

# Submission to Liberal Party of Australia (Queensland Division) Disciplinary Committee

## Introduction

1. This submission is in response to a notice to attend a hearing of the Disciplinary Committee of the Liberal Party of Australia (Queensland Division) at 4:00 p.m. on Tuesday, 14<sup>th</sup> August, 2007. The notice was sent by email but was not received by me until after the close of business Thursday, 9<sup>th</sup> August, having been sent by the State Director at 4:37 pm that day. It attaches a notice as well as several media articles. It is not clear from the notice what parts of these articles are objected to, nor on what particular grounds. As I was attending a conference it was some time before I could even direct my attention to the email.
2. I emailed the State Director at my earliest opportunity asking for further details. His response was received by me at 2:32 pm today. I now have a list of specific passages from the articles, but still no indication as to which charge attaches to which passage. The Disciplinary Committee is required to conduct its inquiries in accordance with the principles of natural justice. These include reasonable notice and that the respondent is properly informed of the complaint against him. These have not been observed in this case.
3. This response therefore attempts to deal with the notice without knowing exactly what the complaints are. I will do this by dealing with the underlying assumptions. In doing so I should not be seen to be waiving my right later to rely on the denial of the natural justice to which I am entitled. While I note that I could use a lawyer to prepare this submission, given the lack of notice this has not been possible.

## My history

4. I provide these details for those members of the Disciplinary Committee who may be unaware of my history in the Liberal Party. I joined the party in 1977 as a Young Liberal and held the position of State Young Liberal Vice-President between 1980 and 1982 and Federal Young Liberal Vice-President 1982 to 1983. In 1983 I was the party's candidate in Griffith, which required a swing of 14% to be won. I subsequently became Vice-Chairman and then Chairman of the Eastern Metropolitan Zone, and later, after the zonal system was abolished, Chairman of Griffith FEC. In 1989 and 1992 I was the candidate for Greenslopes.
5. Between 1994 and 1996 I was State Vice-President of the party and Chairman of the State Campaign and Membership Committees. As Campaign Committee Chairman I am credited with a large proportion of our success in the 1995 state

election and the 1996 federal election. Even though I was “rolled” as a vice-president in 1996 I maintained the chairmanship of the Campaign Committee in recognition of the need for my skills in the 1997 Brisbane City Council election. In 2003/4 I was involved in polling research and strategy for the last Brisbane City Council campaign. As a result I have been associated with the central planning of every successful election campaign that the Queensland Liberal Party has run in the last 24 years, and am frequently consulted as an expert on campaign matters by journalists and candidates.

6. In 1999 I changed career and founded *On Line Opinion*, becoming a journalist and publisher. *On Line Opinion* has become a success. Last year it was recognised as the most popular online politics site by web metrics company Hitwise. This year we are participating in an ARC funded project with SBS, QUT, and the Brisbane Institute.
7. Just this year, in my position as editor I have been invited to speak at the Australian National Library on User Generated Content; the Victorian Association for the Teaching of English on the Future of TV; the Brisbane Writers Festival on Online Political Reporting; and the Melbourne Press Club Journalism Conference. I am also the author of some academic articles.
8. If you are a journalist wanting to know about politics and the web, Queensland politics, or polling and campaigns, then I am an obvious contact to make. Last year I was quoted at least once per fortnight by some media outlet somewhere. This year it is probably more frequent. I no longer hold any office in the party and do not undertake any activities as a party spokesperson, or represent myself as such.

## **Assumptions**

### ***Party members are not free to criticise the party or individuals holding office in the party***

9. I am aware that party members, such as Marian Feros, have been punished for giving media interviews critical of the party. It is time that this precedent is reversed. Not only is it a principle which is applied unevenly, but it breaches the very objects of the party as set-out in the Constitution. These include “political liberty” and “freedom of speech”. It is also completely unenforceable in any just way.
10. The Liberal Party is a party which has historically prided itself in the right of its members of parliament to exercise a conscience vote on each and every matter, unlike the Labor Party which automatically expels members who cross the floor. This has extended to every level of the party, with party members and party units frequently criticising the party, particular units of the party, party policies and particular office-holders. Admission of journalists to party conferences is an

admission that in a democratic party this has to be the case. The Liberal Party is the party of the individual and the ability, and in fact the responsibility, to criticise the party arises from that.

