

# When Aunty turned a blind eye

Michael Smith, The Australian, November 30, 2013

*WHEN important and difficult stories break, you will hear about them on your ABC. We will not succumb to pressure to suppress or ignore legitimate stories to protect those in power. - Kate Torney, ABC director of news, on the Indonesian phone-tapping story.*

THIS year, the ABC has studiously ignored every major development in the Victoria Police major fraud squad investigation into the Australian Workers Union scandal. Even the proceedings of Victoria's courts on the matter - the bread and butter of local journalism - have eluded the national broadcaster's local reporters.

Jonathan Holmes spoke at length on the ABC's Media Watch about legitimate reporting of the story back in August last year. The Australian's Hedley Thomas had just broken the news that one of Julia Gillard's former law firm partners claimed that Gillard had lost her job at Slater & Gordon as a direct result of legal advice she gave to help establish a slush fund for her then boyfriend and client, AWU state secretary Bruce Wilson. There were numerous revelations in leaked documents, including a transcript of her exit interview from the firm, and the subsequent disclosure by the firm's then head partner, Peter Gordon, that it was a very serious matter involving an alleged fraud.

Jon Faine, of 774 ABC Melbourne, said: "The conspiracy theorists are having a ball, the blogosphere's running amok, it's all completely out of control ... why is it on the front page of the paper?"

To his great credit, Holmes said of the Faine view: "Well, I think that's nonsense." He went on to say the story was news, and had been presented in a sober and meticulous fashion by The Australian and elsewhere online.

There was a flurry of reporting in November last year from the ABC. It carried all of Gillard's press conferences and a lengthy interview with Wilson and, separately, his union colleague Ralph Blewitt. Then nothing.

Since the parliament rose last year, it's as if the AWU scandal had ceased to be for the ABC. Yet substantial developments have taken place - although not the sort of developments that would sit well in an Anne Summers, ABC live, Gillard extravaganza.

In January, Thomas reported that Victoria police had travelled to Queensland and taken a lengthy statement from a former para-legal executive at Slater & Gordon, Olivia Palmer (nee Brosnahan). That interview marked a turning point in the police investigation, with a significant increase in the number of detectives assigned to the matter as a result of her evidence.

## **The ABC reported nothing.**

On May 15 this year, Gillard was closing in on her third anniversary as prime minister. By 11am, she had introduced the National Disability Insurance Scheme legislation into the House of Representatives.

That same day, detectives from the major fraud squad visited the Melbourne Magistrates Court to give sworn evidence in an application for a warrant to search and seize documents from Slater & Gordon. Magistrate Lance Martin heard their evidence and duly issued the warrant.

The law does not provide for search warrants to seize documents for background information, or to provide leads for further investigation. Before Martin could issue the warrant, he - not police - had to

believe on reasonable grounds that a serious crime had occurred and that the things he specified in the warrant would afford evidence of that crime.

We know Martin's warrant directed police to seize all documents held by Slater & Gordon relating to Wilson, Blewitt, Gillard, the AWU Workplace Reform Association (the slush fund) and a property at 1/85 Kerr Street, Fitzroy, bought with the slush fund's money by Wilson, who attended the auction with Gillard, and put in Blewitt's name.

The warrant described further evidence: Gillard's personnel files; her invoices/billings, time sheets and travel records; personnel files in the name of her former secretary; and any record of the exit interview conducted by Peter Gordon with Gillard on September 11, 1995 (redacted portions of that interview were published in The Australian in August and November last year).

Martin included documents pertaining to Gillard and the AWU, the conveyance and mortgage file relating to the \$150,000 loan advanced to Blewitt for the purchase of 1/85 Kerr Street and deed registers involving the AWU.

By May 17, police had seized the documents set out in the warrant, leaving the Slater & Gordon premises with boxes of material.

Search warrants are a regular part of police work - the Slater & Gordon warrant was the 1536th issued by the magistrates court in the five months to May. After police execute a warrant and seize material, they are required to bring the material back to the court for further directions. When it's stolen property or drug material, it's routine: the court orders that the material be held by police pending production in evidence.

But with law firms it's different. A client of a law firm may claim "legal professional privilege" over documents containing legal advice. The "privilege" against production and use in evidence is the client's to claim, not the lawyer's. Blewitt waived privilege, releasing any and all documents concerning him into evidence.

As we enter December, Wilson is still considering his position - seven months down the track. Without that delay, the material seized from Slater & Gordon would likely have been given in to the custody of the police for production in evidence within weeks of the raid. That is, by June, while Gillard was still prime minister.

Our critics have employed a series of arguments, each one weaker than the last. The first argument was that there was no story.

- Torney, on the Indonesian phone-tapping story.

THE fraud squad was as tight as a drum with information about the raid. Nothing leaked. Slater & Gordon was similarly motivated to keep the police visit confidential. But with police contacting the clients of Slater & Gordon the story was bound to surface. On June 17 it was front-page news in The Australian. The next day, The Age and The Sydney Morning Herald followed up with a report noting that police expected to have the issues of client privilege finalised within two weeks.

