

SUPREME COURT OF THE AUSTRALIAN CAPITAL TERRITORY

Case Title: Dent v Burke

Citation: [2019] ACTSC 166

Hearing Date: 22 May 2019

Decision Date: 28 June 2019

Before: Mossop J

Decision: See [51]

Catchwords: **DEFAMATION** – Hearing of separate question – whether defamatory imputations conveyed by publication – television broadcast of interview with defendant – allegations of sexual and professional misconduct by the defendant – whether denial by the defendant of sexual misconduct during interview gave rise to imputation that plaintiff had lied or made false allegation to join a “witch-hunt” – interviewer sceptical of defendant’s denials – publication as a whole does not give rise to pleaded imputations

Legislation Cited: *Court Procedures Rules 2006* (ACT), r 1521

Cases Cited: *Amalgamated Television Services Pty Ltd v Marsden* (1998) 43 NSWLR 158
Bik v Mirror Newspapers [1979] 2 NSWLR 679
Cummings v Fairfax Digital Australia & New Zealand Pty Ltd [2018] NSWCA 325
Favell v Queensland Newspapers Pty Ltd [2005] HCA 52; 79 ALJR 1716
Gorton v Australian Broadcasting Commission and Walsh (1973) 1 ACTR 6
John Fairfax Publications Pty Ltd v Rivkin [2003] HCA 50; 77 ALJR 1657
Lewis v Daily Telegraph [1964] AC 234
Mirror Newspapers Ltd v Harrison (1982) 149 CLR 293
Mirror Newspapers Ltd v World Hosts Pty Ltd (1979) 141 CLR 632
Morosi v Broadcasting Station 2GB Pty Ltd [1980] 2 NSWLR 418
Webb v Bloch (1928) 41 CLR 331

Parties: Wendy Dent (Plaintiff)
Donald Burke (Defendant)

Representation: **Counsel**
M Polden (Plaintiff)
S Chrysanthou (Defendant)

Solicitors
Aulich Civil Law (Plaintiff)

File Number: SC 290 of 2018

MOSSOP J:

Introduction

1. On 27 November 2017, the defendant, Donald (Don) Burke gave a half hour long interview on a television program called “A Current Affair”. That is a program aired on television broadcasting stations affiliated with the National Nine Network and on various associated websites.
2. On 20 June 2018, the plaintiff commenced these proceedings claiming damages for defamation arising from publication of the matters in the interview. The only defendant is Mr Burke who is identified as having published the broadcast. That approach relies upon the broad scope of liability for publication as explained in *Webb v Bloch* (1928) 41 CLR 331 at 363-364.
3. The interview followed the disclosure of a variety of allegations of bullying and sexual misconduct made against the defendant. During the course of the interview, the defendant made a number of admissions about bullying behaviour and extramarital affairs but generally denied the allegations of sexual misconduct. Amongst those allegations were allegations attributed to the plaintiff that, when auditioning for a part on the defendant’s television program, the defendant asked her to audition naked to the waist. The imputations alleged by the plaintiff to be conveyed by the interview are:
 1. That the plaintiff lied when she alleged that [the defendant] asked her to audition naked to the waist when she sought to be engaged on the program “Burke’s Backyard”; and
 2. That the plaintiff made a false allegation against [the defendant] of sexual harassment, motivated by her wish to join a witch-hunt against Mr Burke.
4. The defendant filed a Defence on 20 August 2018 denying that the interview conveyed the pleaded imputations and pleading defences of justification, common law qualified privilege and statutory privilege.
5. On 3 April 2019, the defendant filed an application in proceedings seeking to have a separate question decided pursuant to r 1521 of the *Court Procedures Rules 2006* (ACT). The separate question proposed was whether the interview conveyed the imputations pleaded in the Statement of Claim and, if so, whether those imputations are defamatory. The plaintiff consented to the making of that order and the order was made on 12 April 2019.
6. Upon hearing the separate question, a recording of the television interview was played and tendered. Also tendered was a line numbered version of the transcript of the interview which had been annexed to the Statement of Claim.
7. The submissions of the plaintiff focused on what was said by the defendant during the course of the interview. It is from those statements that counsel for the plaintiff submitted that the imputations arose. On the other hand, counsel for the defendant

emphasised the context in which the statements by the defendant were made, most particularly the combative and accusatory approach taken by the interviewer to the defendant. Counsel submitted that when that context is taken into account, the publication as a whole did not give rise to the imputations alleged. She conceded, however, that if the imputations arose then they were defamatory. As a consequence, the determinative issue is whether or not the imputations arose.

The principles to be applied

8. The principles to apply were not really in dispute. It was the application of those principles to the particular circumstances of this case that was controversial.
9. The plaintiff must satisfy the court, on the balance of probabilities, that the hypothetical ordinary reasonable viewer would understand the publication to have the meaning alleged. The plaintiff bears the onus of proof.
10. The distinction needs to be drawn between a viewer's understanding of what the publication says and the conclusions which the reader may reach as a result of his or her own beliefs and prejudices. An imputation may arise if the ordinary reasonable reader would understand it in that sense drawing on his or her own knowledge and experience of human affairs. However, a publication will not be defamatory if it is only capable of bearing such an imputation because it excites in some readers a belief or prejudice from which they proceed to arrive at a conclusion unfavourable to the plaintiff: *Mirror Newspapers Ltd v Harrison* (1982) 149 CLR 293 at 301.
11. The characteristics of the ordinary reasonable viewer are well-known. The ordinary reasonable viewer: is of fair average intelligence; is a fair-minded person; is not overly suspicious; may engage in a certain amount of loose thinking but is not avid for scandal; is not naïve; does not search for strained or forced meanings; views the entire matter complained of; and considers the context as well as the words alleged to have been defamatory: *Lewis v Daily Telegraph* [1964] AC 234 at 260; *Mirror Newspapers Ltd v World Hosts Pty Ltd* (1979) 141 CLR 632 at 646; *John Fairfax Publications Pty Ltd v Rivkin* [2003] HCA 50; 77 ALJR 1657 at [26].
12. Two principles are of particular significance in the present case.
13. First, whether or not a publication gives rise to a defamatory imputation will be influenced by the form of the publication. There is clearly a distinction between a written publication and one that is published in transient form such as a television broadcast. The viewer of a transient communication has none of the opportunities of the reader of a written document to consider, reread at leisure or check back on something that went before to see whether his or her recollection of it is correct and in doing so to change the first impression conveyed: *Gorton v Australian Broadcasting Commission and Walsh* (1973) 1 ACTR 6 at 11; *Amalgamated Television Services Pty Ltd v Marsden* (1998) 43 NSWLR 158 at 165-166.
14. Second, each imputation relied upon must be considered in the context of the entire publication: *Favell v Queensland Newspapers Pty Ltd* [2005] HCA 52; 79 ALJR 1716 at [17]; *Rivkin* at [26]. That means that the plaintiff is not entitled to isolate a few passages to make a case, nor is the defendant entitled to ignore the context in order to defend it. Where there is both "bane" and "antidote" within the single publication, both must be considered when determining whether the imputation arises. When considering bane and antidote, a viewer in a particular case may not give equal weight

