

The RESEARCH DIRECTOR.
Legal, Constitutional and Administrative
Review Committee.
Parliament House. Brisbane O.4000

John WAKELY (J.P.) I/

12th July 1996

Dear Research Director,

Every ELECTOR/VOTER is entitled to the PROTECTION and KNOWLEDGE
that AUSTRALIA'S DEMOCRATIC PROCESSES relating to ELECTORAL LAWS and STANDARDS
will UNIFORMLY APPLY to every level of Government and Political Activity; whether=
Federal; State; Council; Political Bodies and/or Lobby Groups; Unions; etc.

Such ELECTORAL LAWS and STANDARDS must demand:-

"TRUTH in POLITICAL ADVERTISING"- also the "PREVENTION and ELIMINATION of all forms
of DECEPTIVE and/or MISLEADING POLITICAL CAMPAIGNS."

OFFENDERS against such Electoral Laws and Standards must OBTAIN NO REWARDS;
instead all such OFFENDERS must suffer SEVERE MANDATORY PENALTIES.

This Submission therefore on "TRUTH IN POLITICAL ADVERTISING"; will also include:-
"the PREVENTION of DECEPTIVE and/or MISLEADING POLITICAL CAMPAIGNS."

Using the L.C.A.R.C. -Issues Paper No. I-my FOCUS will:-

- 1-RESPOND to the Page 8 Questions;
- 2-COMMENT on Pages 1 to 7; and
- 3-COMMENT or SUGGEST OTHER MEASURES.

RESPONSES P.8 :-

The ESSENCE of every ELECTION must be to PROTECT the PUBLIC INTEREST;
for the PARAMOUNT RIGHTS of EVERY ELECTOR -demand:-

- 1- YES. Require ADEQUATE, ACCURATE, HONEST, FAIR INFORMATION; and/or STATEMENTS;
together with POLITICAL ACTIONS.
- 2-NO. REJECT all MISLEADING, DECEPTIVE STATEMENTS, OPINIONS, ANSWERS, RESPONSES;
especially about other Political Opponents. (Candidate, Party, Group, Government.)
- 3-YES. ELECTORAL LAWS and STANDARDS Legislation must ensure SEVERE PENALTIES will be
MANDATORY. So that POLITICAL OFFENDERS will gain NO REWARD if there is PROOF
that the OFFENDERS' CAMPAIGN includes FALSE and/or MISLEADING ACTIONS.
- 4-POLITICAL ADVERTISING is intended to SUPPORT a POLITICAL CANDIDATE, POLITICAL PARTY
or Lobby Group; and or the GOVERNMENT, or POLITICAL OPPONENTS; CHANGE/RETAIN POWER;
also in order to CHANGE A GOVERNMENT or POLITICAL ORGANISATION; and/or to RETAIN POWER.

COMMERCIAL ACTIVITIES are intended to bring about PROFITS and other GAINS for either
INDIVIDUALS, PERSONS, and/or GROUPS. Commercial Activities are subject to compliance
with such as CONSUMER and CRIMINAL LAWS; also the TRADE PRACTISES ACT.

The T.P.A. has the power to prosecute Offenders who use UNTRUE, and/or MISLEADING
DECEPTIVE Business Practises; notably FALSE ADVERTISING.

- 5-FREE SPEECH in Australia is a PARAMOUNT DEMOCRATIC RIGHT based on MUTUAL RESPECT.
Citizens must be able to SPEAK OUT FREELY WITHOUT FEAR on genuine matters of concern.
FREE SPEECH is a RECIPROCAL RIGHT; with the implied condition that TRUTH WILL PREVAIL.
FREE SPEECH is not intended to tolerate ACTIONS which are DIS-HONEST, DECEPTIVE,
MISLEADING and/or to MALICIOUSLY HARM some other Person or e.g. Political Body.
Therefore Candidates, Political Parties, Lobby Groups, Unions, etc; and the MEDIA-EACH
have a DUTY and OBLIGATION and RESPONSIBILITY to comply with all relevant LAWS/STANDARDS.
6-LEGISLATION should require COMPLIANCE with the ELECTORAL LAWS and STANDARDS/PENALTIES.

