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REPORT OF THE SELECT COMMITTEE OF PRIVILEGE  
APPOINTED PURSUANT TO THE RESOLUTION OF THE  
LEGISLATIVE COUNCIL ON THE 18TH OCTOBER 1983

1. PREAMBLE

.1 The Select Committee of Privilege was appointed pursuant to a resolution of the Legislative Council on the 18th October, 1983.

It comprised the Hon. Peter Dowding as Chairman, Fred McKenzie, I.G. Medcalf, G.C. MacKinnon and Robert Hetherington.

On the 30th November 1983 the Hon. I.G. Medcalf resigned and was replaced by Hon. Ian Pratt. On the 6th December, 1983 the Hon. Robert Hetherington resigned and was replaced by the Hon. Kay Hallahan.

.2 The terms of the Resolution were:

That the advertisement published in The Geraldton Guardian on October 11, 1983 under the authority of the Australian Council on Smoking and Health be referred to a Select Committee of Privilege to inquire into and report as to whether or not the content of that advertisement constitutes a contempt of this House.

.3 The Committee was empowered to:

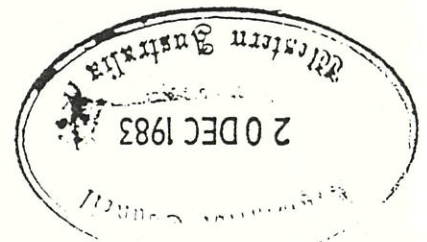
- (a) send for persons, papers and records;
- (b) sit on days on which the Council stands adjourned
- (c) constitute a quorum with any three of the said members;
- (d) report not later than Tuesday, November 1 1983.

.4 On the 26th October 1983 the date for report was extended to the 6th December 1983 and again on the 6th December 1983 further extended to the 20th March 1984.

.5 The Committee met on

20th and 26th October 1983

1st, 7th and 20th December 1983



.6 The Committee met with the Hon. Tom McNeil, M.L.C., the Hon. Margaret McAleer M.L.C. and Mr. Steve Woodward of the Australian Council on Smoking and Health.

.7 The Committee received advice on the issue of parliamentary privilege from the Clerk of the Legislative Council by memorandum of the 19th and 25th October 1983.

## 2. PRIVILEGE

.1 Parliamentary Privilege exists, inter alia, to protect the House and its Members from improper influence and molestation.

.2 In the context of the matter referred to this Committee it examined Section 8 of the Parliamentary Privilege Act 1891 and Section 61(2) of the Criminal Code as well as the non-statutory precedents of the House of Commons.

## 3. COMPLAINTS

.1 The Hon. Tom McNeil raised the complaints that:-

Many of his constituents had commented on the advertisement.

The figures quoted in the advertisement of death by smoking caused disease were "rule of thumb"

The general tone of the advertisement did not give a member a reasonable option in determining how to exercise his vote.

The advertisement was inserted to influence him as a Member but that he did not believe the advertisement exceeded a general invitation to electors to contact their local member.

The advertisement spoke of a life or death issue and it was obvious that no one voted for death.

.2 The Hon. Margaret McAleer raised the following points:

the advertisement was couched in terms she would not use

the advertisement was misleading, exception was taken to the use of figures where no check was made on the correlation of figures

people rang Miss McAleer assuming that she had authorised the advertisement

Miss McAleer thought the advertisement was unfair and untrue but she did not know if it was a breach of privilege.

#### 4. INTERVIEW WITH MR. WOODWARD

.1 The Committee invited Mr. Steve Woodward to participate in discussions about the advertisement. He said he had prepared and arranged for the insertion of the advertisement. He claimed that the advertisement was designed to urge people to contact their local Members of Parliament to express their support for the principles of the relevant Bill.

.2 He said the Australian Council on Smoking and Health was set up in 1971 and from July 1981 Mr. Woodward had been a full time employee of it. He claimed the advertisement was a statement of fact about what was happening and the contents of it were accurate to the best of the scientific knowledge available.

.3 The advertisement was not intended to directly influence the vote of the member but to "mobilise" people to ring their Member and express a point of view.

#### 5. CONCLUSION

.1 The Committee considered the matters put forward to it in discussion and the terms of the advertisement and believed that the only way in which a breach of privilege could occur would be if there was an improper attempt to influence the members of the House.

2. The Committee accepted that we live in a democratic society in which robust political discussion was acceptable and that it would require a clear case of breach of privilege to call for action by the Legislative Council.

.3 The Committee accepted that it was inappropriate for it to comment on the taste of the relevant advertisement or the propriety of the type of advertisement the subject of the complaint.

.4 It is the view of the Committee the advertisement did not constitute such impropriety and accordingly did not constitute a breach of the privileges of the House.

6. RECOMMENDATION

.1 The Committee recommends that no action be taken by the Legislative Council save that -

.2 The Council adopt the Committee's report.

Dated 20th December 1983

A handwritten signature in cursive script, appearing to read 'G. Jones', written over a horizontal line.

CHAIRMAN