to every part of the publication. The emphasis given to separate parts may vary according to the manner and form of the publication: *Malcolm v Nationwide News* [2007] NSWCA 254 at [18]; *Rivkin* at [26]. Once conveyed, a defamatory imputation remains unless, by reason of other things written or said, it is entirely eradicated. In *Morosi v Broadcasting Station 2GB* [1980] 2 NSWLR 418 at 419-420, Samuels JA (with whom Moffitt P and Hutley JA agreed) said:

But in a case such as this the material already contains a defamatory imputation; and the inquiry is whether that effect is overcome by contextual matter of an emollient kind so as to eradicate the hurt and render the whole publication harmless.

It follows that, in a case such as the present, what is involved is essentially the weighing up and comparison of bane and antidote, to repeat Baron Alderson's evocative formula, [*Chalmers v Payne* (1835) 2 Cr M & R 156; 150 ER 67]. It is a question of degree and of competing emphasis. ... It may be easier to arrive at an answer where the publication contains an express disclaimer, as in *Stubbs Ltd v Russell* [[1913] AC 386], or where the antidote consists in a statement of fact destructive of the ingredients from which the bane has been brewed.

15. In *Morosi* itself, the commentary in the radio broadcast upon Ms Morosi and her previous interview with Mike Willesee contained both bane and antidote and was not so clearly favourable to Ms Morosi as to remove the defamatory imputation. Samuels JA said "I do not think that it can be said that the antidote so manifestly achieved its purpose that the issue should have been withdrawn from the jury" (at 420).
16. *Bik v Mirror Newspapers* [1979] 2 NSWLR 679 is an example of a case in which the antidote was sufficient. The reporting of a ministerial statement clearing an engineer of any responsibility for a fatality arising from the collapse of a crane was found to be a sufficient antidote to any imputation carried in that publication that he had been guilty of discreditable conduct. Herron CJ (with whom Manning JA agreed) rejected the proposition (at page 682) that "where it is intended to clear a person of a defamatory stigma by a published statement, defamatory matter is necessarily published because the statement of his innocence supports an implication that it has previously been said or believed that the person has been guilty of discreditable conduct".

The interview

17. The transcript of the interview is included as a schedule to these reasons. The transcript of those parts of the interview from which the first imputation is alleged to arise are underlined. The second imputation is alleged to arise from those passages as well as the passages which are both underlined and bolded. While the schedule annexed to the Statement of Claim identified the images shown during the interview, it is unnecessary to identify all of the changes in images in these reasons, most of which are simply cuts to and from the defendant and Ms Tracy Grimshaw, the interviewer.
18. The plaintiff has submitted that the themes to which the defendant returns "time and time again" are that:
 1. the claims of sexual harassment made against him are false;
 2. although he admits he bullied women associated with his TV show and had extramarital affairs, for both of which he apologises, he did not sexually harass anyone; and

3. his bullying and extramarital affairs are driving a witch-hunt in which false allegations of sexual harassment are being made against him by disaffected women with a grudge.
19. The defendant submitted, in relation to the imputation that the plaintiff lied, that Ms Grimshaw's presentation was sceptical and accusatory in the context of the viewer being told that there are many allegations being made by many people. The defendant submitted that the ordinary reasonable viewer would conclude that if anyone was lying, it was the defendant and not the plaintiff. Similarly, in relation to the imputation that the plaintiff was joining a "witch-hunt", counsel for the defendant submitted that Ms Grimshaw was "utterly rejecting the defendant's explanation and assertion that there is a witchhunt". She submitted that the ordinary reasonable viewer "would see the plaintiff's complaint in the context of many other complaints corroborated by witnesses together with the outward hostility and scepticism on the part of [Ms] Grimshaw in response to the defendant's explanations".

Did the imputations arise?

20. The overall impression that the interview gives is one of Mr Burke being confronted with a series of allegations and providing his less than compelling response. That response involves him admitting, in a general way, what might be described as bullying conduct towards other staff members on his program and having extramarital affairs but denying the specific sexual allegations put to him.
21. It is important to reemphasise the transient nature of the broadcast and hence the significance of impression rather than textual analysis in assessing whether the imputations arise. There are a number of features of the publication which it is important to emphasise.
 - (a) The allegations which were being put to the defendant are not explained in any methodical way at the beginning of, or during, the broadcast. Those allegations appear to be known to both the interviewer and the defendant but they are not explained to the viewer. Rather, the details of the allegations are only exposed seriatim as they are put to the defendant. Further, only limited details of the allegations and the context in which they arose are given. Whilst during the course of the interview each allegation is put to the defendant, there is no recapitulation of the allegations as would consolidate in the mind of the viewer the particular complainant or the allegations that are made. There is therefore a significant superficiality of content. For present purposes it is significant that the overall impression given is of a large number of allegations having been made rather than a detailed examination of the circumstances and merits of each.
 - (b) So far as the plaintiff is concerned, her particular allegations and the defendant's response to them tend to get lost amongst the series of allegations made. Because the allegations are not gone into in detail and the interview moves quickly on to the other allegations, the impression created by the program is largely influenced by the collective force of numerous allegations and the rather general level at which the defendant responds to those allegations.

