest speaker: Jennie George, President, ACTU

We have a limit of 150 places and each year is sold out, so it is vital that you book. Please phone Simon Smith on 03 9208 1517 (bh) or Susan Campbell on 03 9905 3352 (bh). If you are organising a table, please provide us with the name of each person on the table. A table seats 10. Vegetarian meals are available — tell us when booking. The club is fully licensed for bar and table service. If you BYO, corkage is charged.

Time: 7.30 p.m.

Date: Friday, 6 November

Venue: Hawthorn Social Club, 37 Linda Crescent, Hawthorn

NB: If you are unable to attend, the Trust gratefully accepts donations.

The trustees will announce the winner of the eighth 'Tim McCoy Award' for a special contribution to the community and legal aid issues. The prize is \$1000 awarded to an individual or organisation that the trustees feel best reflects the ideals that Tim McCoy worked for.