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12 July, 2011

Nicola Fern

Management

ABC Radio

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Dear Ms Fern

Re: Wendy Carlisle Interview with me on 7/7/2011

Wendy Carlisle interviewed me on Thursday 7 July 2011 in relation to my recently released book, *The Weather Makers Re-examined*, for the ABC Background Briefing broadcast.

I wish to object about the manner and style of this interview, which I agreed to on the basis that it was to be about my book; but Ms Carlisle instead focused on the unrelated matter of the 2005 Daly Inquiry into Tweed Shire Council. As I indicated to Ms Carlisle, the full history behind that inquiry was too long and involved to properly deal with in the limited time for the interview. In any case, it was irrelevant to a discussion of issues raised in my book.

During this interview, I was accused of being found guilty of fraud by Professor Lawrie Daly, commissioner at the Tweed Shire Council Public Inquiry in 2005. Specifically, it was repeatedly put to me throughout the interview that portraying myself as an independent candidate at the 2004 council elections while accepting funds from Tweed Directions was fraudulent. Despite the fact that I did not represent any registered political party, and therefore had no option but to be labelled as independent, I was repeatedly accused of fraud, as was my publisher, Robert Brinsmead from Irenic Publications.

Regarding the Daly Inquiry:

1. The Daly Inquiry was not bound by rules of evidence and the accused were not given any right of reply or the right to challenge or cross-examine their accusers. It was nothing more than a star chamber with a predetermined outcome initiated by a corrupt NSW government seeking political donations from developers. It is ironic justice that the very minister who called this inquiry is now before ICAC on allegations of corruption.
2. No person inside or outside of the Tweed Shire Council was ever charged, much less convicted of wrongdoing of any kind as a result of this Inquiry.
3. ICAC declined to act on any findings of the Inquiry, indicating that no evidence of corruption was found.

4. The Electoral Funding Authority found no discrepancies or violations of the Electoral Act and took no action on the matter.
5. Contrary to inferences made by Ms Carlisle during the interview, no imputation of wrongdoing can be drawn from the sacking of the Tweed Shire Council. In NSW, a council can be sacked solely on the condition there has been an Inquiry. Whereas the Queensland Local Government Act requires a subsequent conviction of wrongdoing in a court of law before a Council can be sacked, the NSW Local Government Act requires no such conviction. The sacking of the Tweed Shire Council was not an isolated case wherein this all-too-easy abuse of process occurred.

Paul Brinsmead, the son of Robert Brinsmead, was the central figure under investigation at the Daly Inquiry. He later challenged the adverse findings of the commissioner in the Supreme Court of NSW. As shown in the attached official court document below, Justice Price found:

1. The findings of the Daly Inquiry were made without procedural fairness or natural justice.
2. The commissioner was not entitled to make the stated findings and determinations.
3. The findings were annulled.
4. Costs were awarded to the state in favour of the plaintiff, Paul Brinsmead.

The Daly Inquiry has thus been discredited in the Supreme Court.

If the ABC presents Wendy Carlisle's interview with me in any way that insinuates or implies that I was guilty of fraud, corruption or any wrongdoing, I will take whatever legal action is required in order to preserve my reputation.

Ms Carlisle also accused me and my publisher of being anti-environment, stating that the publisher described environmentalists as eco-Taliban on his website. I see that he does there warn against an ideologically driven "dangerous eco-Taliban [that] wants to subject us to a carbon taxing, carbon regulating police state." Ms Carlisle unfairly generalized that term to include all environmentalists.

Early in 2005, I lodged a lengthy submission addressing many environmental concerns over a proposed lobster farm that was being strongly promoted by the Tweed MP, Neville Newell, and others calling themselves environmentalists and demanding an inquiry. I was subsequently questioned and challenged over my opposition to this bug farm at the Daly Inquiry. The numerous conditions stipulated in the final Department of Planning approval in December 2005 addressed all of my concerns. The bug farm has still not proceeded.

I further found Ms Carlisle's blatantly obvious bias and belligerent *ad hominem* style of interview to be unbecoming of the ABC. This was evident not only in her attitude to me and my publisher, but also to the highly distinguished scientist, Fred Singer. Completely overlooking the point I made in my book that Tim Flannery was both wrong and unfair to discredit Fred Singer by falsely accusing him of being "a member of Sun Myung Moon's Unification church" (The Weather Makers p. 244), Ms Carlisle went further to make allegations against him that were unrelated to his respected climate research and peer-reviewed papers on the subject. This low practice, endemic among defenders of the faith (on both sides) should not stain the reputation of a high quality independent broadcaster, and I hope that the ABC management will take active and effective steps to stamp it out.