7-FORM of TRUTH in POLITICAL ADVERTISING (including POLITICAL ACTIONS)- and
All Persons and/or Political Bodies, and/or Lobby Groups, etc INVOLVED must PROVE their
ADVERTISING and ACTIONS comply with the ELECTORAL LAW CAPACITY TEST, namely:-
ACCURATE, HONEST, FAIR, and exactly as APPROVED for the ELECTION by the ELECTORAL COM-
MISSIONER with the SUPPORT of the OFFICIALS' POLITICAL REPRESENTATIVES' REVIEW PANEL-
(e.g. 1 EACH from National, Liberal, A.L.P., Democrats, Independents, etc).
CANDIDATES and/or POLITICAL PARTY, or LOBBY GROUP, UNION, etc- must UNDERSTAND and AGREE
that they will ^{not} use MISLEADING or DECEPTIVE ADVERTISING and/or POLITICAL CAMPAIGNING.

POLITICAL SUPPORTERS, etc, and the MEDIA also to be subject to this DUTY of CARE CONDITION.
during the WHOLE PERIOD of any declared ELECTION.

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John WAKELY-Lota SUEMISSION- "TRUTH in POLITICAL ADVERTISING & P.CAMPAIGNS."

6-FORM of TRUTH in POLITICAL ADVERTISING;(including POLITICAL CAMPAIGNING.) Cont.

The Electoral Commission could assist/protect CANDIDATES and/or Supporters by REQUIRING: that a CONDITION of the ACCEPTANCE of ANY NOMINATION;then before REGISTRATION of the Candidate as a FIT and PROPER PERSON to STAND FOR ELECTION EACH CANDIDATE provided their FULL DETAILED ADVERTISING and P.ACTION PR. GRAM (including e.g. Copies of all Media material, Releases, Letters, Public Notices, Statements, SPEECHES, announcements, brochures, SIGNS, etc, etc, POLICY and PROMISES, Personal History, Pecuniary Interests, MEMBERSHIPS, etc, etc,) to establish BONE FIDES. All of which would need to satisfy Electoral Commission and Political Review Panel. The Candidate would need to provide a WRITTEN SIGNED STATEMENT that they would UNDER-TAKE to comply with all the ELECTORAL LAWS/STANDARDS and CONDITIONS relevant to them. And if any need to VARY ADVERTISING or PROGRAM- will only vary AFTER ELECTORAL APPROVAL HAS FIRST BEEN OBTAINED. Otherwise, such a BREACH would be PROOF of ELECTION LAWS abuse. MANDATORY PENALTIES WOULD THEN APPLY.

(The Electoral Commissioner could declare that some material lodged is NOT FOR GENERAL PUBLIC VIEWING-but is necessary to CHECK BONE-FIDES of EACH CANDIDATE.)

7-POLITICAL OFFENDERS must discover they will be DENIED ANY POLITICAL REWARD.

And the FULL RANGE of present REMEDIES be applied (mentioned in 7 of Issues I.) together with the following SEVERE MANDATORY PENALTIES:-

Higher Fine-say MINIMUM \$50,000;and MINIMUM 1 YEAR JAIL; and every person INVOLVED be PERMANENTLY DECLARED UNFIT and INELIGIBLE for ANY POLITICAL POSITION-whether Elected or not-including all such as a REPRESENTATIVE to ANY PARLIAMENT, Federal, STATE and Local Government; Political Party; Lobby Group, Union, etc, etc.

If such as a POLITICAL PARTY, or other LOBBY GROUP are proven to be the OFFENDER- then EACH and ALL that PARTY'S CANDIDATES shall FORFEIT NOT LESS THAN 10% of EACH CANDIDATES VOTES. (Such a severe PENALTY would be likely to ELECT the main OPPOSITION CANDIDATE instead, by transferring the FORFEITED VOTES to the MAIN OPPONENT .)

Consequently such OFFENDERS would be denied all positions of Power in Parliament, Council, Union, Political Party, Lobby Group, etc. after breaching ELECTORAL LAWS.

Such severe Mandatory Penalties would TEND TO ENCOURAGE "TRUTH in POLITICAL ADVERTISING" and "DISCOURAGE DECEPTIVE and/or MISLEADING POLITICAL CAMPAIGNS."

