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Australia

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Steve Austin
ABC

Dear Steve,

You'll be amused (that's my Sinhalese-English word for 'amazed', 'astounded', 'shocked', 'flabbergasted', 'thunderstruck' or just 'pissed off'), to hear that 4 days after we met, Kamalini (73) and I (75) were **convicted** in the Holland Park Magistrates Court, "Guilty as Charged". We are being **sentenced** on September 20th, I think at 2pm. I will stand like a criminal (it is, believe it or not, a *criminal* charge), and so will my (criminal) wife, to be sentenced. That is, if I have not suicided or committed murder before then.

I can only describe the decision as the worst miscarriage of justice that I have come across. I find it fascinating since I have opposed injustices in East Timor, Sri Lanka, Eritrea, Burma, and, of course, the injustices done to uninsured people in the public hospitals in Queensland. Here we are, being subjected to a serious injustice. Judging from the hundreds of emails I have had (and which the Mayor and Deputy Mayor have had), there are some very concerned people out there, who are shocked by all this. I am concerned at the name of Australia being dragged in the dirt. One example. A Malaysian whom I have never met, wrote to the Deputy Mayor, "God, damn it, is this what goes on in Australia. Are you guys civilized?" It is a worrying situation. (I will be happy to send you some of these emails, some of them not in the Queens English, but you can see the anger coming through.

With the Case still in Court, if only for the Sentencing, I cannot give every detail of what went . I will do this later.

Are we going to Appeal? We should, but we are not. Why in Satan's name do we not Appeal? Money, and, I guess, the fact that I am 75, and, more importantly, because Kamalini is nervous. Having been taken to the financial wall (so far the cost has been some \$280,000 (with possibly a fine of several thousand dollars ON EACH of us), we have decided not to appeal (unless we are sent to jail!!!)

Guilty as Charged

Charged with what? You must have a sense of humour, otherwise you will be driven nuts.

1) "Interference with protected Vegetation when the interference was not strictly in accordance with the permit issued by Council".

(2) "Failing to comply with the Compliance Notice dated 11 November 2007".

For good measure, it is a *criminal* prosecution. You mentioned about having us coming to your home for dinner one of these days. Well, re-think this, my lad, since we are now crims.

Let me deal with Charge 1.

What was the 'protected vegetation'? Some miserable gum-tree saplings (there are thousands on the land), which were making it impossible for us to access the lantana (which we were ordered to clear). In any case, there could not be any 'protected vegetation' since the area in question is our back garden which has been regularly mowed by me for 20 years (till the BCC clamped a VPO and then an Environmental Protection order). So, whatever vegetation is there is secondary growth.

What were the 'conditions of the permit' which we failed to observe 'in strict accordance'? It is hilarious. The BCC Permit was that **a 10 metre firebreak be cleared all round the property and the area cleared be replanted and watered for a period of 2 years**. The 'Environmental Experts' in BCC do not seem to understand that a fire-break is to clear vegetation. Having cleared it, if it is replanted, it is an exercise in futility, as are most of the activities of BCC

The only **source of water** is our garden tap. A measurement showed that a garden hose would have to run for 1.2 km to cover the entire periphery of the block. The pressure generated would not be enough to move the water, let alone work sprinklers. The creek that runs across the land is dry for most of the year. I remind you that we are on level 5 water-restriction (the Magistrate made the point that there were no water restrictions at the time. How could he possibly know that Australia is a dry continent?). So, whatever was planted would have died. We could, of course, re-plant and re-plant and re-plant for 2 years (which BCC said we will have to do). The nurseries would be laughing all the way to the Bank since BCC wanted us to plant 4,200 trees (see below).

The entire suggestion was preposterous, and I wrote to the Council saying that the conditions on the Permit were unacceptable.

BCC responded by sending another Pest Control notice asking us to clear the lantana and other weeds, or face prosecution.

Because of this and with the drought, and the increasing fire hazard (we already had one which took our garden shed and very nearly our house), I decided to clear the lantana and other weeds, as well as the dead branches on the ground and some of the scrub, leaving the large trees, as requested by the Fire Officer. I had to hire a machine with a long arm to do this as much of the lantana was growing by the creek.

In the subsequent Court Case against us, a Council worker (who boasted about her qualifications which the Magistrate in his judgment made much of), said in evidence that on a previous occasion, she had told me not to use a machine to clear the lantana. That was an absolute lie said in Court, under oath, and constitutes perjury.

According to her, the only acceptable way of clearing lantana is to cut each stem and put a drop of poison to cut stem in 15 seconds! I need hardly dwell on the absurdity of this – we are talking of 8 acres of land. I'd challenge her to go over several acres, across which lantana had spread, cut each stem and put a drop of poison within 15 seconds.

Lets move on to Charge 2.

The Compliance Notice' of 11 November 2007. That's even more hilarious.

1. Cut down and remove 5 dead trees on the property
2. Remove all the dead branches and scrub that the machine had placed in a dry gully (which was not connected to the creek)
3. Prepare the soil, mulch and replant the cleared area of some 8,000 sq. metres with 4,200 trees, shrubs and ground cover (most of which had not existed there previously), space as specified, water and look after them for 2 years, replacing any dead plants. It is of interest that the area we were asked to plant was land which the Council wished to acquire.

We complied with 1) and 2) but not with 3) since it was physically impossible to do so. As I have said, the area they wanted replanted is too far away to be watered. During the Court Case, a Council Officer said we could have hired a water bowser to come in and water the plants. This is yet another absurd suggestion since there are no roads in the land other than our driveway. There are certainly no roads where BCC wanted the plants put down.

