

# FORESTS AND FREE SPEECH UNDER FIRE

By Sue Jackson

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*Every year, Gunns Ltd., Australia's largest wood-chipping company, exports over 5 million tonnes of woodchips, most of which come from Tasmania's native forests, including old growth areas.*

*In December 2004, Gunns issued a lawsuit against seventeen individuals and three organisations involved in the Tasmanian forest protection campaign. Gunns claimed damages of \$6.4 million on the basis that the media statements, lobbying and protests of these people were harmful to its business.*

*I wrote the following article for my colleagues in the Victorian Association of Family Therapists (VAFT). It was in response to the 'Forests and Free Speech' national tour of 2005 promoting support for the Gunns 20. I have added an update.*

'Make sure you don't get sued too,' my partner joked when I said I was writing a report on the Forests and Free Speech meeting I'd recently attended at the Melbourne Town Hall. I was shocked by his comment, and then I realised it was what had been niggling me all along. No wonder this report was proving so difficult.

I've been writing opinion pieces on contentious topics for years now with relative equanimity, because in the early stage of the writing process I just go for it, put my ideas down at speed, and banish the internal censor. I've also always been confident that, as an Australian citizen, it's my right to speak my mind. But this time it's entirely different.

For the first time ever I've had second thoughts about the wisdom of speaking out. The internal chorus - 'It's not worth it'; 'Why bother?' - has proved particularly difficult to silence. So much so that I've never really hit my stride and

the words have remained hard to find. I've laboured on, but that banana lounge under the grapevine has been irresistible at times.

To reassure myself, I've examined the fine print in the disclaimer on the inside cover of the newsletter to ensure that nothing I say will be detrimental to VAFT, and I've decided to run this piece past a lawyer before submitting it for publication. Precautions like these would never have crossed my mind in times past. But what I learned at the Town Hall about Gunn's actions really triggered my anxieties.

The speakers began by outlining the background to the current struggles. For more than twenty years, tens of thousands of Australians have visited, written letters and emails to governments, campaigned and rallied on behalf of Tasmania's wonderful old growth forests. Largely due to their efforts, irreplaceable areas like the Tarkine rainforest wilderness and parts of the Styx Valley of the Giants have been preserved for our children and our grandchildren. Sadly, many precious areas remain threatened.

Gunns, for one, is keen to expand - aiming to build an immense chlorine-belching pulp mill in the heart of the Tamar valley in northern Tasmania. Locals fear the impact of this expansion both on native forests, from which immense quantities of woodchips will be gathered every year, and on the air and marine environments, which will be subjected to massive amounts of pollutants. Campaigns opposing the mill have gained momentum.

The speakers described the defendants (and I've since learned more about them from the Wilderness Society). They represent a broad cross-section of the

Australian community. Three organisations are targeted: Doctors for Native Forests, Huon Valley Environment Centre and the Wilderness Society itself.

Individuals accused include Greens Senator Bob Brown, Peg Putt, a Greens member of the Tasmanian Parliament, as well as five staff members of the Wilderness Society.

Also in the firing line are several Hobart residents, regular opponents of Gunns' incursions into their neighbourhood. There is Helen, a woman in her late 50s, who lives on the East coast and has been active for many years in protecting the forests - she often liaises with the media at protests. There's Lou Geraghty, a grandmother, who has fought logging in her local area of Lucaston. There are several young students from interstate. And there's Brian Dimmick, an independent film-maker, producer of a range of videos on environmental issues.

Another defendant is Peter Pullinger, a Burnie dentist, who collaborated with Frank Nicklaston, a senior doctor at the Royal Hobart Hospital and member of Doctors for Native Forests, to compose a media release about a potential health hazard. The pair drew attention to a huge pile of woodchips on Burnie wharf, which they feared might become a breeding ground for infectious bacteria.

