

1531

MONASH UNIVERSITY  
CENTRE FOR DRAMA AND THEATRE STUDIES

ON FIRST LOOKING INTO BACCACCIO'S *THE DECAMERON*

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I can remember clearly when I first came upon *The Decameron*. It was in the shaded living room of my grandmother's home in Tempe, a suburb of Sydney. It was about the year 1951. My grandmother had remarried and her new husband was a communist. That was a rather brave and foolhardy thing to be in the early 1950s. I have elsewhere<sup>1</sup> told the tale of his courage and of the courage and integrity of the Justices of the High Court of Australia in the *Communist Party Case*<sup>2</sup>. Suffice it to say that,

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\* Justice of the High Court of Australia.

<sup>1</sup> M D Kirby, "The Constitutional Centenary and the Counting of Blessings: (1997) 2 *Newcastle Law Review* 1 at 20-21.

<sup>2</sup> *Australian Communist Party v The Commonwealth* (1951) 83 CLR 1.

because of his communist convictions, my grandmother's new husband's bookshelves were full of the collected works of V I Lenin. There were occasional editions of the writings of Stalin, Marx and Engels thrown in. All were beautifully bound (and apparently unread). Pristine editions of Lenin's speeches and writings were everywhere to be seen.

Imagine the excitement of an eleven year old schoolboy, then reaching puberty, to fall upon *The Decameron* in the midst of all this collected seriousness and gravity. The book probably belonged to my grandmother, whose literary interests extended rather more widely than Lenin, Stalin, Marx and Engels. The edition was illustrated with seemly, but evocative, sketches of beautiful women (dressed in Nuns' habits) and handsome youths of Italian appearance (mostly dressed in Friars' costumes).

As I began to read the text, the excitement was inescapable. Boccaccio knew that human sexuality was an inescapable feature of human existence - and a very powerful one at that. Indeed, this was the important political message of his book. It was a message which Martin Luther took up in his proposed reforms of the Church, in advocating the right of religious people within the Church to have, if

they wished, natural sexual fulfillment: to marry and to produce families.

The distinguished United States Professor of Philosophy and Law, Thomas Nagel of the New York University has recently written<sup>3</sup> of the "sinister and obsessively puritanical" attitude to sex in the United States which has produced the extreme disruption of that polity by "lurid and poisonous", "fetishist and infantile" players who have caught the President in the perils of "this landmine disguised as a cream puff". So far, we have avoided the most extreme consequences of this danger in Australian public life. But there are early warning signals. They should be resisted by those who value privacy and human dignity.

I must confess that my thoughts, as I read *The Decameron* were rarely maintained at such high political levels. I just liked the stories. They fuelled my already over-heated imagination. Visits to my grandmother took on an entirely new complexion. My

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<sup>3</sup> T Nagel, "The shredding of public privacy", *Times Literary Supplement*, 14 August 1998 at p 15.

enthusiasm for such visits increased markedly. When, after her husband died, she moved to live with us in our family home in Concord, Sydney, she brought *The Decameron* with her. By then, my jaded imagination had found other stimuli. I could return to *The Decameron* as a work of literature. Re-reading its pages today, brings back memories of those far-away times of self-discovery.

Unfortunately, the law has generally tended to be an anti-aphrodisiac. It is as if it has taken the permanent antidote to Viagra. Probably because of the powerful forces that are let loose by sexual expression, the law has made it its business, in most societies and at most times, to try to keep those forces in check. Some such laws are absolutely necessary - to protect children against sexual exploitation and to protect adults from unwanted approaches, harassment and unconsensual sex<sup>4</sup>. But the law books are full of efforts to stamp out legitimate adult consensual sexual expression

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<sup>4</sup> This is a universal phenomenon. See eg *Oncala v Sundowner Offshore Services Inc et al* 118 S Ct 998 (1998) - a case of sexual harassment of a male employee by a male.

and pleasure<sup>5</sup>. I include in this regard the terrible laws criminalising adult consensual homosexual activity which, only recently, have been finally removed from the statute books of Australia. But I also include some of the laws against sex workers and laws of censorship which, at one stage, forbade access to books like Boccaccio's *The Decameron*. English-speaking societies, inheriting a kind of British sexual reticence, have been particularly hypocritical about sexual matters. I do not know about the reader, but in my case I have always been extremely suspicious of people who express moralistic sentiments about adult sexuality. They generally turn out to be contemptible hypocrites, living a double life, hoping they can disguise their actuality by repeated denunciation of it in others.

We have made progress in Australia in my lifetime. Many of the silly old laws prohibiting or punishing adult consensual expression have been repealed or modified. But lawyers and citizens must remain vigilant against the return of the sexual

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<sup>5</sup> See eg *Crowe v Graham* (1968) 121 CLR 375 as an illustration of an earlier era in Australia.

oppressionists. *The Decameron* illustrates, amongst other things, the fact that, in times past, as in the present, sexuality is an inescapable attribute of human existence. It seems safe to predict that it will remain so. That is why *The Decameron* is such a timeless work. But it is also why its message has lessons for lawyers. And political lessons for citizens. Some laws to control sexual expression and conduct are clearly necessary. But there is a limit in the realm of consenting adults. And the business of lawyers is to ensure that that limit is found and respected.