

SEX DISCRIMINATION LEGISLATION

It is not at all clear to me that Senator Susan Ryan's Sex Discrimination Bill will destroy the family or have many of the adverse effects that its more reactionary opponents fear, but it will certainly work to the disadvantage of those women who wish to be employed, borrow money or otherwise lead a commercial life.

The bill, at present parked with a Senate Committee, is trying by legal prohibition, to stop discrimination on the grounds of sex, marital status, or pregnancy, in employment and the provision of goods and services. It makes the fundamental error of not distinguishing between properly exercised choice and prejudice.

All people discriminate and the world would not go round if they did not. I don't know Senator Ryan's staff but I feel confident that even she has discriminated against the class 'male chauvinist Liberal'. She does so, whatever her prejudices, on the proper ground that women-libber socialists are more useful to her. None of us can be indifferent to the welfare she or he gains from a pair of shoes, a car, a doctor, or an employee. In that our discrimination is for the useful rather than the worthy, it is not necessarily fair. But is Senator Ryan, on a Senator's salary, more worthy than her sister in a clothing factory? We trust Senator Ryan justifies her higher salary by her greater utility, and that the ALP selection procedures and the Victorian public's discrimination were rational.

The bill may not if it becomes law allow employers or bankers to discriminate in favour of those individuals who will most reward them, but will instead compel them to employ or lend to people who are the not^{the} most rewarding to their enterprise setting aside those who are.

On the other hand the bill does nothing whatever to break down the legal immunities and privileges which shelter bankers and employers from the commercial penalties of allowing prejudice rather than sound commercial judgement to guide them.

Prejudice is a luxury that only monopolies can afford. A competitive business which denies itself the most productive employees, or the most lucrative custom,

will soon lose to people who are more sensible. It is unlikely to be coincidence that most complaints about unequal opportunity are levelled against the public sector, trade unions, and monopolies.

It may well be a damned unfair division of labour that women raise families while men raise incomes, but to the extent that it is a problem it is exacerbated by this bill.

The bill itself recognises that sex related differences are sometimes relevant. It won't compel the armed services to take women into combat roles, give men the right to compete in female sports, or compel life insurance companies to offer men the same low premiums they offer women. By excluding these from the ambit of the bill, Senator Ryan is distinguishing (dare I say discriminating) between rational choice and prejudice.

By not admitting the wide applicability of the principle that justifies these exclusions, this proposed law will itself be another irrational element arraigned against women. Employers will be even more reluctant to employ women if they fear that the Human Rights Commission may later become a third party to an employment arrangement, and if they must bear the cost of training and promoting women who will in all probability take time out to raise a family.

The Sex Discrimination Bill concerns a real problem but it ignores the good it might have done by tackling laws which discriminate irrationally against the unskilled by demanding unnecessary skills, licensing jobs or otherwise constraining the conditions of employment. It ignores monopolies which are an effective licence for prejudice. Where it does do something it almost certainly makes women's competitive position worse.