

5 February, 2002

The Editor  
Australian Library and Information Association  
PO Box E441  
KINGSTON ACT 2604

Dear Editor,

Re: Article posted at your website

I act for Tom and Wendy Chapman.

An article headed "Chilling the community: Information literacy and the Hindmarsh Island bridge" is posted at your website at address [www.alia.org.au/alj/45.2/hindmarsh.html](http://www.alia.org.au/alj/45.2/hindmarsh.html). We note the article also apparently appeared in Volume 45, Issue 2 of the *Australian Library Journal*.

The article is by one Richard Owen, and refers to my clients Tom and Wendy Chapman by name.

Specifically, at page 126 (for the sake of convenience, I refer to page numbers in the *Australian Library Journal* article) my clients are identified as the directors of Binalong, and at page 127 Binalong is identified as the company which developed the Hindmarsh Island marina. In any event, my clients are well known to the public, or a substantial section of the public, particularly in South Australia, as developers of that marina, and of the bridge.

The article contains repeated defamatory statements about my clients with respect to two classes of imputation namely:

1. The article carries the imputation that my clients undertook the task in securing planning approval for the Hindmarsh Island bridge, so far as concerns Aboriginal interests, in a perfunctory manner, and that they had not satisfied some legal obligation attaching to the building of the bridge, specifically, a requirement to consult Aboriginal people.
2. The article carries the imputation that my clients were party to the commencement of Court proceedings, and the issue of letters, for the purposes of oppressing anti-bridge protesters, and for the purposes of stopping those protesters from engaging in legitimate expression of opinion regarding the Hindmarsh Island bridge.

With reference to the former imputation, my clients refer you to the following words in the article which my clients say carry that imputation:

- (a) "We also knew that in the approval conditions for the Marina Goolwa development on Hindmarsh Island there were a number of significant Aboriginal heritage conditions ... that included consultation with a number of separate Ngarrindjeri organisations, and that none of this had occurred, according to the Ngarrindjeri people" (page 121)

- (b) "Questionable financial arrangements, lack of environmental checks and balances, development approval conditions ignored ..." (page 123)
- (c) "... members of the Lower Murray Aboriginal Heritage Committee publicly state that they have never been consulted about the bridge" (page 124)

With respect to the latter imputation, my clients refer you to the following words in the article which my clients say carry that imputation:

- (d) "There was a concerted campaign at this time to silence the bridge critics ... by the developers' lawyers ..." (page 126)
- (e) "The purpose of such gamesmanship ranges from simple retribution for past activism to discouraging future activism" (page 126)
- (f) "[The protestors had never] experienced such harassment, but worse was to come. The developers' lawyers had already demanded a list of the members of the Friends from our lawyers. This was of course denied them, but it serves as another example of the intimidation that was taking place" (page 127)
- (g) "... acts of intimidation ..." (page 128)
- (h) "... each individual targeted by the developers ..." (page 128)
- (i) "... handling intimidation ... seeing the law used against the community ... intimidation by lawyers ..." (page 131).

I am instructed to draw your attention to a decision of the Supreme Court of South Australia handed down on the 21<sup>st</sup> January 2002, in the case of *Chapman v. Conservation Council of South Australia*. In that judgment, the Chapmans were found to have been defamed in exactly the above respects.

In respect to the latter imputation, in relation to one publication which the Court found to be defamatory the Court said as follows:

*"A Win For Freedom of Speech" was written by Ms Bolster and Mr Owen. It carries the imputation that Tom and Wendy Chapman are oppressing the people of Goolwa in relation to the Bridge issue.*

*The publication did not occur on a privileged occasion. In any event the publication was malicious. The publication is part of the campaign to which Mr Owen and Ms Bolster are party to coerce Tom and Wendy Chapman to withdraw from the bridge project and to denigrate them in the eyes of others.*

[See paragraph 358 of the Judgment].

