



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 (attached at **Appendix A**).

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, sweeping horizontal line extending to the right.

John Thain
President, Lindsay FEC

APPENDIX A

ADJOURNMENT

Local Government: New South Wales Elections

[Senator HUTCHINS](#) (NSW) (7.12 p.m.)—I rise this evening to comment on the recent local government elections in New South Wales. Whilst I am delighted to be able to report to this chamber that Labor enjoyed electoral success right across New South Wales, I also wish to turn my attention to some of the unscrupulous tactics employed throughout this campaign by various players within the New South Wales division of the Liberal Party—those geniuses whom I have had occasion to disparage in this place on a number of earlier occasions.

Whilst there have been some very highly publicised examples of the New South Wales Liberal Party's underhanded approach in these elections—such as the sordid Frank Sartor affair—I wish to concentrate on a few less publicised but equally grubby strategies that were employed in the recent round of local government elections. In particular, I wish to bring to the attention of this chamber a number of duplicitous and deceitful tactics employed in the Penrith City local government elections. I specifically want to raise some questions about the apparent role of the office of the member for Lindsay, the Hon. Jackie Kelly, the Minister for Sport and Tourism, in the running of this very grubby and cynical election campaign.

This election was characterised by a particularly high number of micro parties standing for election. This was particularly the case in the city's East Ward, where I happen to live. For reasons that will become a little clearer in a few moments, it is worth pointing out that the Liberal Party's No. 1 candidate was a Mr Steve Simat. It is also worth noting that Mr Simat is currently employed on the member for Lindsay's staff, a point that Mr Simat was at pains to make at every opportunity during the election campaign. It is also significant to note that Mr Simat's running mate at No. 2 on the Liberal ticket was Ms Christine Bourne, also a staff member in the office of the member for Lindsay. But I shall return to Ms Bourne a little later.

At the close of nominations, it appeared there seemed to be a number of unusual links between the Liberal Party and those various single-issue micro parties. In the East Ward of the Penrith City Council elections, the ward in which Mr Simat and Ms Bourne were both running, three candidates all listed 15 Avon Place, St Clair, as their home address on their respective nomination forms.

Two of these candidates, Mr Paul Matosin and Mr Joe Matosin, were representing the Marijuana Smokers Rights Party. This on its own may not seem all that peculiar. However, it must be pointed out that a Mr Adam Brown, also contesting the election, had listed 15 Avon Place, St Clair, as his address on his application form. Interestingly, Mr Adam Brown was the leading candidate for the No Badgerys Creek Airport Party.

All these candidates appear to be guilty of committing electoral fraud, and both these parties—the Marijuana Smokers Rights Party and the No Badgerys Creek Airport Party—appear to be Liberal Party 'front parties'. Even though both these single issue parties seem to reflect views that are in direct opposition to the Liberal Party's platform, I will demonstrate that a connection does exist. Let me deal with the issue of electoral fraud first.

A brief visit to 15 Avon Place, St Clair, in the week following the lodgement of nomination forms showed no signs that the house was occupied. An absence of furniture seemed to indicate that no-one was currently living at the address. More interestingly, none of these three candidates were listed at 15 Avon Place, St Clair, on the previous month's electoral roll update. However, all three became enrolled at this address in the month immediately prior to the close of nominations. In the previous month, the Matosins were both listed as enrolled at 20 Herley Avenue, Rossmore. Rossmore is not in the Penrith City Council area.

It is instructive to consider who owns the property at 15 Avon Place, St Clair. A land titles search revealed that the property was co-owned by Ms Liliana Djuka and Mr Stan Celar. Mr Stan Celar appears to be the same Stan Celar that was running in the No. 2 position on the No Badgerys Creek Airport Party's East Ward ticket. The other co-owner of the Avon Place residence, Liliana Djuka, was the No. 4 candidate on the Liberal Party's ticket in East Ward. Not only was she a Liberal Party candidate but she also shares the same electoral enrolment address as Mr Steve Simat, the No. 1 Liberal candidate in East Ward. It has also been reported in the local papers that, when asked for the reasons why he ran in the election, Mr Stan Celar replied, 'Because Steve Simat asked me to.'

