



Joint Standing Committee on Electoral Matters
Submission No. <u>51</u>
Date Received <u>3/7/02</u>
Secretary <u>[Signature]</u>



**ROBERT MCCLELLAND MP**

MEMBER FOR BARTON

SHADOW ATTORNEY-GENERAL

SHADOW MINISTER FOR WORKPLACE RELATIONS

The Secretary  
Joint Standing Committee on Electoral Matters  
Parliament House  
CANBERRA 2600

Dear Secretary

**RE: INQUIRY INTO THE CONDUCT OF THE 2001 FEDERAL ELECTION**

Thank you for your correspondence of 23<sup>rd</sup> May 2002 inviting submissions in respect to the conduct of 2001 Federal election.

I would like to make a brief submission in respect to an aspect of the conduct of the election in my electorate of Barton.

Essentially the matter I would like to raise is referred to in the attached correspondence:

- (a) To the District Returning Officer on election day 10<sup>th</sup> November 2001;
- (b) Follow up correspondence to the Australian Electoral Commissioner dated 14<sup>th</sup> February 2001.

You will note I have not received a formal response to either of my letters.

Essentially, and, in summary, the essence of my complaint to the Australian Electoral Commission was the fact that on election day, the Unity Party candidate in Barton distributed How to Vote material which was contrary to the How to Vote material that had been authorised and foreshadowed by the Unity Party itself.

As I point out in the attached correspondence there had been representation by the Unity Party in New South Wales that Unity Party candidates would distribute their second preference vote to the relevant Australian Labor Party candidate in respective Federal electorates.

Indeed, the Unity Party prepared formal printed How to Vote brochures for distribution on election day which, in many instances were distributed and which, in accordance with the decision of the Unity Party itself, gave preferences to me as to the Australian Labor Party candidate in the Federal electorate of Barton.

ELECTORATE OFFICE: 22 REGENT STREET, KOGARAH, N.S.W. 2217 • P.O. Box 27 KOGARAH, N.S.W. 1485  
TELEPHONE: (02) 9587 2344 • FACSIMILE: (02) 9587 8047  
PARLIAMENT HOUSE CANBERRA ACT 2600  
TELEPHONE: (02) 6277 4323 • FACSIMILE: (02) 6277 8442  
EMAIL ADDRESS: r.mcclelland.mp@aph.gov.au

The local candidate running under the title of "Unity Party" distributed different electoral material which, was a photocopy of the official Unity Party authorised How to Vote card with altered preference numbering. This, I believe, induced or, at the very least, had the potential to induce people to record a vote that was not in accordance with their understanding and, accordingly, intention.

As members of the Committee may well understand the distribution of the altered How to Vote brochures by persons representing the local Unity Party candidate (as opposed to the Unity Party), caused considerable distress which, in several booths, led to disturbance indeed, in one instance I was called to attend a polling booth in Rockdale where it had been necessary to call the local police to resolve the difference of opinion.

In that instance after phoning the respective Head Office of the Unity Party and the campaign director of the local Unity Party candidate, the police officers reached the conclusion that the photocopied brochure should be withdrawn.

During the course of the day the Australian Electoral Commission adopted several different positions in respect to the matter which, in itself, further aggravated the anxiety of many campaign workers and, if anything, aggravated the situation.

This is the third election in which I have been a candidate for election in Barton and in my capacity as a Member of the Australian Labor Party I have worked on virtually every Federal election campaign in Barton since I was 12 years old.

On each previous occasion the conduct of participants from all parties has been exemplary and volunteers from all parties have generally conducted themselves with appropriate courtesy and respect on polling booths.

I appreciate that there is a fine argument as to whether or not the alteration of the How to Vote material constituted an irregularity for the purpose of the Electoral Act in the sense that that concept has been narrowly construed in relevant authorities.

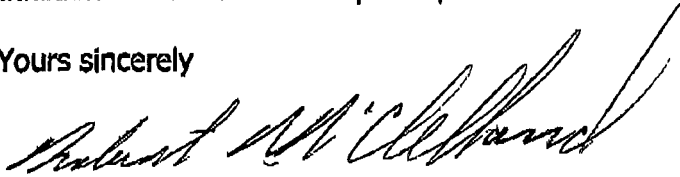
Nevertheless, the matter is one that requires rectification either by way of legislative amendment or administrative practice.

A possible legislative amendment the Committee might consider whether it is necessary to expand the concept of electoral irregularity to include a situation where a candidate issues voting instructions which are contrary to those issued by the party which they represent or purport to represent.

From the point of view of possible administrative action it might be that the Australian Electoral Commission should require candidates to lodge a copy of their How to Vote perhaps 48 hours before polling day.

I trust these representations will be of assistance to the inquiry however if any additional information is required please do not hesitate to contact me.

