

'SIT DOWN GIRLIE'

QUESTIONS FOR THE ACT ATTORNEY-GENERAL

Girlie has written to the Attorney-General of the ACT asking the following questions: why have the Magistrates Court Rules, the Magistrates Court (Civil Jurisdiction) Regulations, the Magistrates Court (Enforcement of Judgments) and the Coroners Act all been amended to delete the words 'her or his', 'she or he', 'herself or himself' and 'her or him' wherever occurring and to substitute the words 'his or her', 'he or she', 'himself or herself' and 'him or her'. Why were these changes made? On whose advice and how much has this exercise in male supremacy cost the taxpayer? Watch this column for the Attorney's response.

OBITUARY

Born in Melbourne on 19 May 1918, Phillipa Hallenstein OBE was a lawyer who fought for women's rights throughout her life. She had a longstanding involvement with the National Council of Women and was the Victorian President from 1968 to 1971. At the same time she was the Vice-President of the Australian NCW. Ms Hallenstein was also the Foundation President of the Australian Local Government Women's Association. She was an advocate of legal reforms for women and encouraged them to become actively involved in issues affecting them. An early advocate encouraging women to serve on juries, she lobbied for reform of property law affecting women's rights and encouraged women's participation in local government. One of the first women to gain a law degree from the University of Melbourne she also later completed a Master of Laws. Ms Hallenstein was admitted to practise in 1942 and to the Bar in 1943. Her international involvement included her convenorship of the Laws Standing Committee of the International Council of Women. Although her family and Australia lost a wonderful woman on 1 August 1994, achievements such as hers do not die.

THAT'S NO LORD, THAT'S A LADY

In May 1994, Lady Justice Butler-Sloss

delivered the 23rd Lord Upjohn Lecture at the Inns of Court School of Law. When she is not being so informal she is known as Lord Justice Butler-Sloss. No, the good lady Justice has not undergone gender reassignment surgery; she was always a woman but the law does not allow her to be recognised as such. In court and for all official purposes she remains a Lord Justice of Appeal. A special Act of Parliament is required to make the Lord a Lady, however Girlie's information is that she, the Lord Justice that is, does not believe such legislation is necessary.

GOOD READING

The entire issue of South Australia's *Law Society Bulletin* for August 1994 is devoted to Women and the Law. Features include an analysis by Linda Kirk of the battle by women to gain acceptance in the Australian legal profession. Janet Maughan analyses new domestic violence laws, Margaret Davies and Ngaire Naffin write on feminism in the law schools, and Professor Hilary Charlesworth explores Katherine Hall, a 'real woman'.

GENDER BIAS REPORTS

Several important studies of gender bias in the legal system have been released. In June 1994 the report of the Western Australian Chief Justice's Taskforce on Gender Bias entitled 'Gender Bias and the Judiciary' was released. The Report contains 198 recommendations on a diverse range of topics including compulsory training for judges and more toilets for women at the courts. Affirmative action in the judiciary and the police force is urged to ensure greater representation of women. Other suggested reforms are decriminalisation of prostitution and abortion, a legal service for Aboriginal women, and all law students in Western Australia to study feminist legal scholarship.

In July 1994 the Australian Law Reform Commission published the first of two reports, *Equality Before the Law: Justice for Women*. It

recommends the strengthening of the *Sex Discrimination Act* by removing many of the present exemptions. Additional funding is urged for legal aid services for women because of gender bias in the present allocation of aid funds. Gender bias education is recommended for judges, magistrates, police, lawyers and court officers, and a Violence Against Women Unit should be established in the human rights section of the Federal Attorney-General's Department.

AMERICAN LAW

The idiosyncrasies of language, particularly in legal circles are fascinating to study. The plain English movement, now re-named the plain language movement to avoid an impression of imperialism, has sought to make legal information more accessible to the lay person. Language creates culture and reflects it. The Americans have always had an interesting turn of phrase but Girlie was truly astonished at the words chosen by Los Angeles Deputy Defender Thomas B. Ahearn when he described the characteristics of Judge Kathleen Ann Kennedy-Powell. She was the judge presiding in the preliminary proceedings of the O.J. Simpson case. According to the *National Law Journal* (11.7.94) the judge is a 'bench activist' who is likely to be inquisitorial and very firm. Her approach has not always pleased Mr Ahearn. Judge Kathleen Ann Kennedy-Powell, he claims, has a volatile temper and: 'she has snapped at me and I have had my fanny chewed out, but there was reason for her to be upset because I was late in court and made her whole calendar late'.

On 8 July 1994 Judge Kennedy-Powell denied O.J. Simpson's application to suppress evidence found by the police on his property. The police had entered and searched the property without a warrant shortly after the murder of his ex-wife and her friend. The judge found that the officers were justified in coming on to the property because Simpson was the father of two young children found asleep in their dead mother's apartment and they needed care. They went to Simpson's property, were not admitted,



saw a drop of blood on the door and scaled the wall. The police said they were concerned someone might be dead or dying on the premises. The decision has generated debate about whether the Fourth Amendment is still 'alive and well' to use Judge Kennedy-Powell's words. Critics of her ruling say that rather than there having been 'exigent circumstances' the police may have concocted an 'after the fact story' to justify the illegal search.