There was, however, even more to the Liberal Party connection, with what clearly appears to have been a series of front parties designed to funnel preferences back to the Liberals. Both Mr Joe Matosin and Mr Paul Matosin from the Marijuana Smokers Rights Party appear on a print-out dated 11 August 1999 of the Rossmore branch of the Young Liberals, of which Mr Steve Simat was previously a member. Both Matosins are listed as living at 20 Herley Avenue, the Rossmore address at which they were enrolled up to the previous month and which, as I have said previously, is outside the Penrith City Council boundaries.

It leaves unanswered the question as to whether Adam Brown from the No Badgerys Creek Airport Party is in fact the same Adam Brown that has previously worked on the election campaigns for the member for Lindsay and is currently a member of the Willoughby Young Liberals. It is also interesting to make the point that both Steve Simat and Adam Brown are part of the same right wing faction within the Young Liberals, even though in different branches. It is also important to note that Steve Simat was elected to the council on the preferences of the No Badgerys Creek Airport Party.

Further strengthening the suggestion that the Liberal Party has taken control of, or perhaps even established, the No Badgerys Creek Airport Party, is the fact that Mr Al Mewett, the No. 2 Liberal candidate in Penrith's East Ward, ran as the No Badgerys Creek Airport candidate at the last state election for the seat of Mulgoa only six months ago. It is also worth noting that the registered officer of the No Badgerys Creek Airport Party is Mr John Barker, who, strangely enough, ran as a candidate for the Wilderness Party in the Blue Mountains council election. John Barker's brother, David Barker, however, was the No Badgerys Creek Airport Party candidate in the Blue Mountains and was previously the Liberal candidate in the state seat of Liverpool only six months ago.

A further coincidence was that Mr John Barker's Wilderness Party was also contesting the Penrith City Council elections. When doorknocked, the lead candidate for the Wilderness Party, Ms Ana Grguric, in Penrith's East Ward, was in Perth. Ana was not to be seen during the campaign, but her brother John was, as he was a booth captain for the Liberal Party handing out how-to-votes on election day.

Other dubious parties contending the East Ward election were the Seniors Party and the Gun Owners and Sporting Shooters/Hunters Rights Party. It is interesting to see that both the Marijuana Smokers Rights Party and the Seniors Party contested elections in two council areas—Penrith and Leichhardt. On the face of it, there does not seem to be any connection. However, it is worth noting that Ms Christine Bourne, a staffer working for the member for Lindsay, was previously a Leichhardt councillor after the 1995 election. Although Ms Bourne was unseated as a result of a dispute over the counting of the ballot which ultimately went to the High Court, I understand that Ms Bourne has recently been served with a notice of bankruptcy.

In all of this, it might seem reasonable to say that none of this could have happened without the member for Lindsay's knowledge. This seems unlikely, given the member for Lindsay's keen interest and active involvement in the campaign. After becoming the president of the local government conference, the member for Lindsay used her influence to roll the incumbent councillor, and a good councillor, Robin Wiles, in favour of her two staff members. In a letter sent out to the Liberal Party members on her parliamentary letterhead, the member for Lindsay wrote to branch members illustrating the importance of the elections, indicating that the campaign would become the focus of her activities over the four-week campaign period.

The most disturbing aspect of all of this is the opportunistic use of the highly emotive issue of the Badgerys Creek airport. The member for Lindsay, who says one thing in Canberra and another thing in Penrith, along with her staff, have sought to engineer a situation where they were to benefit from the community anger and resentment caused by an airport that her government remains committed to building. It is a shame, and it has damaged her credibility on the issue and her credibility as an honest broker who is committed to achieving the best for the people of her electorate. Sadly, this is not the end of it.