Yours sincerely



**ROBERT McCLELLAND MP**  
Member for Barton  
Shadow Attorney General  
Shadow Minister for Workplace Relations  
[www.robertmcclelland.com](http://www.robertmcclelland.com)

2 July 2002



## ROBERT McCLELLAND MP

MEMBER FOR BARTON

SHADOW ATTORNEY-GENERAL

10 November 2001

Mr Michael Riches  
Divisional Returning Officer  
Level 2, 21 King Street  
Rockdale 2216  
Fax 9599 3589

Dear Mr Riches

I refer to our conversation at approximately midday today.

I confirm that I drew your attention to a serious breach of section 329 of the *Commonwealth Electoral Act 1918* by a candidate in the electorate of Barton, Mr John Lau.

I understand that you have previously been provided with the following documents:

- (1) a copy of the official How To Vote card for Unity;
- (2) a copy of the How To Vote card being distributed on behalf of Mr Lau;
- (3) a copy of a letter from Paul Mortimer, the Party Agent for Unity, to yourself as the Returning Officer for Barton.

The Unity Party have produced a how-to-vote (HTV) card for the seat of Barton that gives preferences to the Australian Labor Party candidate (Robert McClelland) before the Liberal Party candidate (Jan Brennan).

Supporters of the Unity Party are handing out those HTV cards at polling booths today, Saturday 10 November 2001.

However, I confirm, earlier advice which has been provided to you, that Mr Lau has caused to be distributed a How To Vote card which is identical to the official How To Vote card except in respect of the preferences. Mr Lau's version preferences Ms Jan Brennan above Mr McClelland.

I confirm that the HTV card distributed by Mr Lau purports to be the official Unity HTV card. It is not.

Clearly the false card which has been distributed will have misled and, if not urgently recalled, will continue to mislead electors in the casting of a vote. Voters who wish to vote for the Unity Party will be misled if they follow the HTV distributed by or on behalf of Mr Lau.

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I confirm my view that the breach of the electoral Act which has occurred was intentional in that I observed several representatives of Mr Lau at the Waltz Street Booth attempt to camouflage the fact that they were handing out Mr. Lau's HTV by holding the official blue Unity HTV on the top of their HTV pile and drawing Mr. Lau's photocopied HTV from the bottom of the pile.

I confirm that while I was present I did not observe those persons to hand out the official Unity HTV and accordingly their conduct continued to be in Breach of the Act.

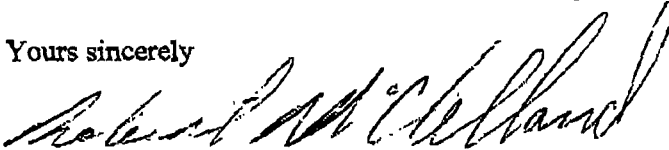
**Requested action**

I confirm the requested action, communicated to you by my campaign director, much earlier today, that the AEC instruct all persons handing out the false HTV card to cease doing so immediately.

I understand that action is now being taken, however I must express my regret at the delayed response by the Barton Divisional Office in respect to this serious matter.

I confirm that I reserve all rights that I might have as a result of this unfortunate incident in what has otherwise been an extremely efficient and fair electoral process.

Yours sincerely



Robert McClelland  
Member for Barton  
Shadow Attorney General

CC Andy Becker  
Electoral Commissioner  
Australian Electoral Commission  
CANBERRA ACT 2600  
By Fax: 02 6271 4522



CORRECT. Paul D



LOCAL IT & TECH SOLUTIONS  
 11-10-01 09:30 P. 003  
 11-10-01 09:30 P. 003

**What Unity wants for Australia**

The Unity party believes in a united and inclusive nation where all Australians, including migrants and Aboriginal Australians have social equality and justice.

The Unity party supports the fundamental Australian value of a 'fair go'. We must ensure that services are available to those who need them.



**John Lau**  
 Unity Candidate  
 Barton

John is a father and long-time resident in the Barton electorate.

I believe this country was built on multiculturalism, so I will endeavour to promote multiculturalism and harmony.

John is appalled at the lack of leadership displayed by the federal government and opposition in reaction to the wages and the recent rise of racism, in particular the vilification of some ethnic communities.

I'm standing to support and promote harmony in our community, so that there is equality for all Australians.

Email: john\_lau@vance.com.au



**Barton**

Follow the Unity how to vote card. Remember number every box on the green ballot paper, starting with 1 for the Unity candidate.

Trong lá phiếu bầu của anh, cần phải viết số vào mỗi 1 ô với số 1 vào ô cho ứng cử viên UNITY và tiếp tục viết số vào các ô còn lại của theo số hướng dẫn cách điền. Số phiếu của UNITY cho ứng cử viên đầu tiên.

綠色選票：  
 在每一小方格中一定要填寫號碼，然後按照箭頭的號碼指示，在圓圈裏寫上“UNITY”的小方格內填“1”，並在其餘小方格中分別填寫相應的號碼。

ضع رقماً في كل مربع في ورقة الاقتراع فكل مربع واحد لوضع حزب الـ (UNITY) فكل مربع لبقية الأحزاب فكل مربع لبقية الأحزاب في ورقة الاقتراع في دائرة الانتخابية.