Peg Putt spoke at the meeting, and was adamant that she would not allow the legal battle with Gunns to interfere with her 'real' work. She admitted though, that if she had to cash in her assets to cover legal fees, it would make life hard for her and her family. She indicated that some of the other defendants were even more financially vulnerable – and could ill afford even a day in Court, let alone the months or even years that may eventuate. Of course, a huge company like Gunns has lawyers on staff to fight its battles for as long as it takes.

The meeting featured a video publicizing the defendants' plight. They stand in line, utterly still, their mouths obscured by the masking tape that "silences" them. Watching this, I found myself thinking back to my undergraduate history thesis.

In the 1970s I wrote about Mrs Pankhurst, her daughter, Christabel and their fellow suffragettes' fight to win the vote. Those courageous women were so desperate that they chained themselves to railings, went on hunger strikes and in one case - which the British public particularly deplored - even threw themselves in front of race horses. But while there are similarities, there are also significant differences between the suffragettes and the forests' defendants.

For a start, the suffragettes were protesting nearly a century ago now – their struggles are 'ancient history'. Somehow in an earlier 'less enlightened' era we could expect there would still be battles to be fought. And these protestors were involved in civil disobedience; they were challenging the government to allow them a right they'd never possessed.

The forests' defendants, on the other hand, are our contemporaries. They are not reacting to government restrictions, but to an attack by a corporation. They are not fighting for anything new either; just trying to hold on to a civil right, a hallmark of democracy, won many years ago.

Now that I come to think of it, I'm sure it's no coincidence that this comparison from the distant past sprang to mind, because, of course, what we're experiencing is a turning back of the clock.

Maybe that's also why a recent play written by Bill Garner and Sue Gore called *Billy Maloney*, about an Australian Labour politician from the 1890s, has

such resonance. Way back then Billy fought for social justice and held the view that where the people are well-informed and given the truth, they will make good and democratic decisions. The play concludes with this speech from Billy:

‘We are mocked by the hard-hearted realists. Our dreams for a better world are derided. The giant is standing on the hill, beating his drum, waving his big arms. He’s so large and so loud, there seems no chance of tipping him over. Some say it is madness to have a go at him. But we have right on our side and justice in our hearts and a bee in our bonnets...So, what is to be done? There is only one answer - trust the people, implicitly, and with your whole heart and soul, and take up the lance and fight.’<sup>1</sup>

Those words, as the playwrights no doubt intended, are just as applicable today. Billy could be speaking for the Gunns defendants. Or for us. As therapists, our entire ethos is underpinned by a belief in the healing power of speaking freely. We spend our days encouraging people to ‘say the unsayable’, to ‘go on record’, ‘to speak their own truth’ - sometimes for the first time in their lives. Any curtailment of free speech challenges our profession at its very core.

For me there is an added dimension. These days I see more and more people whom I’d describe as casualties of ‘creeping corporatism’. They are working extremely hard, but never feeling they are doing a good enough job. Many middle managers fall into this category, and when they come to see me they’re often already highly distressed.

They feel like the meat in the sandwich, the conduit to staff of unpalatable values and work goals from management. In attempting to stop them blaming themselves for not being able to do what is increasingly becoming an ‘un-doable’

job, I often invite them to examine the negative impact of creeping corporatism on their work place and themselves.

In addition, as part of my work with young people struggling with anorexia nervosa or bulimia, I frequently encourage them to embark on fact-finding missions. I suggest they critically analyse advertising, which, I believe, often conveys irreconcilable and damaging messages about body shape and food intake. Sometimes they choose to take things further, protesting to companies about false advertising, forming 'no diet' cells or 'aware eating' groups whose discussions often highlight the detrimental effects of the multi-national's profit-driven agenda on body image and health.

But since the meeting I've begun to fear that my therapeutic stance in these instances could make me vulnerable. Perhaps in future I'll be inclined to think twice before using what can be particularly effective strategies, in case my suggestions get back to the companies involved, and I too end up charged with harming their businesses. Maybe I'll be tempted to revert to focussing exclusively on the intra-psychic world, because it's the domain farthest removed from the socio-political realm, and therefore the safest.