8- DEFENCE-must be that ACCUSED PERSON can PROVE THE FACT -as a Candidate or Political Party, and/or any properly Authorised Member-they DID NOT OFFEND AGAINST the ELECTORAL LAWS and STANDARDS. (See 6-did not depart from APPROVED REGISTERED ELECTORAL POLITICAL CAMPAIGN.)

For-ANY AGGRIEVED PERSON-CANDIDATE or POLITICAL PARTY-etc MUST BE ENTITLED to CHARGE THERE HAS BEEN AN ELECTORAL OFFENCE;at any time within 12 MONTHS of an ELECTION DATE to the responsible Electoral Commission, and/or the SUPREME COURT to Adjudicate. Such OFFENCE CHARGE must be SUPPORTED BY FACTS in SWORN STATEMENT FORM.

9- THIRD PARTY-e.g. Other Candidates, Political Party, Lobby Group, Supporters, Media Publishers, etc. MUST NOT BE PERMITTED to put forth any UNFAIR, INACCURATE, MISLEADING, and/or DECEPTIVELY BIASED material PUBLICLY, which is intended to PERSUADE ELECTORS/VOTERS to SUPPORT a PARTICULAR CANDIDATE, particular POLITICAL PARTY, GROUP, etc so as to affect the ELECTION RESULT. Such THIRD PARTY must be able to PROVE they have NOT ACTED IN CAHOOTS if Charged. And the THIRD PARTY would need to prove that DURING THE ELECTION PERIOD; that they exercised a DUTY OF CARE by checking that MATERIAL USED complied with the ELECTORAL LAWS and STANDARDS. (e.g. HONEST, FAIR, ACCURATE, not intended to MISLEAD etc.) Obviously such PUBLISHERS can use OFFICIAL GOVERNMENT properly AUTHORISED MATERIAL e.g. Govt. Statistics, LEGISLATION, Hansard Speeches, Public Announcements, etc.10-ELECTORAL COMMISSIONER should have the power to DETERMINE if routine or MINOR;

b/ Electoral Commissioner plus a PANEL REPRESENTING all relevant CANDIDATES, to act together "IN AN OPEN INQUIRY" to DETERMINE more SERIOUS CHARGES or CHALLENGES- also in order to OBTAIN FAST RESULTS through MINIMUM DELAYS;

c/ SUPREME COURT of QUEENSLAND-acting in URGENT SESSION PUBLICLY-to determine any APPEALS, especially when a CANDIDATE is to be DECLARED NOT ELECTED; and /or if a CANDIDATE is to be DECLARED PERMANENTLY UNFIT and INELIGIBLE to be ELECTED or HOLD ANY POLITICAL POSITION; and if other SEVERE MANDATORY PENALTIES to apply. (See 7 above)

- II- NO- "HOW TO VOTE CARDS"- if to be permitted at all should be subject to: and
 MUST BE APPROVED FIRST in "AN EXACT FORM" by the ELECTORAL COMMISSION
 assisted by the CANDIDATES' REPRESENTATIVE REVIEW PANEL.
 Then if used-MUST NOT BE VARIED FROM THE APPROVED "EXACT FORM";
 But if USED or VARIED WITHOUT APPROVAL-that would constitute "PRIMA-FACIE"
 Evidence of an Electoral OFFENCE. Severe MANDATORY PENALTIES flow.
 (But see I2 following)

I2- The ELECTORAL LAWS and STANDARDS should be AMENDED to NOT PERMIT

- a/ any such as "HOW TO VOTE " material to be distributed at, or within 5 kilometres
 of any POLLING BOOTH during the PRESCRIBED ELECTION PERIOD.
 INSTEAD:
 b/ CANDIDATES and/or POLITICAL PARTIES, Lobby Groups, etc should:-
 DIRECT THEIR MEMBERS with FULL DETAILS through DIRECT MAIL LETTERS, Radio, T.V.
 and/or via ADVERTISING in their LOCAL NEWSPAPERS (complying with Electoral Law.)
 and/or instead:-
 c/ ELECTORAL COMMISSION should have LARGE PICTORIAL POSTER in each and every BOOTH
 wherein each ELECTOR/VOTER actually completes their VOTING FORM.

