

Howard Jarvis Taxpayers Association

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Politicians Lie? Say It Ain't So!

By Jon Coupal

An appeals court in the state of Washington has ruled that politicians cannot be punished for lying, and the issue will now be considered by the state supreme court.

When a candidate for state senate published a brochure falsely claiming that her opponent had voted to close a facility for the disabled, the matter was referred to the state sponsored Public Disclosure Commission. The commission fined the offending candidate \$1,000 for violating a law that bars candidates from deliberately making false statements.

However, the appeals panel objected that "the statute does not require any element of damage to the reputation of the maligned candidate." Since the incumbent state senator was reelected with 80 percent of the vote, actual damages were hard to prove.

Having a formal process for punishing prevaricating politicians is a tempting proposal. After all, it is not unusual for voters to find slanderous accusations against a major candidate in their mailboxes on a Monday before a Tuesday election.

It is fun to imagine these political Pinocchios pilloried in the town square where they could be pelted by voters with overripe produce. However, the most challenging issue is determining who is qualified to decide what constitutes a lie in the public discourse that accompanies a political campaign. Do we really want government

making this decision?

When all is said and done, the best protection for voters against these lies is to disregard anything that is said by politicians and their agents in the last two or three days of a campaign, when it is too late to verify their accusations. And for a politician, a \$1,000 fine is nothing compared to the pain of being rejected from office.

In any event, there is a more insidious form of "lying" that accompanies campaigns for ballot measures at both the state and local levels in our state.

In California, the Attorney General is responsible for writing the title and summary for state ballot measures, and, at the local level, the sponsoring agency has the authority to write the description of a tax or bond measure. These are "official" descriptions that are separate from the pro and con ballot arguments that promoters and opponents are entitled to submit.

Attorney General Bill Lockyer has used his power to describe ballot measures to influence the outcome of elections and enhance his own political prospects. For example, in the year 2000 a handful of wealthy Silicon Valley businessmen placed Proposition 39 on the state ballot to make it easier to raise property taxes.

Although the measure reduced the vote needed to approve local school bonds from the

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existing two-thirds standard, Lockyer merely described it as requiring a 55 percent vote to approve these bonds, thus leaving *out* information that could be critical to the voters' decision.

The issue was taken to court by taxpayers, where a judge agreed that the ballot summary was misleading because it did not indicate what existing law was. But because the statement was not, within itself, "false," he declared he was unable to alter it. Post election analysis shows that thousands of voters may have supported Proposition 39 in the belief that it made bonds *more difficult* to pass, not easier.

Oh, and the Attorney General? He was a member of the committee *sponsoring* Proposition 39!

As bad as this abuse of the process may seem, it at least receives occasional scrutiny from the media. Worse yet are the seldom challenged descriptions provided by *local* agencies for bond and tax measures.

Under this system, a bond will be described as providing numerous beneficial improvements to facilities that in turn will allow for a higher level of service to the public. The proposal sounds like a good deal because short shrift is given to the increased burden on taxpayers and the actual long-term cost of bonded indebtedness. *Without* revealing the negative impact that accompanies passage of these measures, the descriptions become nothing less than *advocacy*. Since bond/tax backers also provide the ballot arguments in favor, they essentially are given *two* opportunities to convince voters to say "yes."

Whether or not one believes these descriptions constitute "lies" may hinge on how one regards the intentional elimination of critical information. For most of us, the answer is clearer than that provided by a former president, who,

when quizzed about his own untruths, famously said, "It depends on what the meaning of the word 'is' is."

If one shares the view of many taxpayers that the opportunity to prepare ballot measure descriptions is frequently abused by the responsible officials, the question becomes what to do?

Perhaps compelling officials to go before grand juries to defend their version of the "facts" contained in ballot descriptions, and allowing these bodies to demand edits would be a step closer to truthfulness and full disclosure.

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