- (c) The lack of particular emphasis on the allegations made by the plaintiff and the lack of detail with which the factual basis of the allegations is explored reduces the capacity for the publication to permit the imputations to arise.
 - (d) Even at an impressionistic level, the responses to the allegations provided by the defendant are remarkable insofar as they involve a variety of changing responses which reflect poorly on his credibility. The allegations are met by a confusing combination of admissions of similar but less serious behaviour, outright denials, lack of recollection, the suggestion of possible exaggeration by complainants, suggestions of a “witch-hunt” and a suggestion that he suffered from Asperger’s syndrome and that this might explain his conduct. The manner in which the interviewer conducts the interview and responds to the defendant’s answers makes it very clear that the interviewer accepts the allegations made against the defendant as being credible allegations and finds his positive denial of them implausible.
22. The following analysis of the content of the interview inevitably reflects a greater level of analysis than the viewer of this transient publication would pick up. However, it provides a useful framework in which to assess those parts of the publication relied upon by the plaintiff and by the defendant. The references in what follows to sequences and page numbers are references to those in the transcript included as a schedule to these reasons.
23. Sequence 1 involves introductory comments by Ms Grimshaw. Obviously significant is the statement “his reputation is in tatters after a litany of allegations of sexual harassment and bullying” (p 1). Whilst the allegations are reported as such, the statement that his reputation is in tatters foreshadows the attitude taken by the interviewer in the interview.
24. Sequence 2 starts with the proposition that the defendant was described as “a psychotic bully, a misogynist and a sexual predator among other very serious allegations.” Ms Grimshaw asks the defendant to provide his response (p 1). In that response he makes admissions that he has things to apologise for including having affairs and having driven people “very hard”, leading to the view of some that he was not a nice person.
25. Having heard the admissions, Ms Grimshaw then turns to the statement that he apparently had released that day questioning or denying any recollection of allegations that appear to have been made against him (p 3). Ms Grimshaw then raises the case of Bridget Ninness and conduct alleged by her to have occurred on a trip to Greece (p 4). That leads to the assertion by Ms Grimshaw that “your language is ripe”. The defendant then refers to a statement he made on another television program called “Can of Worms” about his use of the word “fuck” in which he says “I said I love a good *beep* meaning the word you know like *beep*”. Ms Grimshaw then puts to him that in saying it that way involved a double entendre, which he denies.
26. Sequence 3 (p 6) is then footage from the “Can of Worms” television program to which the defendant had referred and shows him saying the words that he refers to in a manner which clearly demonstrates that he was using them in a way that gave rise to a double entendre. The juxtaposition of that footage with his denial of a double entendre tends to demonstrate the falsity of what he has just said. As a consequence, it puts the institutional weight of the broadcaster behind the proposition that statements that the defendant makes in the interview lack credibility.

27. Sequence 4 (p 6) commences with Ms Grimshaw raising the case of Louise Langdon who alleged that the defendant pawed her and tried to remove her top on a work trip. The defendant provides a tentative answer “I don’t think so, I mean I don’t remember doing, I certainly wouldn’t have done it seriously”. He says he is very confused about the scenario, that it was a long time ago and that he doesn’t have the records. He says that no one ever complained about bullying or sexual issues and he is thinking “why now?”. Ms Grimshaw then makes reference to people not being empowered to make complaints because he was their boss and reliant upon him for their job and their salary (p 7). The statement by the interviewer is consistent with providing a reasonable hypothesis in support of the credibility of the complainants. The defendant says that although he may have been a “bear with a sore head”, there was a robust exchange among workers on the television program and he did not accept that he was a “Weinstein-like figure”.
28. Ms Grimshaw then refers to another allegation which is not explained, apparently involving someone being shown a “donkey bestiality video” (p 8). The defendant provides an answer which suggests that allegations and stories of his conduct may have “grown in the telling” by people who were “hurt or angry or whatever”.
29. Ms Grimshaw then turns to Wendy Dent, the plaintiff, and the allegation that the defendant asked her to audition topless to be a mermaid on the show (p 8). The initial response of the defendant commences strongly “just not true” but then tends to fade to a lack of memory (“but I don’t know is the answer”).
30. Ms Grimshaw then seems to change to another allegation involving “a young TV writer” to whom the defendant is said to have made sexually explicit comments (p 9). The defendant denies that.
31. Ms Grimshaw then asks “[w]hy would all these women make this up Don?”. The defendant makes reference to social media and to Harvey Weinstein and says “we got a witch-hunt” (p 10). He then says that he accepts that he may have terrified a few people and that people are furious but says, apparently directed to the allegations, “[t]hese things that didn’t happen”.
32. Ms Grimshaw immediately follows up with a further allegation against him, namely that of Julie Nielson to whom he is alleged to have made further sexually explicit comments (p 10). The defendant denies it but Ms Grimshaw immediately follows up by stating that there is evidence from the television crew that the matters alleged occurred and challenging the defendant to say that the crew is lying. The defendant provides an answer but it is clear that Ms Grimshaw does not accept it, once again pointing to the number of people who he says must be lying (p 11). After he then makes reference to there being a “witchhunt”, she asks, incredulously, whether he believes that “this is a giant conspiracy?” (p 12). The defendant then says that it is a “witch-hunt” and makes reference to David Leckie. This appears to be reference to some senior manager at Channel Nine suggesting that is somehow relevant to the allegations made against him. Ms Grimshaw rejects the relevance of the reference and says that it is “neither here nor there” and brings him back to the specific allegations made against him by young women who relied upon him for their livelihood (p 13).
33. The defendant then changes tack suggesting that “we ran a very anti-misogynist ship” and that “if people are fragile” then he would “rather take the dive” (p 13). That suggests that he would be prepared to accept responsibility for things which he did not do in order to protect the fragile mental health of his accusers. Ms Grimshaw pursues

him on the suggestion that the accusers are fragile and that the accusations are coming from their fragility. The defendant retreats further, referring to “this whole Weinstein thing” and the potential to “reinforce the victim mentality in women” (p 14).