Perhaps I sound alarmist, but as systemic thinkers we family therapists are very familiar with the impact of context. Where the social context features scrutiny, hyper-vigilance and punishment for the expression of opinions, how can this not eventually impact on social activities like therapy? Maybe these restrictions on free speech will only unfold gradually, but rights lost gradually are still rights lost.

That's why I believe that it's in our professional, as well as our personal interests, to fight back. Despite the ever-increasing alliance, world-wide, between government and big business, Gunns is only a corporation, albeit an immensely powerful one. Unlike governments, it has no electoral mandate it can cite to limit free speech.

It is still possible to fight corporations in the Courts. Sometimes you can win. But even when you don't, particularly where the public rallies to your support, the corporation can end up with a Pyrrhic victory.

Naomi Klein, in her book *No Logo*,<sup>2</sup> describes just such a situation, famously known now as the "McLibel" case. In the 1990s, McDonalds sued two British citizens - Helen Steel, a community gardener and Dave Morris, an unemployed postal worker - for libel. For 313 days these two people battled the largest food company in the world. In the process the defendants attracted enormous public support, while McDonalds' practices were scrutinized and they became the focus of world-wide protests.

Steel and Morris ultimately 'lost', in the sense that they were ordered to pay damages, but the amount was subsequently reduced and the company has never attempted to collect. The cost to McDonalds of the negative publicity made the damages awarded inconsequential.

Getting back to Gunns, if they were to win, a precedent would be set. The way would be open for other companies to take similar action against protesting citizens. And with corporations so predominant in today's world - fifty-two of the largest one hundred economies in the world are now multi-national corporations

– the implications are alarming. So if you want to support the Gunns 20, the web address is: [www.treedomfighters.org.au](http://www.treedomfighters.org.au) .

Matthew Ricketson, in reviewing a new autobiography of that arch-dissident Wilfred Burchett, commented:

‘His was a dissenting voice; just as you can gauge a society by the way it treats its children, so you can gauge it by the way it treats its dissenters.’<sup>3</sup>

I think that view makes a lot of sense.

Watching the defendants finally remove the tape from their mouths, I was particularly distressed by the anguished expression of one of the older women in the group. Just the fear that I might be sued made it hard for me to persist in expressing my opinion; it was nearly enough to silence me completely. I can’t begin to imagine what day-to-day life, embroiled in the court case, must be like for the defenders of the forests.

### **UPDATE**

In 2006, Gunns was ordered by the Victorian Supreme Court to pay the preliminary legal costs of the defendants. That order was preceded by the Court’s rejection of Gunn’s initial claim for over \$6 million.

In August 2008, the parliament of the ACT passed anti-SLAPP legislation. SLAPP means strategic lawsuits against public participation.

The ground-breaking legislation, introduced by Greens MLA Deb Foskey, aims to prevent large companies using the courts to silence public debate and opposition to their activities.

Ms Foskey hopes that other states and the Commonwealth government will soon follow the ACT's example 'so that people will have the right to speak out on issues that they're passionate about'.

In November 2008, the Victorian Supreme Court rejected an application by the timber company for the Wilderness Society to hand over documents, including personal membership details. Even though the application was ultimately rejected, the Society's legal costs were huge.

In the same month the Society's Campaign Manager, Geoff Law, the second defendant, paid an undisclosed amount of compensation to the company. Apparently it was nothing like the \$180,000 originally claimed, but Law said he felt he had to settle to stop the 'haemorrhaging' of funds to lawyers.

It is four years now since the action against the Gunns 20 commenced, and there is no end in sight.

## **REFERENCES**

1. Martin Flanagan, 'Can't Turn Your Back on the People' *The Age*, 26 November 2005, p.18.
2. Naomi Klein, *No Logo*, Flamingo, London 2000, pp.430-435.
3. Richetson, M. 'The Traits that were Wilfred Burchett' *The Age*, 21 December 2006, p. 21.