On July 19, the ABC wrote to a listener in answer to a complaint about the ABC not covering the story, that: "The ABC was aware that an alleged raid had occurred. However, we were unable to confirm it had happened and therefore, **we did not report it.**"

Even the most basic of journalistic skills - making a few phone calls - eluded the nation's largest employer of journalists.

That week, the ABC did publish extensive coverage of allegations about a prime minister and slush funds, but it was the Spanish Prime Minister. The ABC headline reported calls for "Spanish PM Mariano Rajoy to resign over ties to slush fund".

On August 26, the Supreme Court heard Slater & Gordon's application for the return of eight documents under a claim of privilege in favour of the law firm. There was much discussion in the courtroom, documents were published and The Australian and other media covered the event. **The ABC reported nothing.**

On September 2, Victorian Chief Magistrate Peter Lauritsen heard Detective Sergeant Ross Mitchell's application for the remaining 360 documents to be handed to the custody of police.

Wilson was represented at the hearing by legal counsel and he sought more time to consider his position in relation to privilege.

During the proceedings, Lauritsen granted The Australian's request for the release of Mitchell's written application. That document included the details of the search warrant clearly naming Gillard. It closes by saying that, should Wilson make a claim of privilege, police will argue the claim should be rejected because the documents seized from Gillard's former office "were made in the furtherance of fraud".

No lawyer wants to find themselves publicly accused by police of being associated with fraud. That sort of accusation about a suburban solicitor would generally rate a line or two in the news. But when the two lawyers concerned are a sitting prime minister and a Federal Court judge (Bernard Murphy) appointed by her government, the question of whether or not it's newsworthy is answered beyond a shadow of doubt.

The Chief Magistrate reinforced the public interest judgment by publicly releasing the police application. It was rightly front-page news in The Australian; The Australian Financial Review, The Daily Telegraph, other newspapers and radio stations carried the story. It was unquestionably newsworthy - a sitting prime minister was named in a search warrant that directed police to seize evidence of alleged crime connected to her former office.

News, that is, unless you listen to **the ABC - whose audiences heard nothing.**

Audiences must not be able to reasonably conclude that the ABC has taken an editorial stand on matters of contention and public debate.

- Mark Scott, ABC managing director, October 17, 2006.

ON September 16, with the court documents published online, Adam Doyle from ABC News wrote this email in answer to a listener complaint about the ABC's lack of coverage:

"Thank you for your email regarding investigations being conducted by Victoria Police.

"It is a matter of public record that some form of investigation is under way. We know this because the ABC extensively reported the fact that Ralph Blewitt and others took information to the police.

"Beyond this, there are few confirmed facts which would reach the threshold of ABC editorial standards for reporting. We accept that other media may operate to a different standard, but we do not intend to compromise our own.

"Reporting that the prime minister of the nation is under police investigation is an enormously significant call to make. It cannot be made on supposition, on rumour, or on hearsay.

"You have said that Vic Pol have confirmed this in writing, but we have not cited (sic) this media release or public communication.

"According to The Australian they've been collecting files but you would expect any police investigation to gather up this sort of primary documentation. That does not mean Ms Gillard is under investigation. For all we know, the investigation could be into Ralph Blewitt, or Bruce Wilson or Slater & Gordon or any number of other individuals and entities.

"Rather than mimicking other media reports, the ABC is following fine principles of reporting confirmed fact. When such facts become available, you can be sure the ABC will report them.

"Yours sincerely,

"Adam Doyle,

"ABC News"

No questions, no follow-up, no investigative reports. The ABC would await a media release.

News is what someone somewhere doesn't want you to print; everything else is advertising.

- Torney, on the Indonesian phone-tapping story

TONY Abbott's alleged wall-punches from university 30 years ago met the ABC's standards. The Australian public interest in knowing about unsubstantiated allegations against the Prime Minister of Spain and a slush fund met the threshold.

What was so difficult about Gillard and her involvement in the AWU scandal?

The trigger for Victoria Police opening an investigation into the AWU scandal was Blewitt's statement about a power of attorney document Gillard says she witnessed properly. The police took Blewitt seriously enough to allocate scarce and expensive resources from the major fraud squad to the investigation.

The parliament took Blewitt's statement seriously too, with large sections of it read into Hansard.

**But the ABC would hear none of it.**

The ABC had decided: Gillard good, Blewitt bad. All of Gillard's defensive utterances were reported by the ABC.

The ABC reported Gillard's disgraceful personal slurs against Blewitt.

Perhaps the best insight into its group-think comes from its Canberra-based news editor John Mulhall, responding to (another) listener complaint about ABC failure to report on Blewitt's statements at the time.

"The ABC is aware of these statements **but we do not at this stage believe it warrants the attention of our news coverage.**

"To the extent that it may touch tangentially on a former role of the Prime Minister, we know The Australian newspaper maintains an abiding interest in events 17 years ago at the law firm Slater & Gordon, but the ABC is unaware of any allegation in the public domain which goes to the Prime Minister's integrity."

He closed his note by reassuring us that "if any allegation is ever raised which might go to the Prime Minister's integrity, the ABC would of course make inquiries into it and seek to report it".

We're still waiting.