34. Ms Grimshaw then turns to a further allegation involving a young woman in a lift with the defendant during a shoot in Newcastle and comments that the defendant is said to have made the next morning (p 15). The defendant admits “horseplay” but not “sexual horseplay”. As part of his answer the defendant says that no one was “ever paid off by us”. Ms Grimshaw challenges that contention, asserting that Bridget Ninness had an out-of-court settlement and signed a confidentiality agreement. The defendant then retreats from the definitive statement that he had made about not having paid people off and suggests that both sides always sign a confidentiality agreement and he thought that she just got what was due to her (p 16). The defendant then says that he does not want to go into it any more than that because it is damaging and he did not want to do that. Ms Grimshaw does not accept that manoeuvre, challenging him that if he has a defence “now is the time to mount your defence”. The defendant maintains the position that he does not want to damage people by making a defence (p 17). Plainly he is suggesting that he could make a defence but declined to do so because it might damage people.
35. Ms Grimshaw then summarises the allegations against him: three women that have put their names to it, two women that haven’t, the Newcastle incident, three executives from Channel Nine including two former CEOs (p 17). She says that “where there’s smoke there’s fire”. The defendant responds by saying in effect that what he has admitted to is “fire” (that is, true) and the rest is “smoke” (that is, untrue). The defendant then maintains the distinction between those matters which he admits on the one hand and “all that sleazy sexual stuff” on the other.
36. Ms Grimshaw then continues to pursue him, asserting that what is being put to him is “not rumours” but rather women coming forward and saying things happened. She then turns to another allegation of a young television writer who alleges that the defendant made explicit suggestions to her (p 18). Once again, the defendant denies it.
37. Ms Grimshaw follows up immediately with a further allegation, this time coming from her own experience, of being told of the allegation by a producer. The allegation was that the defendant had suggested that if he reproduced with a particular young family member then that “would have the perfect gene pool” (p 19). That prompts a denial but also the suggestion as part of his defence that he is “an Asperger’s person”. He then raises some unclear suggestion that someone is trying to stop him because he has a new contract with Channel Nine (p 20). The rather opaque suggestion that there is a conspiracy from “that big end of town” in relation to “the sexual stuff” continues to the end of the sequence.
38. Sequence 5 is a cut to the advertisement break.
39. Sequence 6 are advertisements.
40. Sequence 7 involves a return to the interview. Ms Grimshaw asks about how he has made so many enemies. The defendant provides an answer which Ms Grimshaw challenges by suggesting that the defendant is saying that only those people who say nice things about him should be believed and the others disbelieved (p 22).

41. The defendant then retreats further saying that it is up to the people of Australia to make up their mind (p 23). Ms Grimshaw then asked him whether he has apologised to his wife who is apparently in a state of ill-health. The defendant then provides an answer.
42. Ms Grimshaw then returns to the earlier answer that he gave raising Asperger's syndrome (p 24). The defendant then provides an answer which involves a retreat from what he said earlier by confessing that he hasn't been medically diagnosed with Asperger's syndrome but has simply worked it out for himself. He refers to his inability to pick up body language and subtle signs. Ms Grimshaw pursues him by suggesting that if that is the case, he might be guilty of the things of which is accused. The defendant denies it in strong terms (p 26).
43. The defendant then makes reference to rumours about everybody. Ms Grimshaw pointedly draws the distinction between rumours and what is being dealt with today: "people who have stood up and said this is what happened to me." Then, indicating the credibility of complainants in such circumstances, Ms Grimshaw says of herself: "I know what it takes people to stand up after 20 or 30 years and say this is what happens to me. It's not said lightly." The defendant provides an answer suggesting that the grievances have grown over time and that people exaggerate, confessing that he is not innocent and that he has done a lot of things he is ashamed of and he has let his family down. Ms Grimshaw pursues him on the basis that what is alleged against him is not a rumour, that it is not all 30 years ago and that even if it is, it is not necessarily inaccurate (p 28). She makes reference to Robert Hughes, who the reasonable viewer of commercial television would recognise was an actor from a television program called "Hey Dad" who was convicted of historical sexual assaults. The defendant provides an answer referring to his lack of memory of some things. Ms Grimshaw once again puts to him that in those circumstances maybe he did the things alleged. The defendant then provides an answer suggesting that allegations may not be "100% hunky dory" and that he does not want to go and pick out the allegations one by one and go over matters because he considered that would be an evil in itself (p 29).
44. The interview then ends.
45. Sequence 9 is Ms Grimshaw in the studio saying that the defendant was not paid for the interview.
46. While the description that I have given above emphasises the respects in which the broadcast generally and Ms Grimshaw in particular demonstrates scepticism about, or non-acceptance of, the defendant's denials of the allegations against him, the interview does not give the impression that it was conducted as a simplistic hostile cross-examination. Rather, the interviewer puts, in a familiar and polite manner, the allegations to the defendant and asks reasonable questions arising from the responses that he gives which challenge those responses and support the credibility of the allegations made. The manner in which she does so is with an air of resignation and scepticism rather than hostility.
47. I accept that if the statements made by the defendant in relation to the allegations made by the plaintiff were examined out of their context, then the imputations would be made out. That is because the defendant himself does say expressly or impliedly that the allegation that she makes is false and that she makes it as part of a "witch-hunt". Although the position taken by the defendant in the interview is changeable, at its core

is a denial of the allegations made, inter alia, by the plaintiff. However, when considered in its context, the position is different. The proposition that the events alleged actually occurred is put strongly and persistently by the interviewer. She puts to him the weight of the number of allegations, the corroborative evidence in relation to some of the allegations, her own opinion about how difficult it is for complainants to come forward and, impliedly, their likely credibility in those circumstances. At times, the expression on her face and the manner in which she responds to the defendant's statements indicates a lack of acceptance of what he has said. It is a case in which the weight and authority of the interviewer and program is put behind the credibility of the allegations in contrast to the denials made by the defendant.

48. The end result is one in which the publication, taken as a whole, does not indicate that the allegations made by the plaintiff are false or motivated by a desire to join a "witch-hunt". Rather, a fair-minded observer of the program would understand that there were credible allegations made by a number of people including the plaintiff and that the defendant denied the allegations but did so in a manner which gave rise to real doubts about the credibility of his denials.
49. Counsel for the defendant suggested that the case was similar to *Cummings v Fairfax Digital Australia & New Zealand Pty Ltd* [2018] NSWCA 325. That was a case in which the publisher reported on pleadings filed in litigation in the Supreme Court of New South Wales between a horse trainer and entities for whom he had worked. Those pleadings involved allegations against him. The Court of Appeal concluded that the ordinary reasonable reader of the publication, which described the allegations in the pleadings, would recognise that they were just that. The reader would recognise that the publisher was not adopting the allegations made in the court case being reported upon. Rather, they were matters to be determined at a trial. Clearly, the present case is not one in which allegations were simply being reported. Nor was it one in which the circumstances indicated that they would subsequently be adjudicated upon. Nevertheless, the overall effect of the publication was to recognise that there were allegations and denials which had not been conclusively determined. It could not be said that the reasonable reader would leave with the impression that the publication contained the two imputations asserted. If anything, the effect of the publication was to cast doubt on the credibility of the defendant to the extent that he denied the allegation said to have been made by the plaintiff.
50. For those reasons, I find that the publication did not carry either of the imputations pleaded in paragraph 3 of the Statement of Claim. As a consequence, the plaintiff's claim must fail and judgment must be entered for the defendant. The irony of the defendant obtaining judgment in his favour on the basis that he has will be obvious.

