- the distinction between QC's and juniors does not reflect ability and negates competition;
- the dual system of the legal profession creates higher costs (there should be fusion of the profession);
- barristers may not be sued for negligence by a client.

The battle of the lawyers to increase legal aid fees may be unlikely to get great public support. The resolution of this dispute will be very interesting.

affirmative action bill

I'm not denyin' the women are foolish: God Almighty made 'em to match the men

George Eliot

bill introduced. On 19 February 1986, the Government introduced into the House of Representatives the Affirmative Action (Equal Employment Opportunity for Women) Bill 1986. Affirmative action legislation was first introduced as a private member's bill by Senator Susan Ryan in 1981. It was deleted from the Sex Discrimination Act 1984 (Cth) because the Government decided it was more appropriate to generate public discussion and understanding of the principles and proposals first. So, in June 1984, the Government issued a Green Paper, *Affirmative Action for Women,* which canvassed the issues and outlined its proposals, and announced the establishment of a pilot program involving 28 companies and 3 tertiary institutions.

its provisions. The legislation provides for affirmative action to be phased in over a period of 3 years. By then, private sector employers of 100 or more people and higher education institutions will be required to comply with the program. The program comprises 8 steps which are

- the issuing of a statement to all employees that an affirmative action program will be developed and implemented in accordance with the Act;
- the appointment of a person with sufficient authority and status within the organisation to be responsible for developing and implementing the program;
- consulting with trade unions whose members are affected;
- consulting with employees, particularly women;
- the collection and recording of employment statistics;
- a review of policies and practices to identify any which discriminate against women and any patterns of lack of equality of opportunity for women;
- the setting of objectives and making forward estimates; and
- the monitoring and evaluating of the implementations of the program and assessing the achievement of the objectives and forward estimates.

Employers will be required to lodge two reports, one public and one confidential, annually with the Director of Affirmative Action. The public report must contain information about the organisation's employment pattern, and action taken to implement the program. It may be used by the Director in a report to the Minister who is required to table in Parliament any such report, and the Director's annual report. The power of the Director to name any employer who, without reasonable excuse, fails to lodge a report or fails to provide further information as required is the only sanction provided for by the Bill.

underlying policy. In introducing the Bill, Mr Hawke said that the legislation was necessary to ensure that all large employers take their obligations to their women employees seriously. He affirmed the Government's determination that women should be able to enter and compete in the labour market on an equal footing with men and that outmoded prejudices and conventions should not prevent them from fully participating. The aim of the program is to ensure that existing discrimination is identified and that

equal opportunity becomes a reality. It therefore complements anti-discrimination legislation by eliminating any rules or practices which might unfairly disadvantage women in the workplace and by promoting equal opportunity. He was careful to stress that the legislation does not propose positive discrimination, that is, discrimination in favour of women, and that the Government is totally opposed to the use of quotas. Further, the objectives and forward estimates required to be set are to be determined by the employer and not imposed by the Director.

reaction. The introduction of the Bill provoked immediate criticism from proponents and opponents of the principle of affirmative action alike. A spokesperson for the Women's Electoral Lobby was reported as saying that the publication of employer's names would be 'ineffective' and that the initial staffing level was 'unrealistic'. (*Canberra Times,* 20 February 1986) Taking the opposite view, a spokesperson for the Business Council of Australia reportedly warned that there could be an employer backlash against the progress which, 'regardless of its stated intent, could have the effect of positive discrimination in favour of women, thus challenging the notion that all employees should be treated as individuals according to their skills, qualifications, aptitude, and potential without regard to gender'. (*Canberra Times,* 20 February 1986) In general, the editorial reaction was favourable. *The Australian* (21 February 1986) questioned the need for such legislation and postulated that its long-term consequences are likely to be of as much harm as good to the community. However, the *Canberra Times* (21 February 1986) described the legislation as 'mild and encouraging' and said that its strength lies in the fact that it will make employers aware of the quality of their women employees and of any areas of sex discrimination within their organisations. In a similar vein, *The Age* (22 February 1986) described the program as 'essentially an exercise in consciousness-raising' and said that the legislation provides an impetus for the systematic improvement of the position of women. Nevertheless, it recognised the limitations of any such legislation, however 'admirable' by pointing out that it would make more sense if it were accompanied by a more effective and extensive child-care program because '[t]here is not much sense in asserting the right of women to enter or work their way up in the workforce if their family responsibilities prevent them from exercising that right'.

contempt and the media

> [. . .] paid stooges who with pen and tongue and radio voice are prepared to sell the cause of truth and their own souls at a lesser price than that for which Judas sold his Master – that is, when one takes into consideration the increased cost of living since Biblical times.
>
> Ben Chifley, On the Australian Press

alrc proposals. Proposals to reform the law of contempt as it applies to the media were outlined in Discussion Paper No26, *Contempt and the Media,* released by the Australian Law Reform Commission late in March. In detailing the proposals, the Commissioner in charge of the Contempt reference, Professor Michael Chesterman, stressed that they were put forward as a basis of discussion prior to the commencement of the Commission's public hearings and were not presented as the Commission's final conclusions. The Contempt reference was given to the Commission in 1983 in the wake of the conviction and gaoling of Mr Norm Gallagher, the National Secretary of the Builders Labourers Federation, for remarks made to the press which were held by the Federal Court to constitute contempt. More recently, widely publicised events such as the Lindy Chamberlain case and the murder of Anita Cobby have stimulated calls for urgent reform of the law of contempt.

The Commission's proposals seek to clarify and streamline the *sub judice* rule which prevents the media from publishing material which has the potential to influence a judge or jury in reaching a decision. The principal aim of the *sub judice* rule – that of ensuring that accused persons receive a fair trial, free