

## Chapter 14

# Who's Afraid of Unelected Judges? A Positive Case for Increasing the Judicial Role in Human Rights Protection

*Edward Santow*

### Introduction

We academics lack imagination. Hence, it is fitting that, when we choose the title of a book chapter or conference paper, we feel constrained to choose between two narrow categories. The first category of title starts with an indecipherable statement, followed by a colon, followed by a second statement – also indecipherable, but slightly intriguing. For example, “The Role of Islands in Pushing the Pleistocene Extinction Envelope: the Strange Case of the Cypriot Pygmy Hippos”.<sup>1</sup> The second category of title favoured by academics is based on a pun. But not any pun. The pun must refer to a book, film or play that, by the time the paper is delivered, has become unfashionable. The 1989 film, *Sex, Lies and Videotape*, is never watched anymore, and yet its memory lingers in academic papers on intellectual property, fiduciary duties and taxation.

The title to this chapter evidently falls into the second category. It is inspired, of course, by Edward Albee's play, *Who's Afraid of Virginia Woolf?* Albee came up with his title after he saw this question graffiti-scribbled in the toilet of a public bar. Some years later, Albee explained:

When I started to write the play it cropped up in my mind again. And of course, who's afraid of Virginia Woolf means who's afraid of the big *bad* wolf ... who's afraid of living life without false illusions. And it did strike me as being a rather typical, university intellectual joke.<sup>2</sup>

1 This paper was delivered in approximately 2002 at an archaeologists' conference by Professor Alan H Simmons of the University of Nevada. See <[http://www.briegull.com/waldren/conference/conf\\_pap.html](http://www.briegull.com/waldren/conference/conf_pap.html)>.

2 William Flanagan (interviewer), Interview with Edward Albee (transcribed in *The Art of Theatre* No 4: E Albee, *Paris Review*, 1966) at 12.

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