

T020

Chivalry and El Vino's

It is astonishing that on the El Vino case you should refer to the law poking its nose where it has no business (leader, 27 May 1978). Have you ceased to believe in parliamentary democracy? The Sex Discrimination Bill was supported by all parties in Parliament. It is beyond argument that Parliament intended the Act to apply to the services provided by public houses and bars. Section 29 specifically refers to 'facilities for entertainment, recreation or refreshment' and requires that such facilities to be provided to women 'in the like manner' as they are provided to men.

Yet Judge Ruttie (born 1906) rules that on grounds of chivalry and administrative convenience El Vino's may go on refusing women service at the bar. If the plaintiff appeals she is likely to find herself before Lord Denning (born 1899). In a letter you published on 15 July 1977¹, I complained (as the draftsman of the Act) about Lord Denning's ruling in *Peake v Automotive Products Ltd*. There the Court of Appeal upheld a practice allowing women to leave a factory five minutes earlier than men. Again the grounds were chivalry and administrative convenience, and again the courts defied the clear words of the Act (which applies equally to discrimination against men). I said then that unless the Lords reversed this decision it would 'establish the dangerous principle that the Act does not necessarily mean what it says'. (The Lords did not in fact reverse the decision because the very senior judges sitting on the Appeal Committee refused leave to appeal.) It was the avowed aim of the Sex Discrimination Act to override what Mr Justice Phillips (reversed on appeal in the *Peake* case) described as ingrained social attitudes rendered obsolete by changing values. Is Parliament to sit helplessly by while elderly judges insist on upholding those obsolete attitudes and rejecting the principle of equal treatment clearly laid down by the Act?²

¹ Letter 15 above.

² *The Times*, 1 June 1978.