11. Party members are members of society. Ordinary members can't reasonably be expected to keep everything that they know about the party secret and to defend everything that the party does. That would require them to be both secretive and dishonest (except for the rare person, if they exist, who agrees with everything that the party does). There may be duties of confidentiality, but they will only arise in very limited circumstances, and are much more likely to affect office-holders and candidates.
12. If there was some duty to always take the party's part, then members could not even be open with their friends and family.
13. In fact, party members generally take the commonsense view that they can talk about party matters to anyone, which has led to the party only punishing those whose opinions differ from those controlling the executive. So, the State Director is and was a frequent briefer of media against both Bruce Flegg and before him Bob Quinn. Other office-bearers such as Warwick Parer and Michael Caltabiano have been quite prepared to use the media and other forums to denigrate past and current state leaders, as well as in Caltabiano's case, other candidates for organizational office. While this reflects poorly on their competence and integrity, I would not suggest that it forms a basis for referral to the Disciplinary Committee on its own.
14. Many other members make off-the-record comments to journalists. They do this not because they don't think they have a right to make those comments but because it is strategic for the comments not to be attributed to them. Some of the scoops that I have had on *On Line Opinion* have been the result of such backgrounding.

### ***Criticism equals disloyalty or damage***

15. To make out any of these charges, whatever they might be, it seems to me that you have to equate criticism with disloyalty or damage. This is not true. An organisation which is not subjected to criticism is one that will ultimately fail. It is quite possible for someone to criticise the party at the same time wanting it to succeed. That is the position in which I find myself.
16. In fact my criticism can be an advantage to the party. Journalists know that I will not pull my reins on issues, which makes me a reliable source. Readers of my articles know that I will be honest, blunt and insightful, which is why they read me.

17. Party officers have used me to put matters on the public record, not because they expect me to misrepresent the facts to their advantage, but because they know that I will present them fairly. Most journalists are left-of-centre and unsympathetic to the aims of the Liberal Party. I am not.
18. A party that cannot be critiqued by its friends will only be critiqued by its enemies, or those indifferent to it. Surely this is not what the Liberal Party wants.

***You cannot be a journalist and a member of the party.***

19. This assumption seems to flow from the fact that all the material in support of this charge arises from either articles that I have written, or commentary sought from me by various journalists. In fact there is a long history of members of the party pursuing a career in journalism while simultaneously holding office.
20. Alfred Deakin famously wrote a column all through the period when he was Prime Minister. Peter Coleman was a journalist and the founder of Quadrant. Michael Baume was editor of the Australian Financial Review before entering parliament and still writes op-eds. Jim Killen and Bert Kelly both wrote columns while members of parliament, with Kelly being a persistent, and ultimately successful, critic of his own party. This is only the tip of the ice-berg. In Queensland, for example, radio journalist Rod Henshaw, was the Liberal Party candidate in a recent election, and recent chief of staff to Bruce Flegg. Jeff Sommerfeld was a party activist and Courier Mail journalist at the same time.
21. Journalists have a professional duty to be honest. The fact that the party allows them to be members underlines the commonsense proposition that it is permissible to be a party member and to carry out your professional duties. This doesn't just include journalists. Party members who are lawyers may be called upon to act against the party, or some parts of it. They should not be disciplined for that. Just as union leaders are able to simultaneously be members of the ALP and criticise Labor governments, the Liberal Party also allows members to head up organisations, such as the AMA, who may be called upon to criticise the party, without threat of coercion.
22. Columnists do not have the same duties as journalists, which is an even stronger illustration of the point. Even though Killen and Kelly were less constrained by alternative professional ethics, their regular dissent was tolerated by some, and encouraged by others.