Orders

51. The orders of the Court are:
 1. Judgment be entered for the defendant.
 2. The plaintiff is to pay the defendant's costs of the proceedings.
 3. Order 2 does not take effect for a period of 14 days and if, within that period, either party notifies my associate by email (copied to the other party) that it wishes to be further heard in relation to costs, it does not take effect until further order of the court.

I certify that the preceding fifty-one [51] numbered paragraphs and the schedule are a true copy of the Reasons for Judgment of his Honour Justice Mossop.

Associate:

Date: 28 June 2019

Schedule

Transcript of the broadcast on “A Current Affair” on 27 November 2017

(Page numbers based on the pagination in Exhibit 2.)

(Portions particularised as giving rise to the first imputation are underlined. Portions, in addition to those underlined, particularised as giving rise to the second imputation are underlined and bolded.)

PAGE	WORDS
1	<p>SEQUENCE 1</p> <p>Grimshaw: Don Burke was a fixture on tv and radio for years. Burke's Backyard was quintessential family viewing, but tonight his reputation is in tatters after a litany of allegations of sexual harassment and bullying. In his only tv interview, Don Burke told me today, he's made mistakes.</p> <p>SEQUENCE 2</p> <p>Grimshaw: Don, thanks for your time. You've been described today as a psychotic bully, a misogynist and a sexual predator, among other very serious allegations, what do you say?</p>
2	<p>Burke: I think I've got a bit to apologise to, to-to my family and um also to the people that supported Burke's Backyard. There are things I've done that I'm not at all proud of. Um ... prior to Maria's ill health I had a number of affairs which I should never have done, and I think I let everybody down with that ... and I'm a perfectionist that drove people very hard and although I felt we did have a happy office, um, there's clearly, when you look at the people that are complaining now there's a lot of people that don't like me, and they can't all be wrong.</p> <p>Grimshaw: When you say that you've had a number of affairs are you suggesting that, ah, some of these allegations, ah, relate to those, ah, why do you say - because having affairs doesn't make you a sexual predator or a bully; having affairs is between you and your wife. So how does that relate to what has been said about you today?</p> <p>Burke: I don't know to be honest, I don't know whether they'd left any legacy of things, but I think - uh probably, with the value of hindsight it might have set up a view from some of our staff that I wasn't a nice person ... perhaps?</p> <p>Grimshaw: Do you think you weren't a nice person?</p>

3	<p>Burke: Towards the end I don't think I wasn't a very good person, um -you know, Burke's Backyard, I suppose if you took it brutally it was coming towards the end of its run and - went for 18 years, coming towards the end of its run. I mean, It didn't seem to me at the time, but I reckon I must have been a bear with a bloody sore head and I do apologise for that.</p> <p>Grimshaw: Because, it - it's interesting that you're saying that because you released a statement today essentially questioning or - or saying that have no recollection of a lot of these allegations.</p> <p>Burke: (speaks over Grimshaw) Ah-yeah</p> <p>Grimshaw: (continues) a lot of the things that were said about you, that they didn't happen, that you didn't say them, you didn't do them, you are not that man. Are you now saying that you think maybe you did do them, maybe you are that man?</p>
4	<p>Burke: No, no I'm not that man at all, I've got a lot of failings but no, I'm not that man. A number of the claims are things that I would never say and most of what I've said is based on the fact that I'm sure (mumbles: I would've remembered), some of those things I'm supposed to have said are absolutely despicable and no person should say that to another person. It's not so much no man should never say it to a woman, no one should say those things to other people and the things I've said I didn't say, I did not say.</p> <p>Grimshaw: did you say to Bridget Ninness, a producer, that – ah – on a trip to Greece, that if anything went wrong on that trip that you were going to rip her head off and *BEEP* down her throat?</p> <p>Burke: No and I never said anything remotely like that to anyone I've ever worked with or anyone I know, and furthermore anybody that does say that should be run out of town on a rail, it's despicable.</p> <p>Grimshaw: She says she is still traumatised by it to this day.</p>
5	<p>Burke: Well maybe, she's a very tough lady that one and we did have issues with her, she did leave - um - not under good terms, but it wasn't a pleasant parting of the ways. So ...</p> <p>Grimshaw: Well she's gone into some detail about the parting of the ways, she said that she was demoted after you called a young researcher a dumb slut and she stood up to defend that young researcher.</p> <p>Burke: No, never happened, no – ah never called one anything like that.</p> <p>Grimshaw: Would you've called someone ah - a dumb slut?</p> <p>Burke: No.</p> <p>Grimshaw: Because you-you're ripe, you know, your language is ripe, I mean ...</p> <p>Burke: It is.</p> <p>Grimshaw: You know, you're not-you're not shy on four letter words.</p>

	<p>Burke: But not ... used at people, like I noticed, I was reading today they are going to quote me when I was on can of worms and we were talking about language and I said I love good *BEEP* meaning the word you know like *BEEP*.</p>
6	<p>Grimshaw: That's not quite how you said it, you - you, it was, there was a double entendre in saying that though.</p> <p>Burke: No, not intended by me.</p> <p>Grimshaw: Okay.</p> <p>SEQUENCE 3</p> <p>Burke (footage from interview on 'Can of Worms' television program): I love swearing, I think it's absolutely fantastic and I'll be perfectly honest, I love nothing better than a good *BEEP*.</p> <p>SEQUENCE 4</p> <p>Grimshaw: Um Louise Langdon who said that you tried to remove her top on a work trip, that you actually literally pawed her and tried to remove her top and tried to remove an item of her clothing on a work trip. Is that the sort of thing you would have done?</p> <p>Burke: I would never ...</p> <p>Grimshaw: Would you have done that even joking?</p>
7	<p>Burke: *Sighs* I don't think so, I mean I don't remember doing, I certainly wouldn't have done it seriously. Um and researchers didn't come with us on work trips. Um, so, I – you know I'm very confused about that scenario, it doesn't sort of fit in - it was so long ago and we've moved, I think it's four times (our offices), we don't have the records I don't think ... and just for the record apart from Bridget Ninness, no one, male or female, ever complained about any, whether it's bullying, any sexual issues, nothing in all the time; there was not one and I'm sort of thinking, why now?</p> <p>Grimshaw: You have said that you-you, you know, you ran the show and you probably ran a tight ship, it may be that people at the time didn't feel empowered to do anything about you then. You were the boss, they were reliant on you for their job, their salary ...</p>
8	<p>Burke: Yeah, I mean I might have been a bear with a sore head, particularly towards the end. But it was a robust exchange there we're all in prime time – it's like being part of the Australian Cricket Team or whatever. You've got to win, if you've got one or two weak people it's a real problem, but we all felt that way and I – I don't accept that I was this Weinstein like figure bullying down on everyone it was a robust environment and everybody was entitled to put in their two pennies worth.</p> <p>Grimshaw: I've worked in television for 36 years and most of them in primetime and it's been robust and no one has ever showed me a donkey bestiality video or tried to pull my bra off or ...</p> <p>Burke: I've never actually seen a donkey bestiality video, I've never owned one</p>