Such a POSTER should clearly IDENTIFY and DETAIL EACH CANDIDATE-
 (Electoral Commission could DRAW a LOT for each NAME-then put in that RANK ORDER.)

e.g. NAMES- John Adam BROWN--Liberal Party --- photo number Party ONLY.
 Barry JACOB --Aust. Labor Party- " " 1
 Henry Bill TODD--National Party - " 2 2
 June Lill CASEY--Democrats Party 2 " " 4
 Steve Ted JONES--Greens Party - " " 5
 Mary Eliz. AZAH --Independent Party- " " 6

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The ELECTORAL COMMISSION informs each VOTER as follows:
 you have a choice of 2 METHODS of completing your VOTE.

I METHOD: Fill in your form -using the PhotoIdentity Numbers as a guide.

LONG METHOD: Fill in EACH form and EACH BOX SQUARE

strictly in the NUMBER ORDER of your PREFERENCE

I for MOST FAVOURED and e.g. 6 HIGHEST for LEAST FAVOURED
 using every number; FILL IN EACH BOX SQUARE.

NUMBER EVERY BOX SQUARE in the ORDER OF YOUR PREFERENCE.

(DO NOT LEAVE ANY SQUARE un numbered!)

2 SHORT METHOD: You may choose this ALTERNATIVE method of VOTING.

Just put a I only in the PARTY BOX beside your MOST FAVOURED
 CANDIDATES' name. The PREFERENCES will flow AUTOMATICALLY.
 (DO NOT then MARK ANY OTHER BOX SQUARE.)

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I2-The ELIMINATION of "HOW TO VOTE CARDS" etc-in or near POLLING BOOTHS

would REDUCE THE OPPORTUNITY to MISLEAD and/or to DECEIVE the VOTING PUBLIC;
 would REDUCE THE COST OF ELECTIONS; REDUCE THE NEED for many DISTRIBUTORS;
 would REDUCE HARASSMENT of ELECTORS; REDUCE LITTER; SAVE TREES and PAPER; etc.

(An Electoral Commission OFFICIAL POSTER and ELECTORAL ROLL could be used
 OUTSIDE THE POLLING BOOTH to assist- INSTEAD of "HOW TO VOTE CARDS".

CANDIDATES and/or their SUPPORTERS could assist the public using that material.)
 Further, to REDUCE THE COST of EVERY FORM of ELECTION, it would make better SENSE
 and be FAIR:- If EVERY CANDIDATE facing an Election, was ALLOCATED the SAME AMOUNT
 of SPACE in an OFFICIAL ELECTORAL COMMISSION Production of an INFORMATION PAPER;

wherein each CANDIDATE FULLY DETAILS their relevant PERSONAL HISTORY, QUALIFICATIONS,
 POLICY, PROMISES, STATEMENTS, COMMENTS, etc, and PHOTO etc Contact Info. etc;
INSTEAD of using OTHER WASTEFUL ADVERTISING, and "HOW TO VOTE CARDS"

This CANDIDATES' ELECTION INFORMATION Paper could be delivered FREE to EVERY RESIDENT
 VOTER not later than 7 days before the ACTUAL ELECTION; so each ELECTOR could use
 and KEEP to COMPARE each Candidates' FULL DETAILS; then make an APPROPRIATE JUDGEMENT
 of what is in their OWN BEST INTEREST, to VOTE ACCORDINGLY.

JW.

John WAKELY - Lota Submission- "TRUTH in POLITICAL ADVERTISING and P.CAMPAIGNS."2/ COMMENTS on ISSUES Paper No.I-pages I to 7

P.I- Committee's Inquiry included the Role of: ..."monitoring generally the CONDUCT of ELECTIONS..."

therefore, because of the PRINCIPLES being SYNONYMOUS; the WAKELY Submission has included:- with the "TRUTH in POLITICAL ADVERTISING" and "the PREVENTION of DECEPTIVE and/or MISLEADING POLITICAL CAMPAIGNS."

p.3-2.2 See WAKELY P.2.Item 7.

Commonwealth Electoral Legislation Amendment Act 1983-appears REASONABLE; except need TOUGHER PENALTIES;and TOUGHER on PROOF. Should include:- "PUBLISH...Television, and any other means of PUBLIC DISSEMINATION."

