

# Women as property:

**"I**n 1984 in Minneapolis, Minnesota, a woman named Linda Marchiano appeared before a City Council hearing to testify about the abuse she had suffered at the hand of her husband, Chuck Traynor.

"She described a life that began with enforced prostitution, progressed through enforced participation in group sex, bashings, beatings and marital rape..."

They were Jocelynn Scutt's opening words when she addressed a Darwin dinner on *Women as Property: Prostitution, Pornography and Sexist Advertising*.

Whilst the name Linda Marchiano didn't mean anything to most people, she is well known.

Linda Marchiano "played" Linda Lovelace in the infamous film *Deep Throat*, a film she was brutalised into making at the hands of Chuck Traynor, her "agent" and husband.

"Linda Marchiano testified to the force and coercion to which she was subjected in the making of that film," Dr Scutt said. "She told of two years of confinement by Chuck Traynor, while he forced her into prostitution and pornography through beatings, constant sexual terrorism and abuse, psychological brutality, and threats to her life and the lives of members of her family.

"Her story was unusual, she said, only because she survived to tell it.

"Linda Marchiano said: 'Every time someone watches that film, they are watching me being raped.'"

**D**r Scutt asked what sort of society can allow this to happen.

She said there is no judicial definition of pornography, only a test of obscen-

ity which is "...whether the tendency of the matter said to be obscene is to deprave and corrupt those whose minds are open to such immoral influences and into whose hands a publication of this sort may fall."

"The nature of such a society arises out of a patriarchal inheritance," she

lack of rights women possess.

"Sex discrimination, anti-discrimination, equal opportunity and affirmative action legislation has been introduced at state level and federally, or is projected in the private and public sectors; efforts are being made in the education of women and girls.

"These are a beginning, although there are many backward steps, too.

**"E**ven with these beginnings, the loading against the rights of women to speak out and our sheer inability in terms of access to the media and to other channels means that it is women's freedom to speak out against the degradation and exploitation inherent in sexist literature and film and advertising which culminates in pornographic films and video that is more than at risk. "In many cases it simply does not exist, just as women's rights to speak out against physical abuse inflicted directly upon them is inhibited by lack of support in a society that condones that violence.

"And in Australia, until the 1980s, women were seen as having no right to speak out against rape where the rapist is a husband.

"In talking about privacy and freedom it is odd that where women are concerned the words are most often used where they involve the real or potential exploitation of women's bodies and sexuality.

"Those talking about 'freedom' in the pornography context talk about a woman's right to participate in prostitution or in pornographic movies.

"But what is the validity of the professed choice women have, in a country where women still earn only



said.

"Our heritage is that of a world which encourages male domination of women.

"Positive action is being taken, through the efforts of women, to remedy the lack of freedom and the

# what's new?

66.7 per cent of men's pay, despite decisions allegedly securing equal pay for women?

"The truth is that many women are forced into prostitution through economic reality or through physical brutality."

Dr Scutt said women can and should fight back.

She said there are avenues for demonstration — making non-sexist films with the limited resources women have, taking action against sexist advertising and continued political activism in the political and employment arenas.

"The law can also be used," she said. "Laws must be changed to address the harm done to women in the making, distribution and consumption of pornography."

**S**he said a definition of pornography as sexual discrimination must be included in equal opportunity and anti-discrimination legislation so that coercion into performing for pornography, forcing pornography on a person, assault or physical attack due to pornography and trafficking in pornography became offences.

She said these remedies would sit alongside any existing criminal remedies such as sexual assault legislation. She also encouraged women to take legal action, despite the argument that courts are not women-friendly, particularly in sexual assault cases.

"There are many responses to this argument, which is designed to deprive women of the will to take action.

"I would not profess to believe that courts are woman-friendly, nor friendly to any subordinate or oppressed group.

"Nor is the law.

"Yet nor is any institution existing in our current society.

"Do we therefore give up and bow down to all existing institutions, confessing our inability to change them or use them?"

No, she said.

Dr Scutt said women should use the institutions of the system simultaneously with working outside the system.

"In this world, no one will own women, nor women's bodies, nor women's sexuality, nor women's sexual identity.

"Women will not be property.

"We as women will not own our bodies.

"Rather, there will be a recognition that we are our bodies."

Dr Scutt examined examples of sexism in magazines such as *Pix*, *People*, *Penthouse*, *Playboy* and *The Picture*.

Of the latter magazine, she said promotions have included a poster of a large-breasted blonde woman with a gun to her temple and the headline "Buy this magazine or we shoot this girl."

**A**nd a competition to match photographs of women's naked bottoms to their faces "and win \$1000."

"Ultimately, the wrongs of violence against the exploitation of women, the ownership of women, will be ended only when patriarchal values cease to order the way of life lived the world over.

"Only then will the buyers of pornography cease to buy; the sellers cease to sell; and the makers cease to make.

"Only when the value system promoting women as sex objects to be bought, bartered, used and abused — or the equally undesired reverse, woman as paragon on a pedestal — is ended, will women be themselves.

"It is only then that a vision of woman as equal with man, as equally worthy, will become the reality, and pornography and the notion of woman as property will cease to be," Dr Scutt said.

*Interested people can procure a full copy of Dr Scutt's speech from the Law Society, telephone 815104.*

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had been successfully deferred under s85(7).

That section, combined with subsection (1), enables an employer to defer acceptance or rejection of a claim by requiring, within seven working days, further medical information.

To do so, however, the employer "shall **immediately advise** the claimant of that fact..." (emphasis added).

The question then became whether or not the advising had to take place within seven working days and, if so, what amounted to advising.

His Worship held that: "If the employer does not wish to be placed in a position where it is deemed to have accepted liability it must **communicate** its decision to the worker before the expiration of the period of seven working days after receipt of the claim for compensation." (p3, emphasis added)

Note that in this passage "communicate" is used synonymously with "advise." His Worship came to the conclusion that they were synonymous because: "To immediately advise means to without delay inform or notify. The act of advising is not a unilateral act. If advice is (sic) has not been received the act of advising has not taken place." (p4)

Accordingly, as the worker's solicitors did not receive the deferral until after midnight on 23 April, ss85(1) and (7) had not been complied with and the deferral was not successful.

This meant that as at 26 April the worker had a cause of action or, perhaps more correctly, a right of recourse to the Court.

The employer's mistake in this case was to send the letter of deferral by ordinary prepaid post.

His Worship held that there was no requirement under s85 that a deferral of liability be in writing, so instead of simply posting the letter, the employer should have faxed it to the worker's solicitors or used some other form of instantaneous communication.

He said that if an employer found itself had no such facilities available, it could accept liability subject to receiving further medical information under s85(1)(b) or require further medical information under s85(1)(c).

-- Cameron Ford.