	<p>and I would never show one to anyone ... um so, I don't - look, whether these things over time because they feel hurt or angry or whatever, whether they've sort of grown in the telling when they meet some of these people after leaving us or whatever, I don't know.</p> <p>Grimshaw: <u>What about young Wendy Dent who was a fairy, a kid's fairy character who had aspirations to be an actress, she said that you asked her to audition topless to be a mermaid on the show?</u></p>
9	<p>Burke: <u>Just not true, but, what I don't know - we've tried to remember her and don't.</u> I was talking to my daughter this morning and she said well you know, your sense of humour at times, you know I've seen people, well you know roll their eyes a bit and I went ... but I don't know is the answer I - she said it remotely could have said something close to that, but I don't remember saying it.</p> <p>Grimshaw: Well would your sense of humour have run to saying to a young TV writer that she looked like she'd be a demon *BEEP* and what sexual positions did she like?</p> <p>Burke: No, no and what sort of an idiot would say that? Like to what end would anyone say that? All you're going to do is alienate people.</p> <p>Grimshaw: <u>Why would all these women make this up Don?</u></p>
10	<p>Burke: <u>Well I'm guessing it's - it's - it's the social media, the twittersphere thing. I guess they've stirred this up as the Harvey Weinstein thing and we've got a witch hunt. I'm prepared to cop the fact that I may have terrified a few people or whatever and so on um, and that I shouldn't have done that and so on, but these sort of things bear no relationship to who I am and what I'm about. And there are plenty of people from that time at Burke's Backyard that were there that have come to me and said how can they say this - they're furious. These things didn't happen.</u></p> <p>Grimshaw: We heard an account this morning from a woman, uh, called Julie Neilson when you walked into her house she opened the door and you said I bet you could shock a bad boy do you take it up the *BEEP*.</p> <p>Burke: Never. Never anything like that, nor would I - but I don't know ...</p> <p>Grimshaw: (Interrupts) We've heard that from the crew ...</p> <p>Burke: Well I didn't say it. Yeah, well ...</p> <p>Grimshaw: (Interrupts) So the crew is lying ...</p> <p>Burke: (Interrupts) Well you say the crew ...</p>
11	<p>Grimshaw: (Interrupts) These three women who ...</p> <p>Burke: (Interrupts) there was a problem with the crew and I don't want to go into that because of some fragilities of the people involved but no, I never said that.</p> <p>Grimshaw: <u>There are a lot of people lying here, if you never said it Don ...</u></p> <p>Burke: <u>Yeah, I know.</u></p>

	<p>Grimshaw: <u>There are a lot of people lying.</u></p> <p>Burke: <u>Yeah</u></p> <p>Grimshaw: But if you say that you were not a good guy, if you say that you - you know you understand that you weren't a good guy, you were a bear with a sore head, you had a quirky sense of humour, if you admit all of these things, <u>how can you admit all of those things and then say categorically that all of these things could never have happened ...</u></p> <p>Burke: <u>I know what I ...</u></p> <p>Grimshaw: <u>when all of these women are saying it, and men?</u></p>
12	<p>Burke: <u>Yeah ... I know what I would say and what I did say and what I didn't, I don't remember every event, but I don't say things like that. But I do have, often a ribald – ribald sense of humour - but not that! I mean, that's at that far end. Now, whether there was something they construed as that and built it over the years, I don't really know. But I do know that there's a witch hunt on.</u></p> <p>Grimshaw: <u>Are you saying that you believe this is a giant conspiracy?</u></p> <p>Burke: <u>Naw, not quite, I just ...</u></p> <p>Grimshaw: <u>What do you think it is then? What's feeding it?</u></p> <p>Burke: <u>(continues) it's a witch hunt.</u></p> <p>Burke: Oh well I think is the fact that ... and I think David Leckie said he didn't like me at all. Um I was tough when I had to be tough, particularly with the top echelon at Channel Nine, yeah, I was tough. I guess if David Leckie is watching this, I'm sorry David, I - you know, I maybe even went a bit far getting stuck into him and abusing him and I guess there are others that I've done that thinking now this is our chance, this is our chance to nail him with the current thing that everybody is on about at the moment. Um, but I don't think it's a conspiracy I just think it's a, it's a time of the world at the moment.</p>
13	<p>Grimshaw: What you said to David Leckie is neither here nor there because he was running the network and what you said or did with Sam Chisholm is neither here nor there because they were running the network. It's a question of what you say and do to people, young people, young women who uh rely on you for their livelihood. There is a power imbalance there and it's what you say and do to women like that ...</p> <p>Burke: Of course, of course.</p> <p>Grimshaw: (continues) that is the crux.</p> <p>Burke: And that's what I just said ...</p> <p>Grimshaw: (continues) of what's happening here.</p> <p>Burke: <u>If one of my people had said something like that they could well have been um sacked or whatever for that sort of thing - we ran a very anti-misogynist ship there. I don't understand why they have said these things and I don't care ...</u></p>