***My analysis has damaged the party.***

23. To make out the charge that I have brought the party into disrepute you have to show that it is in disrepute and that I am a significant identifiable cause of it. This

- cannot be made out. The party is in disrepute, that is plain from its election results and opinion polling, but in all the polling that I have done, or that I have seen the results of, not once has anyone referenced me as the cause for thinking less of the Liberal Party. They have instanced John Howard, Bruce Flegg, Bob Quinn, Santo Santoro, Michael Johnson and Michael Caltabiano; they have even instanced specific candidates; but never once me.
24. Another facet of this assumption is the idea that the reporter of wrong-doing, or incompetence, is the person who damages the party, rather than the wrong-doer. This is called “Shooting the messenger”. In fact, the analysis does the party a favour by shining a light on mistakes and misdeeds.
25. The analysis also does the party a favour by showing that it contains people of conviction. The public is not so stupid that it thinks political parties are unanimous on every issue – they see plenty of unsourced leaks that disprove this. They are more happy with parties where there is a good level of public disclosure and debate than ones where there isn’t.

### **When is discipline warranted?**

26. The committee, in arriving at its recommendations to State Council, needs to consider in what circumstances discipline is warranted. I am not suggesting that discipline is never warranted, but that it does not include normal exercise of free speech or journalistic or academic analysis.
27. When I was Vice-President the Party expelled or suspended a number of Young Liberals. This was for fraud. This was entirely appropriate. I also agree that campaigning or running against the party should involve a penalty.
28. Office-bearers who reveal confidential information should also be subject to discipline, particularly when that information is used to undermine the leadership of the party or their opponents. In which case Geoff Greene and Michael Caltabiano ought to be subject to a reference for their use of confidential polling. Recently Gary Hardgrave also put himself in that position, by leaking confidential central campaign committee polling critical of Bruce Flegg to his party FEC, as reported in *The Courier Mail*. This is a departure from the situation where they provide backgrounding without revealing confidential information.
29. Outside of those circumstances I cannot think of any matters requiring discipline. Anonymous backgrounding of journalists is so common that you wouldn’t have any senior party officials left if you punished it. Punishing those who speak on the record is even more invidious, as it is in effect a reward to anonymous backgrounders who escape punishment. And in both cases, talking to journalists is the exercise of an ordinary human right.

## **The specific charges**

30. The charges are that I have been grossly disloyal to the Party; that I have brought the Party into disrepute; and that my conduct is severely harmful to the best interests of the Party.
31. At no stage have I been disloyal to the party. As my record shows, I have been willing to work for the party when my skills could be used; I had the opportunity and it was consistent with my other commitments. My continuing fascination with a party of which I have been a member for thirty years demonstrates that loyalty. It does not however extend to misrepresenting the nature of the party or its actions. This is a form of “loyalty” that the Party is not due.
32. Nothing that I have done has brought the party into disrepute. To the extent that the party might gain disrepute from the facts included in my articles it is because of the people who have been responsible for them. In reviewing the material I cannot see a single fact that I instanced that was not already on the public record, meaning that the disreputable conduct was already in the public domain before I covered it, so that, even if you did think reporting disreputable facts brought the party into disrepute, I was not the person who originally reported.
33. Even if you believe that the facts that I report are wrong and the conclusions that I reach are wrong, as long as they honestly and reasonably arrived at, they should not give rise to any action.
34. Rather than being harmful to the best interests of the Party, my analysis is actually to its advantage. Drawing on my experience and skills, and with the best interests of the party at heart it provides an analysis which the party could use to its advantage. I know that some members do.

## **Conclusion**

35. On the material provided to me there is no evidence of the charges as proven. I have at all times acted in accordance with my professional ethics, and there is no conflict between being a member of that profession and a member of the Liberal Party.