Ms Carlisle's adversarial defence of the faith was further evidenced by her disinterest in examining the science itself or evidence for the corruption of it by her favoured scientists. Without having read the incriminating 'climategate' emails, as I had done, she vigorously attacked me over a paragraph I presented as evidence that some scientists involved were not beyond hiding or deleting data (as Tim Flannery had accused Cooney of doing).

While leaving no stone unturned in order to find mud to stick on sceptics, Ms Carlisle defends her preferred scientists with an overstated and unwarranted reliance on authority. Anyone who questions or ignores such authority is apparently anathema. If the ABC takes the alarmist stance on a moral high ground and sets out to crush dissent, as Ms Carlisle seems bent on doing, objectivity, the reputation of the ABC and science itself will be the casualties. I expect to be probed and challenged by journalists. But I have not encountered such hostility, arrogance, intimidation and bullying since saying goodbye to religion many years ago.

Yours sincerely

Dr D Weston Allen



New South Wales
Supreme Court

CITATION: **Brinsmead v Commissioner Tweed Shire Council Public Inquiry [2007] NSWSC 246**

HEARING DATE(S): 7 February 2007

JUDGMENT DATE: 22 March 2007

JUDGMENT OF: Price J at 1

DECISION: 1. Declare that the findings, determinations, comments and recommendation made by the first defendant in the report furnished by him to the second defendant and entitled "Tweed Shire Council Public Inquiry Second Report" which are adverse to the plaintiff were made without procedural fairness. 2. Declare that on the true construction of s 740 of the Local Government Act 1993 the first defendant, in the course of making a report pursuant to that section is not and was not entitled to make any finding or determination that the plaintiff had engaged in criminal or professional misconduct. 3. Declare that the findings, determinations and recommendation made by the first defendant in the report furnished by him to the second defendant entitled "Tweed Shire Council Public Inquiry Second Report" as specified in the schedule annexed to this Judgment were without or in excess of jurisdiction, and are a nullity. 4. Order that the first defendant and second defendant pay the plaintiff's costs.

CATCHWORDS: Administrative law - declaratory relief - power of Commissioner of Inquiry to make findings of criminal or professional misconduct - procedural fairness - findings made and recommendation made in excess of power - declarations of denial of procedural fairness and nullity.

LEGISLATION CITED: Local Courts Act 1982 s 27A, s 27B
Local Government Act 1993 s 7, s 12A, s 12A(2)
s 21, s 22, s 740, s 740(2), s 740(4),

Royal Commissions Act 1923 s 12A, s 13 Div 1
Pt 2, s 13 Div 2 Pt 2, s 14B, s 19, s 20, s 21, s 22
Independent Commission Against Corruption Act
1988 s 14(1), s 14(2), s 74(5)
Interpretation Act 1987 s 33

CASES CITED: Ainsworth v Criminal Justice Commission (1992) 175 CLR
564
Application by the Anti-Corruption Commission; Parker v Anti
Corruption Commission (Supreme Court of Western Australia
27 August 1998 unreported
Annetts v McCann (1990) 170 CLR 596
Balog v ICAC (1990) 169 CLR 625
Chairperson, Aboriginal and Torres Strait Islander
Commission v Commonwealth Ombudsman (1995) 63 FCR
163
Greiner v Independent Commission of Corruption (1992) 28
NSWLR 125
Mahon v Air New Zealand Ltd [1984] AC 808
Penrith Rugby League Club Ltd v Brown (2004) 63 NSWLR
13
Ross v Costigan (No 2) (1982) 64 FLR 55

PARTIES: Paul Brinsmead
Commissioner Tweed Shire Council Public Inquiry
Minister for Local Government

FILE NUMBER(S): SC 2006/30041

COUNSEL: S Gageler SC; R Bellamy - plaintiff
N Perram SC; A Kuklik - first and second defendant

SOLICITORS: Robinson Legal - plaintiff
Crown Solicitor's Office - first and second defendant

**LOWER COURT FILE
NUMBER(S):**
