



# Lindsay FEC

## Australian Labor Party

PO Box 206, Penrith NSW 2751

Committee Secretary  
Joint Standing Committee on Electoral Matters  
PO Box 6021  
Parliament House  
CANBERRA ACT 2600

16 May 2008

Dear Committee Secretary

### **Submission to the Joint Standing Committee on Electoral Matters (JSCEM) Inquiry into the 2007 Federal Election and matters related thereto**

Please find below a submission to the Committee's Inquiry into the 2007 Federal election on behalf of the Lindsay Federal Electorate Council (**FEC**) of the Australian Labor Party (**ALP**).

#### **Introduction**

The Federal seat of Lindsay was the focus of international media attention during the final 48 hours of the 2007 campaign. This attention was brought about by the distribution in North St Marys of fake material purporting to be from an Australian-Islamic association who claimed Labor supported the Bali bombers.

Persons alleged to be involved in the distribution of the pamphlets were identified and photographed on the evening of Tuesday, November 20, by an ALP sting operation. Subsequently, charges were laid against Greg Chijoff, the husband of the Liberal candidate, Karen Chijoff; Gary Clark, the husband of retiring Lindsay MP Jackie Kelly; Troy Craig, a former member of the Liberal Party State Executive; Jeff Egan, then a current member of the Liberal Party State Executive; and another man, Robert Holstein, who appears to be from the lower Blue Mountains. At the time of writing, Mr Chijoff and Mr Craig both pleaded guilty to the charges, while Mr Clark and Mr Egan entered plea of not guilty. Mr Holstein was yet to enter a plea.

The pamphlet was an attempt to exploit what the Liberal campaign had perceived as an anti-Muslim sentiment in parts of the Lindsay electorate to turn away votes from the Labor Party. It was clearly the act of a desperate political party that had no new ideas for Australia's future, and had instead resorted to a campaign of dirty tricks to cling to power.

Locally, it was but the most recent manifestation of a trend of grubby campaigning tactics by the Liberal Party.

The Lindsay electorate has seen a number of examples of similar underhanded tactics in recent years. In the 1999 local government elections in Penrith, two of Ms Kelly's staffers were implicated in an electoral scam where a series of fake micro-parties, the candidates of which were all registered to the same address co-owned by one of the local Liberal Party candidates, were set up to funnel preferences to the Liberal Party. This episode was the subject of an investigation by the then JSCEM Committee in 2001. These actions were also referred to in detail in a speech to Parliament by Senator Steve Hutchins on 22 September 1999

Mr Ken Higgs, a Liberal Party volunteer, has told of Ms Kelly sanctioning the distribution of fake how-to-vote cards to take votes away from a local environmental party during the 2001 Federal election. Mr Higgs, speaking in reference to the leaflet scandal, told the ABC's World Today on 22 November 2007:

"But now I see today that Jackie and her team are still up to the same manipulative little tricks with this phoney election material and I just feel I have to speak out because it's just wrong. It's just over the top.

"It's completely unacceptable that people deliberately manipulate and deceive the voters in this way."

#### **Issues for Consideration by the Inquiry**

1. While those distributing the pamphlets have been publicly named and have appeared before court, there has been no examination of those responsible for the production of the pamphlet.

Despite the fact that the design and spelling of the pamphlets were poor, it appears that specialist equipment was used in their production. The pamphlets were printed on white A4 paper, using what appeared to be blue ink commonly found in a 'risograph' high-speed photocopying machine, and were folded to a DL size. The number of pamphlets said to have been in the possession of the distributors would indicate they had been put through a high-volume folding/stuffing machine.

Considering that both of these machines are standard pieces of equipment in the offices of State and Federal Parliamentarians, there needs to be a full investigation of whether any Liberal State or Federal Member of Parliament had any role in the production of these pamphlets.

During the judicial hearing for Mr Craig, Oliver Hagen, acting for Mr Craig, said his client had, by picking the leaflets up from the home of Jackie Kelly, considered that this action was sanctioned by Ms Kelly.

"(Mr Craig) is entitled to think that this was all approved. The federal member appears at the face of it to be involved."

(*Sydney Morning Herald*, 30 April 2008)

The fact that Ms Kelly's home was the pick-up point for the distribution of the pamphlets suggests there are real and legitimate concerns that Ms Kelly's former electorate office and associated resources may have been used for the production of these pamphlets.

In the circumstances, it would seem appropriate for JSCEM to question and take evidence from Ms Kelly and the alleged distributors about where the pamphlet was produced and by whom it was produced.

2. The funding of the production of these pamphlets is also an issue that has remained unresolved. The Member for Warringah, the Hon. Tony Abbott MP, has indicated publicly that a fundraising body associated with him was a significant financial contributor to the Lindsay Liberal campaign:

"Jackie's (former Member for Lindsay, Jackie Kelly) a great mate of mine, and the Warringah Conference (Mr Abbott's fund-raising arm) bankrolled the Lindsay campaign."

*(Sunday Telegraph, 9 December 2007)*

It may be appropriate for the JSCEM Inquiry to examine the possibility that some of the funds Mr Abbott provided to the Lindsay Liberal campaign may have been used in the production of the offending pamphlets.

3. In the course of the committee's Inquiry, it might also see fit to examine the capacity of the Australian electoral laws to prosecute not only the distributors of fraudulent electoral material but also those who have produced or financed the production of the material. Just as in other criminal acts, those liable for prosecution should not only be the distributors of the illicit material, but those who are involved in the chain of production and distribution (for example, as in drug and counterfeit cases). It is important that the laws not only be directed towards the individuals at the bottom of the chain, but they should also be directed towards the 'Mr Bigs', or the 'controlling minds' of the operation. Clearly, in the case of the Lindsay leaflet scandal, there are people responsible for the production of the material that have yet to be uncovered, quite possibly individuals highly ranked within the New South Wales Liberal Party, and we should make certain there is a capacity for our laws to visit upon them an appropriate judicial punishment.

4. There have been anecdotal reports from members of the community of similar pamphlets being distributed in other parts of the electorate. Residents of Oxley Park and Emu Heights have reported having received the pamphlets in the fortnight leading up to polling day, indicating that the leaflet campaign may have begun earlier than first suspected and covered a wider area of targeted suburbs.

## **Conclusion**

The Lindsay leaflet scandal was a defining moment in the 2007 Federal election campaign. It characterised a tired and desperate Liberal Party that had run out of new ideas, but also exposed the latest in a series of dirty tricks tactics used by local Liberal Party campaigners in the seat of Lindsay.

While the process of justice is running its course in relation to those found to have been distributing the leaflets, and for those who are alleged to have distributed the leaflets, there are outstanding questions regarding the production, funding and possible broader distribution of the offending material that fall outside of the scope of the current judicial proceedings. There needs to be a full examination of the current electoral laws and their capacity to prosecute all of those involved in not only the distribution but also the production and financing of fraudulent election material. It is hoped that these matters will be considered by the JSCEM committee in the course of its Inquiry.

Yours sincerely

A handwritten signature in black ink, appearing to be 'J. Thain', with a long horizontal flourish extending to the right.

**John Thain**  
**President, Lindsay FEC**