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In the High Court of Australia No. P26 of 1996 Sitting as the Court Of Disputed Returns
BETWEEN Paul Anthony Keith Stevenage (Petitioner) AND Paul Anthony Filing (Respondent).
This petition was filed by Paul Anthony Keith Stevenage of and whose address for service is
26 Favenc Way PADBURY WA 6025.

PETITION

The petitioner prays the High Court, sitting as the Court of Disputed Returns declares that: A. Paul Anthony Filing ("Mr Filing"), who was on 1 April 1996 returned as elected as the Member for the Commonwealth Electoral Division of Moore ("Moore"), at the election held on 2 March 1996 ("the Election"), was not duly elected; and B. The Election for Moore was absolutely void. The grounds of the petition are as follows—

1. In order to influence or affect: (a) the votes of various persons being electors enrolled in Moore ("the Electors") to be cast at the Election; (b) the support of a candidate, namely himself; and (c) opposition to a candidate, namely Paul Anthony Keith Stevenage ("Mr Stevenage"), Mr Filing did: (d) promise or offer on various dates from about 12 February 1996 up to and including 25 February 1996 to give or confer a benefit (the particulars whereof are set out hereunder) on any of the Electors who wished to avail themselves thereof, by: (i) distributing leaflets advertising the provision of the benefit to the homes of all or most of the Electors; and (ii) mailing letters advertising the provision of the benefit to the homes of several hundred of the Electors, (e) and did on 25 February 1996 give or confer that benefit on several hundred of the Electors, contrary to Section 326(2) of the Commonwealth Electoral Act 1918 ("the Act"). Particulars of benefits conferred: The benefit consisted of the provision of free entertainment by the singer Keith Potger, a member or former member of the internationally famous popular musical group "The Seekers", in addition to entertainment for the children of the Electors who attended this event, which was held at the Margaret Cockman Pavilion at the Wanneroo Showgrounds in Wanneroo. The election of the Respondent should thereby be declared void under s362(1).
2. In order to influence or affect: (a) the votes of the Electors to be cast at the Election; (b) the support of a candidate, namely himself; and (c) opposition to a candidate, namely Mr Stevenage, Mr Filing did: (d) promise or offer on various dates from about 20 November 1995 up to and including 3 December 1995 to give or confer a benefit (the particulars whereof are set out hereunder) on any of the Electors who wished to avail themselves thereof, by: (i) distributing leaflets advertising the provision of the benefit to the homes of all or most of the Electors; and (ii) mailing letters advertising the provision of the benefit to the homes of several hundred of the Electors, (e) and did on 3 December 1995 give or confer that benefit on several hundred of the Electors, contrary to Section 326(2) of the Commonwealth Electoral Act 1918 ("the Act"). Particulars of benefit conferred: The benefit consisted of the provision of free food and entertainment for the children under 12 years of age of the Electors at a picnic held at the Croatian Soccer club at Wishart Street Gwelup.
3. Mr Filing printed, published and distributed or caused, permitted or authorised to be printed, published and distributed matter that was likely to mislead or deceive an elector in relation to the casting of a vote, contrary to section 329(1) of the Act. The matter was delivered to the homes of most of the Electors in Moore within the month prior to the Election. Particulars of matter likely to mislead or deceive: (1) A leaflet entitled 'JOHN HOWARD', underneath which a photo of John Howard, leader of the Liberal Party ("Mr Howard"), appeared, underneath which the words appeared 'ITS "SAFE" TO VOTE FOR PAUL FILING', underneath which the words appeared 'VOTE FOR PAUL FILING AND GET THE BEST OF BOTH WORLDS'. This leaflet, either on its own, or in combination with other matters referred to hereunder, was likely to create the impression that the following propositions were true: (a) Mr Filing had the endorsement and support of the leader of the Liberal Party, John Howard, as a candidate for Moore in the Election; (b) Mr Filing had the endorsement and support of the Liberal Party as a candidate for Moore in the Election; (c) Mr Filing was the Liberal Party's candidate for Moore in the Election; (d) Mr Filing was a Liberal Party candidate for Moore in the Election. All of which propositions were false, and which Mr Filing knew or ought to have known were false. Mr Filing printed, published and distributed or caused, permitted or authorised to be printed, published and distributed the said material without the permission or authorisation of Mr Howard or the Liberal Party. The foregoing circumstances, either alone or in combination with any one or more of the other matters referred to in this petition, were likely to influence the result of the election. (2) A leaflet entitled 'INDEPENDENT, election countdown edition' distributed to the homes of most of the Electors in Moore in the month before the Election

