

Contempt of court

By Stephen Ryan



Contempt of court comes in many forms, from the self-represented parent who has little respect for the Family Court to the vexatious litigant who hasn't yet mastered the UCPR. But over the years some of the most colourful contempts have resulted from the at times flagrant, at other times ignorant, exhortations of the Australian media.

For some, being found in contempt has been an embarrassing and sometimes costly exercise, while for others it has presented nothing more than a badge of honour in the quest for truth, justice, and the protection of sources.

Perhaps Australia's most avid contemnor among the press pack is Derryn 'The Human Headline' Hinch.

Hinch initially made his name in radio before starring in his own television show in the late 1980s and early 1990s. His targets were 'the cons and the crooks, the scumbags and the charlatans' and he often posed the question: 'Who is looking after the children?'

Paedophiles were often in Hinch's sights, as were statutes and court orders restricting publication of the prosecution of sex offenders.

In 1987 Hinch was jailed for 12 days and fined \$15,000 when he reported that Victorian paedophile priest Michael Glennon had a prior conviction; the problem being that Glennon was before the court awaiting trial on fresh charges.

In 2008 Hinch was convicted of breaching suppression orders by publishing the details of sex offenders on his website hinch.net and speaking about them at a public rally in Melbourne. Hinch challenged the validity of Victoria's laws governing suppression orders in the High Court. He lost 7-0.

Undeterred, Hinch was convicted in 2011 and sentenced to home detention for naming two sex offenders whose names were suppressed by non-publication orders and in 2013 Hinch was again convicted of contempt when he broadcast details of the criminal record of Adrian Bayley, the man who murdered Jill Meagher. Hinch was given the option of paying a fine or serving 50 days in gaol. He opted for gaol 'on principle' and was greeted by a throng of supporters and media upon his release in early 2014.

While Hinch falls well within the category of the flagrant offender, one might spare a thought for former *Sydney Morning Herald* editor John Pringle.

Pringle was one of three defendants prosecuted for contempt in 1955 after the *Herald* published an article alleging that New South Wales police officers had beaten Alan Pierpont Rigby in an unprovoked attack before charging Rigby with offensive behaviour, resisting a constable, and assaulting a constable. The charges were still before the Court of Petty Sessions when the story went to press.

Pringle was fined 50 pounds, as was the solicitor who provided much of the material in the article while the *Herald's* publisher John Fairfax and Sons Pty Ltd was fined 250 pounds. What was particularly galling for Pringle was that he had little to no oversight of the news pages of the paper and therefore little or no say over the article that went to print. His role was confined to the leader and editorial pages of the paper, a source of much frustration which saw him leave the paper after his contract expired in 1957.

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However, it wasn't all bad news for Pringle. The paper appealed against its, and his, convictions and the matter made its way to the High Court which ruled that the article was unlikely to embarrass or prejudice the criminal proceedings against Rigby. The fines were set aside.

A more serious example of contempt was that of Alan Jones in 1992. Police officer James Killen was facing trial in Sydney for conspiring to pervert the course of justice when Jones interviewed an officer from the drug squad who declared that New South Wales police were subject to false allegations.

The trial was aborted, Jones was later fined \$2,000 and radio station 2UE was fined \$77,000.

The case came back to haunt 2UE in 1996 when another of its stars, John Laws, took to the airways to declare that a Michael Connolly was, among other things, 'absolute scum', 'a pig' and a murderer who had 'to go in the bag' for his crime. The problem being that Connolly's Supreme Court trial was still in progress.

Again, the jury was discharged and again the station and its announcer were charged with contempt.

'The contempt was objectively very serious,' Justice Priestley found. 'Had it been intentional, very severe penalties would have been required. Until the day before the penalty hearing the court had no inkling of why the contempt had occurred. On the face of things, it seemed as if 2UE and Mr Laws simply did not care about what he said over the air.'

2UE had introduced some policies and procedures for its staff to follow after the Jones affair, but as Justice Priestley noted there was no evidence Laws knew anything about them.

The Court of Appeal fined the station \$200,000 and ordered it to pay the attorney general's costs of \$60,000, while Laws was fined \$50,000. It was a fine that Justice Meagher, who also heard the case, described as 'ludicrous', 'the equivalent to a slap on the wrist' and equated to what Laws would spend 'on a small cocktail party'.

'I regret to have to say so in plain language, but in my view, it would be a reproach to the court and an insult to the public,' Justice Meagher stated. His Honour continued:

It would be a reproach to the court because it is the court's duty to make appropriate, and not risible, orders. It would be an insult to the public because the public would think that if you are rich enough and powerful enough you can get away with anything.

Justice Meagher made clear that he would have gaoled Laws 'for some months' and fined him \$250,000, but with Justice Powell joining with Justice Priestley on the question of penalty, Laws was spared time off air. Justice Powell found that Laws was merely negligent as opposed to acting recklessly or intentionally. **BN**