

NEWS AND VIEWS

Dame Roma Mitchell Memorial Debate

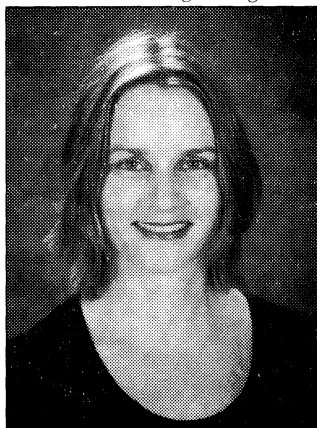
It is undeniable that Dame Roma in her lifetime was held, and since her death continues to be held in high esteem, not only as a "trail blazer" for Australian women in law, but indeed across the entire legal profession. Therefore, NTWLA will be sponsoring a debate as a memorial to her achievements. Teams will be mixed Those interested in participating should contact Jacqueline Presbury at Cridlands.

Proposed Amendments to the Sex Discrimination Act (Cth)

The Australian Women Lawyers has written to the Senate Legal and Constitutional Committee setting out their opposition to the bill.

AWLs opposition may be summarised as follows:

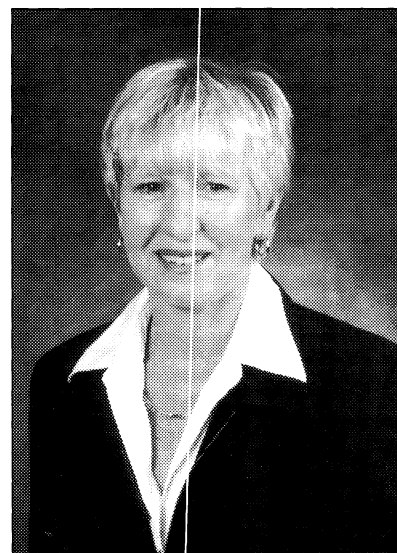
- (a) It is poor public policy to carve exemptions out of legislation which is intended to be of general application. Poor policy generally makes poor law.
- (b) It is inappropriate in Federal legislation that is intended to cover the field in relation to discrimination to allow an exemption which will result in varying laws between different States and Territories. There is no reason why it is appropriate that single women in Victoria, South Australia and Western Australia should not have access to these services, yet single women in New South Wales do.
- (c) There is no discernible public good to be served by the exemption.
- (d) The exemption is in direct conflict with the objects of the Act and thereby has the effect of downgrading the rights



Sharon Burnett, NTWLA Treasurer

afforded by the Act as well as undermining Australia's stated adherence to the principles enshrined in CEDAW.

- (e) The ill which this Bill seeks to overcome, being access to ART by single women (and thereby, lesbians) is not an ill at all. There is no evidence that single women are less successful parents than married women.
- (f) The significant restrictions that are placed on access to ART, being the need for the woman seeking treatment to be infertile and the associated economic and non-economic costs associated with ART, are a sufficient and substantial barrier which address any perceived rush to use these services which may be occasioned by the recent decision in *McBain v. State of Victoria* [2000] FCA 1009.
- (g) A woman's access to ART is not a moral, social or legal issue; it is a health issue. Women ought to be allowed the freedom to make their own decisions on their reproductive capacities, without legislative intervention. This is consistent with Australia's obligations under CEDAW, and is consistent with the objects of the Act.
- (h) It is incorrect to argue, as the second reading speech seeks to, that the question of access to ART was not foreseen to be an issue at the time that the Act was originally debated. IVF, the most well-known form of ART saw the birth of the first child, Louise Brown, 21 years ago, some 5 years before the introduction of the Act. Artificial insemination has of course been available for a much longer period of time. The Australian Family Association has publicly stated that it was warning of "dangers" of access to ART at the time of the introduction of the Act. In any event, it is invalid to argue that an exemption ought to be permitted because technology and society have moved on since 1984; legislation is never intended to only apply to the circumstances which existed at the time of its enactment.
- (i) The Bill will have very far reaching consequences. According to the Explanatory Memorandum ART covers any service that is designed to assist fertilisation by non-coital means. Thus, artificial insemination will also be affected, as may be counselling services.



Jacqueline Presbury, NTWLA President

NTWLA is in the process of drafting its own letter of opposition to the Bill which proposes the amendments.

NTWLA Christmas function — Wednesday 13 December 2000

Mark it in your social calendar. You should have received a circular by now. If not please telephone Sharon Burnett at Clayton Utz and she will provide particulars and can reserve you a place. It will be fairly informal.

Introducing Sharon Burnett, Treasurer NTWLA

Sharon is originally from Adelaide but left when she was a young slip of a girl. She lived in London and Germany for about 10 years working as a professional ballet dancer, performing the classics and York City Ballet programs.

On returning to Australia she completed a bachelor of Arts degree at Flinders University, Adelaide, majoring in philosophy and English. After completing these studies she was employed for a period of approximately 12 months by an oil exploration company working in the Coopers Basin.

A NTU graduate, Sharon is in her third year of practice and was admitted in January, 1998. Sharon is employed by Clayton Utz as a litigation lawyer.

Bouquets

Congratulations to Sarah Beech (Cridlands) and Koula Saroglou (Ward Keller) who were both admitted on Tuesday 7 November 2000. It was also Melbourne Cup day. I have no doubt that they each feel they had backed a winner.