This is the crap which the learned Magistrate listened to and deliberated on for nearly a year, and then, in his wisdom, convicted us. Incidentally, the property is jointly owned, but we are being charged and convicted, individually. Presumably, each one will be sentenced individually. So if we get fined, say \$20,000 (the fine imposed on us by BCC was \$35,000), it will be $\$20,000 \times 2 = \$40,000!!!$ In algebra we called it Q.E.D *quad erat demonstrandum*. -that which had to be demonstrated or, in this case, 'achieved'.

Now for a much more serious injustice.

As I told you, BCC had decided to acquire 2.6 hectares of my land. What for? For 'environmental purposes'

Is that legal? Of course not. You can compulsorily acquire land for a essential road, etc but not for a vague 'Environmental purpose'. "Environmental purpose" is not identified in the Acquisition of Land Act 1967. As such, the action is *prima facie*, unlawful, *ultra vires* the power of Council.

Did we point this out to Council? We sure did. And the response? Let me quote Doug Muir, the Acquisitions and Disposal Officer BCC, 6 July 2007, "*This matter has again been considered by Council, which after due consideration of the objection.....,is still of the opinion that the land described is required, and has resolved to make an application to the Department of Natural Resources and Water for approval to the proposed resumption*". Amen.

The compensation is hilariously hilarious. \$430,000 for 2.0 hectares (it has since increased to 2.591 ha ie 26,000 sq m). A doctor who works at PAH has just bought a 700 sq m block down the road and paid \$750,000 ie \$1,000 a sq m. Get your calculator out. You can calculate our loss.

When the Minister signs the document, its all done bar the shouting. Most of my life's 'savings' – what I hoped would enable me to stop seeing patients and do what I really want to do – to address the major human rights violations in a number of places, foremost of which is Sri Lanka. In most countries they call this stealing, here they call it 'Environment purposes'. Excuse me while I laugh.

The Mayor, in response to some very worried people in this country and in many countries outside Australia says, "*When acquired, this land will form part of an extensive land holding by Council in the area dedicated to preserving the natural bushland and wild life corridor*" That had me in fits of laughter. In the middle of this "natural bushland" is a very unnatural quarry, a massive one at that,(I can send you an aerial photo), owned and run by..... guess? yes, BCC.

As for wild life running across our land, running where? The adjoining land is fully developed with stacks of houses. Beyond that is the main road (Creek Road). I rather like the idea of animals racing from the forest into peoples homes, and then crossing Creek Road to be knocked down by passing vehicles. Animals are not that stupid (Kamalini and I did a degree in Zoology before I became a doctor and she an artist.)

Of interest is a letter circulated by an 'gentleman' who has bought one of the houses adjoining us. He urges the others in the area to write to the Lord Mayor and their Councilor, "*It is in our interests as local residents (to have this land acquired).....The alternative is a never ending threat to development on Doctor's block and this one (that's the next block)*".He goes on, " ... *the increased cost of a subdivided block could go beyond what Council is prepared to pay. We must beat this*

developer now and have the whole of both blocks acquired and rehabilitated as conservation land".
Q.E.D for the second time!

This gentleman is in for a shock. I had a very experienced property lawyer from Sydney (you might have met him at my home). He told me what will happen (as has happened many, many times). is that Council will take this land from us, wait till the dust settles (and my death), change the current classification of the land from "Emerging Communities" to a more user-friendly one, block it up and sell it, making about a 1,000% profit. The reason, if reasons need be given, "*People don't have a place to live and it is the responsibility of a caring Council to address this humanitarian issue*".

In the DVDs I am sending you, you will see this played out in bonny Sri Lanka. Some 12 weeks ago several thousand Tamils living in Colombo were forced to board Government busses and taken to the North and East and dumped there. Many did not even come from there. It was indisputably ethnic cleansing. When we jumped up and down (I shouted loudly in the UN Human Rights Council meeting in Geneva), the Government said "*These people wanted to go home. We simply provided the transport FREE.*"

Do I regret coming to Australia?

As you pointed out in that last broadcast, I did have a wide choice of countries. So, do I regret the choice I made to come here as Associate Professor of Medicine and Visiting Physician? My answer is "Yes" and "No". "Yes I do, because I have lost all, or nearly all". "No I don't because I have met, among others, one Steve Austin, Mick O'Donnell, Ross Coulthart, Grant Allan, Brent Lillywhite, and all the other wonderful de-pigmented types you met in my home, among whom were my white brothers Ross Cartmill (the cabaret artist who gave such a polished performance with me and Niki Hill), Jon Cohen, Vernon Hill, Daryl Wall (the huge guy who hugged me), and many others.

Australia is a wonderful country, one of the finest I have lived in. On a rating from 0-100, most of the people, the ordinary Aussies, are in the 80-100 group, some, such as those who were at my home, are 110. At the other end are a set of -----, rating from 5-0, some -10. Most are in BCC and on the other side of my fence (and whom I had invited to use my pool and in return, gave very damaging and totally false evidence against me at the trial). .

Why did I mention Mick and Ross? Well, some years ago we put together and aired a program on Channel 9's *Sunday*. We set out to expose a mass murderer who my cousin, the then President of Sri Lanka, was sending here as Sri Lanka's Ambassador to Australia. Amnesty International, an Australian Forensic Scientist who had seen evidence of torture, a torture victim etc, all appeared on this great program. But the man, with blood on his hands, arrived. That's beside the point. As I have said for years, "I cannot stop atrocities, but protest I must, and will".

This is not a sermon but to make it one, let me close with what I said at the UN in Geneva in June this year, "*The citizens of a country should not rest their hopes too much on the Courts, the Laws and Constitutions. Justice, fairness, honesty and decency, lie in the hearts of men and women. Once these die, no Law, no Court and no Constitution can save them*".

Kind regards

Brian Senewiratne