2.3-Wakely suggests:- The Electoral Commission together with a CANDIDATES' REPRESENTATIVES REVIEW PANEL acting together to APPROVE CAMPAIGN MATERIAL which could be lawfully used during the Election;to reduce Election OFFENCES. Otherwise,any AGGRIEVED PERSON could PRODUCE FACTS to PROVE an ELECTORAL OFFENCE has occurred;or CHALLENGE A RESULT-at any time within 12 MONTHS of an ELECTION.

The Parliamentary Committee's REASONS stated are NONSENSE,when they claim:- "...cannot LEGISLATE for FAIRNESS and TRUTH." Also for excusing FALSE STATEMENTS in POLITICAL ADVERTISING-as just "VIGOROUS CONTROVERSY"... for "POLICIES" are supposed to be a PLAN FOR FUTURE ACTION. Also to PASS-PREDICTIONS and OPINIONS-as very little matter-unless FACTS are joined with them as Evidence or Grounds for such a View;although the material may in FACT be DECEPTIVE and/or MISLEADING.

(HIGH COURT does not support any "FREEDOM" to MISLEAD or be INACCURATE.)

JUDICIARY would not appear to be "POLITICISED" providing all Electoral Matters-e.g. CHALLENGES and/or CHARGES are OPENLY and PUBLICLY DEALT WITH; also the FACTS and TRUTH with appropriate details are OBVIOUSLY SOUGHT from BOTH SIDES. Any BENEFIT of DOUBT leading to NOT PROVED Determination.

THIRD PARTY- e.g. PUBLISHERS-have a DUTY OF CARE to check validly/thoroughly all material used during an Election;and/or quote SOURCES which would assist Readers to the SOURCE to prove its VERACITY.of POLITICAL MATERIAL. REMEDIES-such as Legal INJUNCTIONS,etc would become used less if POLITICAL MATERIAL is APPROVED in ADVANCE by the ELECTION COMMISSION acting with the CANDIDATES' REPRESENTATIVES REVIEW PANEL. OFFENCES would be REDUCED too.

P.4. S.329(2) 161 (2) was REPEALED by the Joint Select Committee of Commonwealth making the RIDICULOUS CLAIM/DECISION :-

"Political Advertising is NOT POSSIBLE TO CONTROL";

..."and WOULD NOT PREVENT DISHONEST ADVERTISING"

so- ..."should be LEFT TO ELECTORS TO TAKE ACTION AFTER BEING LIED TO!"

...also upto the PUBLIC to "SEEK PROTECTION via the DEAPAMATION LAW."

Obviously the FEDERAL PARLIAMENTARIANS were taking the EASY WAY OUT; only a few exercised STRENGTH of CONSCIENCE -especially Senator MACKLIN of Qsld., and Senator Meg LEES (Aust.Democrats) who gave EXCELLENT REASONS for such LAWS. TRUTH IN ADVERTISING has worked in South Australia;also TRADE PRACTICES ACT-Nationally. Therefore see again WAKELY suggestions Item 7 etc.

P.5.As to the HIGH COURT --there is ONLY AN IMPLIED "FREEDOM OF SPEECH";

In the determination of T.V. -verse-PRINT MEDIA the HIGH COURT decided:-

..."the PRINCIPLE of REPRESENTATIVE DEMOCRACY inherent within the COMMONWEALTH CONSTITUTION and that of a STATE implies a FREEDOM OF PUBLIC DISCUSSION as to matters of POLITICAL SIGNIFICANCE.

And the COURT held:- "that the LIMITATIONS imposed by S.II3 (which deals with ADVERTISEMENTS PUBLISHED BY ANY MEANS-including RADIO or TELEVISION) "is manifestly proportionate to the LEGITIMATE OBJECT of ENSURING that what is REPRESENTED AS FACTUAL material published in ELECTORAL ADVERTISEMENTS

is ACCURATE and NOT MISLEADING." therefore, the challenge based on IMPLIED CONSTITUTIONAL FREEDOM FAILED.

WAKELY supports that COURT DECISION-and suggests its PRINCIPLES must be APPLIED to ALL MEANS of POLITICAL CAMPAIGNS, and methods of PERSUASION;including all such:- POLICIES, PROMISES,ANNOUNCEMENTS, STATEMENTS, RELEASES,NOTICES,CARDS, SIGNS,ETC PRINT, RADIO, T.V.,INTERNET, NEW TECHNOLOGY,etc PUBLICLY put forward by CANDIDATES. *WV*
see P.5