	<p>Grimshaw: (interrupts) Now is the time to say what you have to say.</p> <p>Burke: My ethics are such that I am not going, if people are fragile uh and saying things could damage their mental health or their careers, sorry I'd rather take the dive.</p>
14	<p>Grimshaw: So are you saying that all of these women who've identified themselves and a couple who haven't identified themselves are fragile and this ...</p> <p>Burke: Not all.</p> <p>Grimshaw: (continues) is coming from their fragility?</p> <p>Burke: Not all ... some of them were incredibly robust um but I think also, this whole Weinstein thing, one of the things it does is to reinforce the victim mentality in women.</p> <p>Grimshaw: Do you - do you see the whole 'Me Too' campaign post Weinstein as making ... turning women into victims, because it seems to be very empowering. They're all finding their voices after all of these years?</p> <p>Burke: In that sense, and that's for women - not so much women, some women, but for all the others I think it it reinforces a bit of fear and so on and their victim position.</p>
15	<p>Grimshaw: A couple of the most disturbing allegations this morning were; one: that there was a shoot in Newcastle and you were seen by the crew as they were going to bed at the hotel, um ushering a reluctant looking young woman to the lift and you came down the next morning and said she went off like a rocket or something ...</p> <p>Burke: (Interrupts) Not true.</p> <p>Grimshaw: (continues) that it was on for young and old.</p> <p>Burke: What happened was, yes, we had a few drinks and ... I guess I was drunk, we were playing whatever you call that, sort of horse-play and um ...</p> <p>Grimshaw: Are you talking about in your room afterwards or you-downsta ...</p>
16	<p>Burke: (interrupts) No, we went to the lift, ah we had a great time and so on. But there was, it was not sexual horse play, it was having fun and we were just laughing and all that - and she went home. Like there was no going up to the room or anything, nothing. There were no people ever paid off by US. None. We know of none ever being paid off by Channel Nine. Channel Nine never said they paid off anyone, we never paid off anyone and we have the - two of our chief administrative officers saying all that and they were ones who dealt with all these things.</p> <p>Grimshaw: What about Bridget Ninness? Didn't she have an out of court settlement with you? Didn't she ...</p> <p>Burke: Did she imply that? I think that ...</p> <p>Grimshaw: Didn't she sign a confidentiality agreement and – and – and receive</p>

	<p>an out of court payment?</p> <p>Burke: I think, well you always- at the end of those sort of things both sides always signs a confidentiality agreement. But, um, I don't remember whether we did in this case, I think we did, but she just got I think what was due to her. Uh there was nothing that had happened at our side that was in any way improper or anything and uh, I don't want to go into any more of it than that because it's damaging, not to me, uh to say it, I don't want to do that.</p>
17	<p>Grimshaw: Why wouldn't you Don because these are people who are not backwards in coming forwards against you now. If you have a defence, now is the time to mount your defence.</p> <p>Burke: No they can live their lives their way, my life is I don't want to damage people like that. I'm sorry, I, I, it's just not me.</p> <p>Grimshaw: <u>You look at the people who have lined up against you today, there are three women who've put their names to it, two women who haven't, there's the Newcastle incident, there are three executives from Channel Nine, two former CEOs. That's ... where there's smoke there's fire, and that's a lot of fire.</u></p> <p>Burke: <u>Yeah, well I gave you the fire. Um ... the rest of it is just smoke.</u></p> <p>Grimshaw: <u>Do you think that what has happened to you today is you getting what's coming to you?</u></p> <p>Burke: <u>In part, that's why I started off with you. I think in part I deserve this. But not for all that sleazy sexual stuff.</u></p>
18	<p>Grimshaw: <u>But these are not rumours that we're dealing with here today. These are not rumours. These are woman who are coming forward and saying this happened to me, he did this to me, he said this to me, he bullied me, he intimidated me, he harassed me, he did it to me.</u></p> <p>Burke: <u>Well the bullying may be true, uh – and maybe they don't forgive you but no the stories that I've read and the words.</u></p> <p>Grimshaw: With your ribald sense of humour might you have said to this young television writer; um that you liked seeing uh your young relative rub her body parts up ...</p> <p>Burke: (interrupts) Never</p> <p>Tracy: (continues) on the back of the horse?</p> <p>Burke: Never, never, never, never, never anything like that, no. No. Absolutely not and I as I say, this is what's driving me nuts because you wonder why they go to that extreme and I don't know why they would say that.</p>
19	<p>Grimshaw: Because I was told a story years ago by a producer about you who said that you had said that you were a geneticist, you were interested in genetics and you said that if you reproduced with this young family member uh the baby that prod- that would be produced would have the perfect gene pool.</p> <p>Burke: I don't understand, you're talking about incest? Oh, absolutely not. No, and further ...</p>

	<p>Grimshaw: I was told that ...</p> <p>Burke: furthermore, I don't believe that about myself</p> <p>Grimshaw: I was told this story by a producer that you said I'm a geneticist and I've got the perfect gene pool ...</p> <p>Burke: (interrupts) no I haven't.</p> <p>Grimshaw: (continues) and if I reproduced with this young relative, the baby that we made would be the perfect baby.</p> <p>Burke: No, that's ridiculous. Ah for a start, I – I I'm an Asperger's person. Um and I have a lot of other failings ah that are genetic and there is - I mentioned that it's genetic, um no. I don't believe that for a moment. But I would never say anything, that's just disgusting.</p>
20	<p>Grimshaw: How much of this do you take on board, of what ...</p> <p>Burke: All of it.</p> <p>Grimshaw: (continues) what has happened to you?</p> <p>Burke: All of it, uh I'm very glad, although the story was put out, I believe by um, Tracey Spicer, that I've got a new contract with Nine or something for a show next year and we've got to stop this bloke, I have not had discussions with Nine. Nine have offered me nothing. It's none of those things, I'm really happy to be out of television, I want to settle back to a life that is more boring, more ordinary, were I can look after my wife uh and friends of ours and just have an ordinary life. So, in a sense, you know, it, this could be a good time for me.</p> <p>Grimshaw: Does it cause you to look in the mirror and, and think?</p> <p>Burke: Absolutely, who doesn't?</p> <p>Grimshaw: You know, how have I – how have I created such ...</p> <p>Burke: Hatred.</p> <p>Grimshaw: Hatred.</p>
21	<p>Burke: Yeah it does, and I'm the first to say, that's my fault. That is my fault, I have done that uh I'm obsessive about what I do. Yeah, you've got to learn from the mistakes you made, and I've got some good mistakes in here and I think people are punishing me for them and not entirely wrongly, not entirely wrongly. But that, that big end of town with the, the sexual stuff I guess is a way of twisting the knife and if I had done it, I would admit to it now. I'm in a frame of mind where I'm just sick of all this, the gossip's been around for - I want it over and done with and it would be far less painful for me to say yeah I did that, I said that, but I didn't.</p> <p>SEQUENCE 5</p> <p>Grimshaw (in studio): We'll have more with Don Burke after the break.</p>