Additionally, the Court was extremely critical of Mr Owen, as you will appreciate from a reading of the Judgment, which is Judgment number [2002] SASC 4.

In particular, in respect to Mr Owen:

1. The Court found that "Mr Owen's role was pivotal in coordinating the [anti-bridge] efforts [under] a number of hats ...": Judgment, paragraph 115.
2. At paragraphs 94-145 of the Judgment, the Court describes "Mr Owen's anti-bridge campaign". The Court identified Mr Owen as having the "pivotal role in the turmoil which was created" and a "key person" (paragraph 100). The Court traces how Mr Owen generated "the tide of protest" (paragraph 105) and describes in detail in this section, and particularly at paragraph 101, the steps by which this was done. The Court said Mr Owen's role was central in coordinating the anti-bridge efforts and that he was a "nerve centre" (paragraph 115), and that by October 1993 he was "firmly steering the course of the protest which he was instrumental in organising" (paragraph 128).
3. The Court said that, in his campaign, Mr Owen was:
  - (i) actuated by malice (see paragraphs 4, 151(d), 159)
  - (ii) intended to damage Tom and Wendy Chapman (see paragraphs 4, 155, 358)
  - (iii) orchestrated a campaign to deliberately target Tom and Wendy Chapman (see paragraphs 4, 101(9), 112, 210, 348, 358)
  - (iv) deliberately published material he knew to be untrue (see paragraphs 99, 106, 111, 151(d)(3), 348, 350, 353, 355) and
  - (v) participated in covert activities to flout Tom and Wendy's rights (see paragraphs 101(6), 140-141).

I commend the Judgment for your reading.

For present purposes, it is sufficient to note that during the course of his campaign, Mr Owen has published a number of articles, including the one you published, and that the Court has found in respect to the publications complained of in the above case that malice on his part could be inferred from his "publication of material which he knew to be untrue of and concerning the Chapmans" as part of this campaign (paragraph 151).

As stated above, the article in question on your website and in your Journal essentially repeats publications which were found to carry defamatory imputations in the above referred to case.

However, I regret to advise that I consider that the article that you published carries further (and even more damaging and grave) imputations. The following passage carries the grave imputation that my clients conducted a deliberately dishonest and deceitful campaign with a view to protecting their own interests.

*A continuing feature of this struggle has been the ability of those opposed to the bridge to uncover falsehood and expose dishonest activity and misleading information ... [They were] frequently thwarted by those whose prime concern was to protect their own interests, power and wealth (page 124).*

Additionally, as often unfortunately seems to occur when development and Aboriginal interests are opposed, the sinister allegation of racism is made. I refer you to:

- "the racism to come" (page 125)

- "The Hindmarsh Island bridge issue has become symbolic of ... struggles to do with racism ..." (page 129)
- "... a coordinated campaign to discredit Aboriginal people in the eyes of the general community, and to divide the Aboriginal community and so weaken their resolve" (page 130).

The last statement also carries the further imputation that my clients deliberately acted with the purpose of causing disharmony, angst and hurt in the Aboriginal community.

I am instructed to draw these matters to your attention and seek your urgent confirmation that:

- (a) The article will be removed immediately from the website, and all access to it will be debarred.
- (b) That in the next issue of the *Australian Law Journal* you publish an apology in the following terms:

*In an article which appeared in Volume 45, Issue 2 (March 1996) of the Australian Library Journal, an article appeared written by Richard Owen and entitled "Chilling the community: information literacy and the Hindmarsh Island bridge". The article carried imputations that Tom and Wendy Chapman were racists, oppressed the people of Goolwa, and had carried out consultation with Aboriginal persons in a perfunctory manner in connection with obtaining planning approvals for the Hindmarsh Island bridge.*

*The Australian Library Journal acknowledges that these imputations are false, and untrue, and unreservedly withdraws them, and apologises to Mr and Mrs Chapman.*

My clients otherwise reserve all rights.

Yours faithfully  
LYNCH MEYER

Per: 

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