SINGAPORE

The Singapore Government is conducting a campaign to 'protect the family'. One of its 'initiatives' has been to bar unmarried mothers from buying subsidised apartments. The policy was later revised so that unmarried fathers could also be censured. The National Development Minister, Mr Lim Kiang is reported in the *Australian* (1.9.94) as saying: 'We will be happy if unmarried mothers provide us the name of the father, then we will also debar the father from applying for Housing Development Board flats'.

TURKEY

An organisation known as Human Rights Watch which is based in New York has condemned the Turkish Government for ignoring the common but illegal practice of virginity exams for unmarried women who apply for government jobs. The Herald-Sun reported on 6 June 1994 that similar exams had been forced on women in police custody. Turkey's Prime Minister, Ms Tansu Ciller, has not publicly commented on the issue.

RUSSIA

The ex Soviet Union is no different from most other places when it comes to issues of sexual assault – best to leave it alone. Reports in the *Australian* (11.5.94) by Tracy Sutherland and by Robyn Dixon in the *Age* (8.6.94) describe the painful changes which are slowly taking place in Moscow for sexual assault victims. Official statistics indicate that 14,440 rapes were reported in 'Russia' last year but psychologist Natasha Gaidarenko believes rape is under reported by 90%. When she began translating American literature into Russian four years ago she realised that most of the vocabulary on the subject did not even exist in her own language.

Ms Gaidarenko received over 1500 letters following a newspaper story.

Many were from victims who had never told their stories to anyone else. She established a sexual assault centre which receives no government funding. The Government does not believe that rape is a problem. Two counsellors working on hotlines for women in Russia have been murdered and the exact location of the sexual assault centre is kept secret. Victims' experience indicates a strong distrust of police. There are stories of non-action, bribes being asked for from victims seeking to report the offences and bribes being accepted from alleged perpetrators to do nothing. Hospitals and doctors have been insensitive and unwilling to take any action or provide support for victims.

In June 1994 the sexual assault centre organised a conference for Russian psychologists and health workers on rape and incest. Delegates from the United States came to assist and share their information and experiences. Women working at the assault centre believe that Russia is a rape-prone society because of its rigid sex roles, entrenched sexual discrimination and high level of alcohol abuse. The most common reaction to rape was that women who were raped just went home and went to bed for a week.

PRIVY CHAMBERS

How many times have you stood in a long queue during the interval at a play or concert waiting to exercise the privilege of having a pee? A study by postgraduate students from RMIT's Graduate Diploma in Building Surveying attempted to conduct a formal study of toilets, or lack of toilets, for women in four public venues, but only the Victorian Arts Centre was prepared to be involved. The study entitled: 'Female toilet facilities: are there enough in public theatres?' was instigated following a large number of complaints received by Victoria's Ombudsman. The Arts Centre has more women's toilets than is actually required by local and international regulations but, even so, when they were most needed they proved inadequate. The study also revealed that women spend longer waiting to exercise this most basic of human rights than do men, and women need to exercise this right as they visit the toilet 1.3 times more than men.

TOXIC SHOCK

In the early 1980s incidents of toxic shock and subsequent legal action led

to several products being removed from the market and substantial damages awards. A new class action was lodged in Wichita, US on 25 May 1994 against the firms of Tambrands Inc. and Playtex Family Products. The plaintiffs allege that although the manufacturers have known for at least a decade that their products put women at risk of toxic shock they have still not made their products safe.

CAUGHT SHORT

And lest readers should gain the impression that only women take class actions against manufacturers, consider the case of 'John Doe'. He is an anonymous man from Pennsylvania who is suing Bristo-Myers Squibb Company claiming that it and a subsidiary company manufactured, sold and distributed faulty penis-inflating implants. The action has been filed as a class action claiming that the company sold between 250,000 and 350,000 defective Flexi-Flate 11 silicone implants. The *National Law Journal* reports that Mr Doe's lawyer says his client's implant 'broke in bed'.

IMPROPER POLICY

In the case of *Cammermeyer v Aspin* C92-942Z a Federal Court judge in Seattle has soundly condemned the Pentagon's policy against lesbian soldiers. The court ordered the reinstatement of National Guard Colonel Margarethe Cammermeyer who had been thrown out after she acknowledged she was a lesbian. The decision was handed down on 1 June 1994 and Judge Thomas Zilly said the Pentagon's policy was 'based solely on prejudice . . . founded on unsubstantiated fears, cultural myths, stereotypes or erroneous assumptions that cannot be the basis for discriminatory classification'. The *National Law Journal* reports that Colonel Cammermeyer was the Washington National Guard's chief nurse. She was represented pro bono by Jeffrey I. Tilden and Michael Himes of the Seattle firm, Perkins Coie.

On 7 July the 9th Circuit Court of Appeals rejected the Government's move to stay the order. Two years after her dismissal, 52-year-old Cammermeyer returned to her post to the cheers and smiles of all ranks.

Una Lateral

Una Lateral is a Feminist Lawyer.