contained a statement that Mr Filing was "Supported by John Howard". This leaflet, either on its own, or in combination with other matters referred to in paragraph 3 hereof, was likely to create the impression that any one or more of the following propositions were true: (a) Mr Filing had the endorsement and support of the leader of the Liberal Party, John Howard, as a candidate for Moore in the Election; (b) Mr Filing had the endorsement and support of the Liberal Party as a candidate for Moore in the Election; (c) Mr Filing was a Liberal Party candidate for Moore in the Election. All of which propositions were false, and which Mr Filing knew or ought to have known were false. Mr Filing printed, published and distributed or caused, permitted or authorised to be printed, published and distributed the said material without the permission or authorisation of Mr Howard or the Liberal Party. The foregoing circumstances, either alone or in combination with any one or more of the other matters referred to in this petition, were likely to influence the result of the election. (3) A poster displayed at all or most polling booths at the Election entitled: "PAUL FILING AND JOHN HOWARD", underneath which a photograph of Mr Filing appeared next to a photograph of Mr Howard, underneath which various other words appeared. This poster, either on its own, or in combination with other matters referred to in paragraph 3 hereof, was likely to create the impression that any one or more of the following propositions were true: (a) Mr Filing had the endorsement and support of the leader of the Liberal Party, John Howard, as a candidate for Moore in the Election; (b) Mr Filing had the endorsement and support of the Liberal Party as a candidate for Moore in the Election; (c) Mr Filing was the Liberal Party's candidate for Moore in the Election; (d) Mr Filing was a Liberal Party candidate for Moore in the Election. All of which propositions were false, and which Mr Filing knew or ought to have known were false. Mr Filing printed, published and distributed or caused, permitted or authorised to be printed, published and distributed the said material without the permission or authorisation of Mr Howard or the Liberal Party. The foregoing circumstances, either alone or in combination with any one or more of the other matters referred to in this petition, were likely to influence the result of the election. (4) A newspaper advertisement in the February 20 1996 and February 27 1996 edition of the Wanneroo Times, a paper with a large circulation within Moore, entitled: "PAUL FILING AND JOHN HOWARD", underneath which a photograph of Mr Filing appeared next to a photograph of Mr Howard, underneath which various other words appeared. This poster, either on its own, or in combination with other matters referred to in paragraph 3 hereof, was likely to create the impression that any one or more of the following propositions were true: (a) Mr Filing had the endorsement and support of the leader of the Liberal Party, John Howard, as a candidate for Moore in the Election; (b) Mr Filing had the endorsement and support of the Liberal Party as a candidate for Moore in the Election; (c) Mr Filing was the Liberal Party's candidate for Moore in the Election; (d) Mr Filing was a Liberal Party candidate for Moore in the Election. All of which propositions were false, and which Mr Filing knew or ought to have known were false. Mr Filing printed, published and distributed or caused, permitted or authorised to be printed, published and distributed the said material without the permission or authorisation of Mr Howard or the Liberal Party. The foregoing circumstances, either alone or in combination with any one or more of the other matters referred to in this petition, were likely to influence the result of the election.

4. Several persons working for Mr Filing at polling booths at the Election uttered to some of the Electors in conjunction with handing those Electors "how to vote" cards for Mr Filing expressions such as "Paul Filing Liberal", "Liberal", and similar expressions calculated to deceive those Electors into thinking that Mr Filing was the Liberal candidate for Moore in the Election. This conduct hindered or interfered with the free exercise of the political rights of certain Electors, namely the right to cast their vote for a candidate of the party they supported, and interfered with the free exercise of a duty relevant to the Election, namely their duty pursuant to section 240 of the Act to cast their vote for the candidates in the order of their preference, contrary to section 327(1) of the Act. The election of the Respondent should therefore be declared void under s362(1). Alternatively, the conduct was unfair and improper and was, on its own or in conjunction with the other matters referred to in this petition, likely to influence the result of the election.
5. Mr Filing made and published false and defamatory statements of a candidate in the Election, Mr Stevenage, contrary to section 351(1) of the Act. The statements were contained in a letter dated 20 February 1996 and sent or purportedly sent by Mr Filing to Mr Howard, the leader of the Federal Liberal Party, and copied and delivered by Mr Filing or with his authority on or after 20 February 1996 and before the Election to the homes of most of the Electors in Moore. Particulars of false and defamatory statements: "Notwithstanding the nature of your candidate in Moore's [meaning thereby Mr Stevenage] campaign which, as you are aware, has included...the stealing of election signs and the distribution of misleading and defamatory material against me...I understand the Liberal party obliges you to publicly support the candidate responsible for these very un-Australian tactics..." The statement was false in the following particulars: Mr Stevenage did not authorise nor knowingly permit nor was he responsible for any of the following: (i) the stealing of any election sign; (ii) the distribution of misleading and defamatory material about Mr Filing. The false and defamatory statements made by Mr Filing were, on their own or in conjunction with the other matters referred to in this petition, likely to influence the result of the election.
6. Mr Filing made and published a false and defamatory statement of a candidate in the Election, Mr Stevenage, contrary to section 351(1) of the Act. The statement was contained in a leaflet entitled 'INDEPENDENT, election countdown edition' distributed to the homes of all or most of the Electors in Moore in the month before the Election. Particulars of false and defamatory statements: That the Liberal candidate in the Election for Moore [meaning thereby Mr Stevenage] was not opposed to "Wanneroo Inc". The expression "Wanneroo Inc" is notorious in

Perth and in particular in Moore and signifies certain corrupt practices which occurred and were alleged to have occurred in the City of Wanneroo in a period of several years before the Election. The statement was false in that Mr Stevenage is and was at the material time and all times opposed to corrupt practices occurring within the City of Wanneroo. The false and defamatory statements made by Mr Filing were, on their own or in conjunction with the other matters referred to in this petition, likely to influence the result of the election.

