

Cont Ref: SMP: 298554

190 Flinders Street
Adelaide SA 5000

17 March, 2000

GPO Box 467
Adelaide SA 5001

DX 120
ADCLAVE

Telephone
(08) 8223 7500

The Editor
Indigenous Law Bulletin
Faculty of Law
University of New South Wales
KENSINGTON NSW 2052

Facsimile
Litigation (06) 8773 2722
Commercial (08) 8223 4348

Via facsimile: (02) 9385 1266

Partners:
David Meyer
David Martin
Steve Palyga
Joseph Subic
James Neve
Sonia Bolzon
Michael Doherty
Michael Hutton
Alfa Macaroni Pty Ltd
MCM OCA 120 9741

Dear Editor,

Re: *Indigenous Law Bulletin* article

I refer to the article "Defamation Processes and the Hindmarsh Island Bridge Campaign" which appeared in the *Indigenous Law Bulletin* for December/January. This article came to my attention yesterday.

The article is a political piece, not legal commentary.

It continues the campaign of half-truths and personal denigration against the Chapmans.

Indeed, I refer you to the very first sentence of the article:

In what the Chapmans' lawyer, Steve Palyga has called a "defamation fireball", the Chapmans have brought [14] defamation actions ...

When I used the words "defamation fireball" to a reporter last year, I was talking of the extraordinary campaign of defamation against the Chapmans in 1994. I never used those words to describe the Chapmans' cases.

In suggesting that my words were a reference to a "fireball" of defamation litigation, your correspondent seeks to falsely paint the Chapmans as gleefully unleashing a hail of writs to "put the heat" on those who dare criticise them.

The law of defamation exists to protect people against such factual inaccuracy and personal disparagement.

It is also somewhat difficult and subjective as it strives to find a proper balance between free speech and proper protection of reputation in each individual case.

12-11-2017 17:00

The Firm's Associated
Offices are situated only
and are not in partnership

17 March, 2000

Unfortunately, many bridge opponents take the view that free speech means the freedom to say anything they want, no matter how untrue, hurtful or damaging.

I do not feel at liberty to go further than the above in answer to the article because cases are pending. As the article notes, one case is even listed for trial.

Indeed, it is quite extraordinary that such an article, which canvasses matters the subject of proceedings, and implies how these matters ought to be decided, appears in a law bulletin. Whilst the mainstream media may be largely ignorant of the sub-judice rule, there is no excuse for your publication.

There is also no excuse for publishing material carrying personal imputations without providing those affected with an opportunity to comment, and to correct where appropriate.

Please publish this letter in full, and prominently, in the next available issue of the *Indigenous Law Bulletin*.

Please ensure that I am provided with a copy of the letter as published.

Please provide me, and my clients, with the opportunity to comment on any further articles which may make allegations against them.

Yours faithfully
LYNCH & MEYER

Per:

Steve Palyga
Partner

spalyga@lynchmeyer.com.au

Mr Stephen Palyga
Lynch & Meyer Lawyers
GPO Box 467
Adelaide SA 5000

Re: Indigenous Law Bulletin

As part of a request for me to check (among other things) a quote from the *Sydney Morning Herald*, my attention has been drawn to a letter you wrote to the *Indigenous Law Bulletin* dated 17 March 2000. Your letter refers to my article "Defamation Processes and the Hindmarsh Island Bridge Campaign" published in the December/January issue of that journal.

I regard your letter as defamatory of me, and of others who have raised issues about the impact of the Hindmarsh Island defamation cases.

Your claim that my article was part of a campaign of "half-truths and personal denigration" is damaging to my reputation personally and as a scholar. Specifically, in reference to your concern that your comments about a "defamation fireball" were taken out of context, I draw your attention to the relevant paragraph from Debra Jopson's *Sydney Morning Herald* article,

Additionally, the Chapmans have settled six defamation cases and have 10 more going through the courts in various stages. "Many more are planned ... the bridge case might be characterised as a defamation fireball," says Palyga.

Given this, I believe I have quoted you fairly and in the context in which your remarks were reported. If the quote was taken out of context, it was clearly by the journalist not by me. I had no reason to doubt either the integrity or accuracy of Debra Jopson (an award winning journalist) in this matter.

I therefore regard as defamatory your claim that I "falsely paint the Chapmans as gleefully unleashing a hail of writs to 'put the heat' on those who dare to criticise them". ^{This meaning} Your claims and the innuendo about my motivation and scholarship are totally unsubstantiated in the text of my article which deals explicitly and only with the effects of the cases and the problems brought about by the structures of the legal system.

Similarly I reject your claim that the discussion in my article breached sub-judice rules. My legal advice is that sub-judice is not relevant here. I regard your suggestion that I would act in breach of the rules of the court as being defamatory of me personally and as a researcher making a responsible contribution to debate on a matter of public interest.

Accordingly I demand that you send to the *Indigenous Law Bulletin* a retraction of your defamatory statements, and that you issue an apology to me personally for these defamations.

I reserve my rights in this matter.

Yours



Greg Ogle
5 April, 2000

cc. Tom Chapman & Wendy Chapman