	<p>SEQUENCE 6</p> <p>ADVERTISEMENT BREAK</p> <p>SEQUENCE 7</p> <p>Grimshaw (in studio): Welcome back, let's go back to Don Burke.</p>
22	<p>SEQUENCE 8</p> <p>Grimshaw: Do you, do you wonder about how you've made so many enemies?</p> <p>Burke: I do, and as you say, that's why I have been looking in the mirror and thinking what did you bloody well do you idiot? And you know, so I've been having long talks to members of the family. The people we employed are pretty tough, and I have spoken to them and I said, if you're called upon you must say what you believe, do not try and be nice for me, regardless of what you think of me. If you do an interview, tell 'em what happened.</p> <p>Grimshaw: But the only ones who are to be believed are the ones who say nice things about you and the ones who say, these things about you aren't to be believed.</p>
23	<p>Burke: Well, I guess what I'm saying, particularly to the people of Australia that supported us for so long, is that this is their chance to judge. I'm happy to say to the people of Australia, this is my story, um make up your mind, if I'm the most evil person that's ever lived - that's your decision. Uh, if you can forgive me for the stupidity and other things I've done, then I'm very grateful. But I think that's their decision, not mine. I have looked in the mirror and there's a lot I don't like. Uh but that's up to the people of Australia now to decide, can they forgive me or not.</p> <p>Grimshaw: You talked earlier about having had affairs, ha-have you sorted that out with Maria, have you apologised to Maria?</p>
24	<p>Burke: Oh yeah, oh yeah – um devastating time for me. I mean I was so ashamed of myself I think it was just terrible and I suppose once she moved towards a state of ill health, I just thought what stupid priorities I had in life and now with all this too, there's a lot I've got to say to family and friends, um, that I'm sorry, you know that for instance, it's embarrassing some of my friends and so on - or worse. You know with all these twitter things and that, there is some pretty interesting twitters coming in to anyone whose said a nice thing about me at the moment. And so, yeah, I mean it's horrible, terrible time. I'm very happy, I don't, I haven't asked to back to Nine, I'm very happy not to do TV again because I suspect there's enough people left that think, yeah, he did it. That I probably, you know, wouldn't be able to hold my own in television again.</p> <p>Grimshaw: You've never before said that you've got Asperger's?</p>
25	<p>Burke: No, and I haven't been medically diagnosed, but I've worked it out that that's what I've got and-and what it is, and it's a terrible failing. I have difficulty looking anyone in the eye, I can look in a lens, but I have real difficulty looking anyone in the eye, an-and it's a typical thing, and-and I miss all their body language and often, you know, the subtle signs that people give to you, like back off, that's enough - I don't see that. I suffer from a terrible problem with that, of not seeing, an-and no one can understand how you can't see it, but you don't.</p>

	<p>Grimshaw: <u>So-so might you be guilty of all of these things?</u></p>
26	<p>Burke: <u>No, absolutely not. No, no, no, no, no, no, no - no, no, no, what I've defended as the words I didn't say and all the rest of it, I'm quite certain of that and I say it without malice towards those people and I do apologise that I probably gave them a horrible time and all the rest of it, but a lot of those words I think have just grown over the years or whatever, remember this was thirty years ago a lot of this - who remembers exactly what happened thirty years ago. But what I know is as a person who does have ethics, I know what I will say and what I won't say, what I will do and what I won't do and uh- I-I'm quite confident in-in all of that and there's plenty of people that were with me through my trip that sort of say, well he wasn't like that.</u></p> <p>Grimshaw: Okay.</p> <p>Burke: But you must know all the bad rumours about everybody, you must have lived through all that and you must have thought from time to time, I'll bet that wasn't a thing and often towards some- towards the end of someone's career a lot of those rumours all come together in the big mill and people say, yes - he or she was dreadful and this, that, and the other. I've heard it, what I'm proud of is I haven't repeated any of it.</p>
27	<p>Grimshaw: <u>Television is a hot-bed of rumour, there is no question about that, but I guess we're not dealing with rumour today, were dealing with people who have stood up and said, this is what happened to me, and an, I know, we have done stories, similar to this, in the past and I know what it takes people to stand up after twenty or thirty years and say, this is what happens to me. It's not said lightly.</u></p> <p>Burke: <u>No, and they've carried a grudge for all that time and my argument is, they had a reason for carrying it, but it doesn't mean it lies exactly in the words that they've said and over these years I guess it's grown and all the rest of it. I mean, we all exaggerate too, or whatever, and build something into a better story or this is how bad Don Burke is, whoa he did, you know. I-look, I'm not saying I'm innocent, I've done a lot of things that I'm ashamed of, but, and I let the family down particularly - that's where I'm most ashamed. Ah, obviously since Maria became ill umm, none of this has happened but, that doesn't change the fact that things happened back then. But now, no, I'm a different person - but that's no excuse.</u></p>
28	<p>Grimshaw: <u>Well-it's like- I mean, rumours are when you say, oh did you hear what Don Burke said to so-and-so about such-and-such, that's a rumour. It's not a rumour if a woman says, Don Burke said this to me and did this to me. That's not a rumour, that's a woman saying this was done to me.</u></p> <p>Burke: <u>It was thirty years ago, it doesn't mean it's accurate.</u></p> <p>Grimshaw: It's not all thirty years ago.</p> <p>Burke: Ooo, most of it's towards that.</p> <p>Grimshaw: Does it, does it make it inaccurate if it's thirty years ago? Robert Hughes went to jail for, um, crimes that he committed twenty-five years ago.</p> <p>Burke: Yeah, and if that's the case, he should, but, um, I, you know, I think with</p>

	<p>time ... I can't remember exact things I did twenty years ago or whatever. I-I-I challenge anybody to get something exactly right with something like that quoting back all that time. And whose memory is that good? I haven't got that good a memory.</p> <p>Grimshaw: <u>So, if you can't remember what you did twenty-five or thirty years ago, maybe you did these things?</u></p>
29	<p>Burke: <u>Well I said to you before that uh, firstly a lot of them I cannot remember at all, but I know what I would say and what I wouldn't say, uh and I know the sort of jokes I crack and all the rest of it and I know what I would never do and there's some of the things that are said I would never do. If you put a gun to my head, I wouldn't do it. You know, you know who you are, and-and you know, just because somebody says it doesn't entirely mean that it's a hundred percent hunky dory. But I don't want to go in and pick them out one by one and perhaps go over grievances or whatever because I think that is an evil in itself.</u></p> <p>Grimshaw: Okay. Alright. Thanks. Thanks Don.</p> <p>SEQUENCE 9</p> <p>Grimshaw (in studio): And of course, we did not pay Don Burke for that interview, stay with us, we'll be back in a moment.</p>