7. Mr Filing made and published a false and defamatory statement of a candidate in the Election, Mr Stevenage, contrary to section 351(1) of the Act. The statement was contained in a two page advertisement on pages 30 and 31 of the February 27 1996 edition of the Wanneroo Times, a paper with a large circulation within Moore. Particulars of false and defamatory statements: On page 30: a photograph of Mr Stevenage alighting from a bus marked with the word "Liberal" in several places, carrying a placard showing a picture of Wayne Smith, [the Liberal Party member for the state seat of Wanneroo] and the words "WAYDE SMITH WANNEROO LIBERAL". The advertisement contained the words above the said picture "PAUL STEVENAGE AND WAYDE SMITH", "IS THIS THE TEAM YOU WANT IN MOORE?" The words "DON'T BE TAKEN FOR GRANTED AGAIN" appeared under the photograph. On page 31: the advertisement complained of in Section 3(4) of this document. The advertisement meant and was understood to mean that: (a) Mr Stevenage approved of illegal, corrupt or dishonest behaviour as described below that is associated in the minds of many of the Electors with Mr Smith. (b) Mr Stevenage if elected was likely to betray the trust of the Electors of Moore by committing some illegal acts of the same or similar kind as the acts alleged to have been committed by Mr Smith. (c) Mr Filing was not associated with Mr Smith in the same way that Mr Stevenage was associated with Mr Smith. It is notorious in Moore that Mr Wayne Smith has been charged with perjury for allegedly giving false evidence under oath at the Kyle Commission of inquiry into the City of Wanneroo. A significant number of the Electors of Moore believe that Wayne Smith is guilty of perjury as charged. It is notorious in Moore that Mr Wayne Smith has been allegedly associated with Dr Wayne Bradshaw, a former mayor of the City of Wanneroo, who has been jailed for corruption, and that Mr Smith has allegedly been dishonest about his association with Dr Bradshaw. A significant number of the Electors of Moore believe that Wayne Smith is guilty of those accusations. Mr Stevenage does not approve of any person committing illegal, dishonest or corrupt practices. The false and defamatory statements made by Mr Filing were, on their own or in conjunction with the other matters referred to in this petition, likely to influence the result of the election.
 8. A woman who claims the name of Mrs Madgett, and who appeared on the 1996 Moore electoral roll as Rita Maureen Crehan of Duncraig Rd, Duncraig, made and published false and defamatory statements of a candidate in the Election, Mr Stevenage, contrary to section 351(1) of the Act. The statement was made to various media organisations on dates from 27 February 1996 to 1 March 1996 including ABC Radio, 6PR Radio, Channel 9, Channel 7, and The West Australian Newspaper, and it received wide coverage throughout Moore by those organisations. Particulars of false and defamatory statements: Mrs Madgett made statements to the effect that Mr Stevenage and another worker on his campaign had woken Mr and Mrs Madgett at night by hammering in an election sign affixed to a stake on the median strip of Warwick Rd, Duncraig, and that they had told Mr Stevenage and his assistant that they had woken them up, and that Mr Stevenage did not care that he had woken them up, and had behaved aggressively towards them. These statements were false in the following respects: (a) The hammering in of the sign on Warwick Rd was insufficient to and did not wake up Mr and Mrs Madgett at their home in Duncraig Rd. (b) Mr and Mrs Madgett approached Mr Stevenage and his assistant and behaved in an aggressive and offensive manner towards them. (c) Mr Madgett tried to take a hammer from Mr Stevenage and his assistant to hammer in a sign belonging to Mr Filing. Mr Stevenage and his assistant merely prevented the taking of their hammer and began to drive away. (d) Mr Stevenage nevertheless had apologised for any upset they may have caused the Madgetts and at all times behaved reasonably towards them. (e) As Mr Stevenage and his assistant began to drive away, Mr and Mrs Madgett removed some signs belonging to Mr Stevenage. Mr Stevenage stopped his car and Mr Stevenage's assistant asked Mr Madgett to return the signs. Mr Madgett then assaulted Mr Stevenage's assistant. These statements had the effect of substantially prejudicing public opinion against Mr Stevenage. The false and defamatory statements made by Mr and Mrs Madgett were, on their own or in conjunction with the other matters referred to in this petition, likely to influence the result of the election.
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