

First law officer of the Crown sets a second-rate example

Peter Costello



As the police reminded us after a man was charged with the murder of Jill Meagher, people should be careful what they publish about a trial that is before the courts. Even something that is true can prejudice a fair trial. If it is false, all the more so.

In our society, a person accused of murder and rape is entitled to a fair hearing. So is a person accused of sexual harassment. So, too, is a person who claims to be the victim of sexual harassment.

No one would understand these rules better than the law officers of the Crown, who are responsible for the administration of justice. You

would think they would set an example with their conduct.

Which makes it so regrettable that the Attorney-General, Nicola Roxon, the first law officer of the Crown, has chosen to comment so publicly about a case before the courts – namely the claims of sexual harassment against the former speaker of the House of Representatives, Peter Slipper. I know Mr Slipper. I don't know his accuser, James Ashby.

I will wait to see what the judge decides on whether what happened between them amounted to sexual harassment. But on the basis of long experience I can say that the published text messages that passed between them are not the kind of conversations that are usual between members of Parliament and staff.

Roxon came to a very early conclusion on the merits of this case and called a press conference to declare "it will be clearly shown – and this will be argued in the court – that there were [sic] in fact clear intention to

harm Mr Slipper and bring his reputation into disrepute, and to assist his political opponents". In other words the whole thing was a set-up and Mr Ashby, far from being a victim, was the aggressor against Mr Slipper.

She never showed any such thing. Three months later, she has back-

claims the latter, that she decided to pay \$50,000 for a non-claim because she had already spent \$700,000 paying lawyers to defend it.

Even after the government paid compensation to get out of the case, Roxon stayed in there battling for Mr Slipper, arranging for him to get to

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flipped and authorised a payment of \$50,000 in compensation to Mr Ashby.

There are two alternatives to explain this payment. One is that Roxon unfairly besmirched Mr Ashby and has come to her senses and paid compensation for a legitimate claim. The other is that she forked out taxpayers' money on a claim that was an abuse of the legal system. Roxon

court via an underground car park while Mr Ashby ran the gauntlet of the media pack at the public entrance.

This favouritism earned the Attorney-General a rare rebuke from the judge, who said it could "undermine public confidence in the court". Roxon has apologised for that. She makes no apology for paying compensation on a claim she said had no

merit. She makes no apology for making prejudicial comments about the case when it was first lodged.

I make no conclusions about the Ashby case, but it is true there are cases brought for unlawful dismissal and sexual harassment that are without merit and designed to embarrass employers into paying compensation.

They have thrived because this government introduced unfair dismissal laws designed to facilitate them. Every small business is at risk of such an action every time they put off an employee. The difference between a small business and the Commonwealth is that small businesses don't have \$750,000 of taxpayers' money to throw around defending themselves.

If Roxon, a lawyer with all the advice of the Attorney-General's Department and with all the money of the Commonwealth Treasury, couldn't competently defend this claim she could at least show some sympathy for the shopkeeper who gets caught in the legal quagmire of

her unfair dismissal and anti-discrimination laws.

Roxon has also been leading the attacks on Tony Abbott over his so-called problem with women. At the weekend she declared it "part of politics and I intend to keep prosecuting our case".

Until last night she thought keeping Peter Slipper in the Speaker's office was part of politics. No one could accuse her of failing to prosecute his case against Mr Ashby. It's just that an attorney-general is supposed to be above politics when it comes to the administration of justice. Robert McClelland, Roxon's predecessor, understood that. He behaved as if he really did think he was the First Law Officer of the Crown.

Roxon is entitled to a highly political role if she wants it. The trouble is that is not the role of attorney-general.

Peter Costello is a former federal treasurer.