THE REASONABLE WOMAN: LIFE CATCHES UP WITH ART

fact is stranger than fiction

Our readers might derive some amusement from the following four (loosely) related items.

ONE

From page 220 of *New Words* (editor Orin Hargraves), Oxford Univ Press, New York, 2004:

**reason•a•ble wom•an stand•ard** /rez(ə)nəbəl 'wŏmən standard/* noun

a guideline for determining what constitutes sexual harassment, based on suppositions about what a reasonable woman would find objectionable.

TWO

Thus finally putting the nail in the coffin of the assertion by the late Sir Alan Herbert and first published in *Punch* (1924) and later included in the collections *Misleading Cases* (1927) and *Uncommon Law* (1935) and reprinted in countless other anthologies of legal writing and some of the more enlightened casebooks on tort. The fictitious case of *Fardell v Potts* (CA) was determined in favour of the defendant-appellant Mrs Potts on the basis that as a tortfeasor, Mrs Potts could not be held to the standard of the reasonable woman because, notwithstanding the acceptance and recognition of the existence of “the reasonable man” [and “the reasonable beer drinker” (*North Cheshire and Manchester Brewery v Manchester Brewery*, [1899] AC 83)], the law did not recognize the existence of “a reasonable woman”.

THREE

Of course the question was not addressed by the Court of Appeal in *Sayers v Harlow Urban District Council*, [1958] 1 WLR 623; [1958] 2 All ER 342 (Lord Evershed MR, Omerod and Morris LJJ). This case, much relied upon by desperate law lecturers seeking to enliven many a jaded torts class, was whether Mrs Sayers could recover from the defendant municipal council after she was imprisoned and injured in a public lavatory. Whilst awaiting the arrival of a train with her husband, Mrs Sayers attended at the convenience maintained by the defendant council and was unable to exit because of a faulty door locking mechanism. Seeking to extricate herself, she climbed upon the bowl and also placed her other foot upon the (revolving) toilet roll holder. It
was then when she realized that the cubicle wall was too high for a prudent escape and she sought to retrace her steps that her foot slipped on the revolving roll holder with the result that she fell and was injured. At first instance she failed to recover damages but on appeal was awarded damages subject to a reduction of 25% owing to her “contributory negligence”.

and FOUR

That the actions of Mrs Sayers were reasonable in the circumstances was demonstrated less than two decades later when Rosalynn Carter, wife of the then Governor of Georgia (and later President of the US) Jimmy Carter, found herself in a similar predicament.


When Rosalynn Carter was First Lady of Georgia she went to a high school to discuss, “Life in the Governor’s Mansion.” Her hosts met her at the front door and presented her with a large corsage which she pinned on her suit. Then she excused herself to go to the ladies’ room. When she was ready to return, the door of the bathroom stall wouldn’t unlock, though she shook it repeatedly. She thought about screaming, but couldn’t bring herself to do that, and finally decided to exit over the top. So she put one foot on the commode and the other on the toilet tissue rack, and hoisted herself up and over the top, corsage and all, worried all the time lest someone come in and find her suspended five foot off the floor. But no one came in, and a couple of minutes later she walked calmly out to deliver her speech as though nothing had happened.

Briefless
Author/s:
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Title:
The reasonable woman: life catches up with art: fact is stranger than fiction

Date:
2007

Citation:

Publication Status:
Unpublished

Persistent Link:
http://hdl.handle.net/11343/35049

File Description:
The reasonable woman: life catches up with art