카드에 두는 모든 작은 정당의 숫자를 확인하고, 초록색 투표용지에 UNITY를 투표할 1번으로 기록하여 모든 정당의 숫자를 기록하는 것을 기억하십시오.

**Barton:** Ashworth, Airdrie, Banksia, Bardwell Park, Bexley, Blackhurst, Belgrave Le Sands, Canton, Kunsvilla, Kogarah, Morildale, Satter, Beckdale and Sans Souci.

Produced by the Electoral Administration, Canberra, Australia. Printed by James Finlay 1994 Bryant Street, Preston, NSW

**HOW TO VOTE UNITY**

**GREEN**

- 5** BRENNAN, J
  - 1** LAU, John  
Unity
  - 7** NYDSTRAND, D
  - 3** HARRIS, C
  - 6** BARKER, C
  - 4** McCLELLAND, R
  - 2** ADAM, M
- Remember...number every box to make your vote count**

10 NOV 2002 11:01 FAX REPORT 95878047

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LOCAL ID 1 NIGHT & TECH SOLUTION 5559 2093  
5559 2093 P. 810  
15550 70-01-11 KISS 8958

11-10-01 05:12 P. 002  
NOTATION: HOTEL & JINH



**John Lau**  
Unity Candidate for Barton

**No Racism  
Yes to Reconciliation  
A Fairer Tax System**

Vote 1



gwg  
INCO PREFERRED



**Barton**

Follow the Unity how to vote card. Remember number every box on the green ballot paper, starting with 1 for the Unity candidate.

Trong tờ phiếu bầu màu xanh, cần phải viết số vào mỗi  
hộp số 1 vào ô bầu chọn ứng viên UNITY và tiếp tục  
điền số vào các ô còn lại để lập ra 72 hàng bầu chọn khác.  
Số phải ghi là UNITY cho ứng viên đầu tiên.

投票數字：  
「在綠色的票中一定每格寫號碼，請從頭開始寫  
的投票數字，在頭格寫「UNITY」和「小方格內寫  
1」，並往其他小方格小方格填寫其他的號碼。」

ضع رقعة في كل مربع في ورقة الاقتراع لمرشح  
وعد مجموع حزب (UNITY)  
كتابة الأرقام بصوت - فتح - اقتسام دعوة في بطاقة  
الاقتراع في منطقة الانتخاب.

○소수 투표하는 모든 후보자를 소수를 따릅니다.  
○부정 투표는 1원으로도 1원으로 인정하고  
○모든 투표권자 수를 1원으로 인정합니다.

**BARTON:** Anwar, Arif, Backin, Barndal, Perry, Bealey, Blakemore, Bligh, Brown, Le Sands, Lister, Mustafa, Koghan, Mardale, Oatley, Rockdale and Sans Souc.

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**HOW TO VOTE  
UNITY**

GREEN PAPER

- 2 BRENNAN, J
- 1 LAU, John  
Unity
- 7 RYDSTRAND, D
- 6 HARRIS, C
- 5 BARKER, D
- 4 McCOLLUM, R
- 3 ADAMS, V

Remember... number every box  
to make sure every box  
vote count

Someone is distributing this to wife  
 Leighton for Unity in Boston which are  
 in control and not authorized by the  
 Unity Party. If possible I would  
 like a stop put to these  
 unauthorized Leights being handed out.  
 I have faxed a copy of the  
 in control + unauthorized Leights  
 "in control" - it is authorized by J. Lee.  
 The correct version which is being distributed  
 is also faxed: it is authorized by  
 Leight's Unity, Unity's registered officer.  
 I have noted that "control"  
 is in error of the in control how to what  
 being distributed at Alameda, Hawthorne Control, and  
 the Leight's Unity. Will let you know if any  
 other.

PAUL MORRISON - PARTY AGENT

Returning Office  
 Boston District  
 Dear Returning Officer,

10/11/01

PO BOX N206 GROSVENOR PLACE NSW 1220 Australia TEL: 02 8714 8888



UNITY PARTY





Mr Andy Becker  
Australian Electoral Commission  
Central Office West Block Building  
Queen Victoria Terrace  
PARKES 2600

Dear Mr Becker

**RE: DISTRIBUTION OF UNITY HOW TO VOTE PAMPHLETS IN THE  
FEDERAL ELECTORATE OF BARTON – 10<sup>TH</sup> NOVEMBER 2001**

I am *enclosing* for your consideration a copy of my letter to Mr Michael Riches, Divisional Returning Officer for Barton dated 10<sup>th</sup> November 2001.

You will note the letter refers to the distribution of a how to vote card for the Unity Part in the Federal Electorate of Barton on election day.

In summary, the Unity candidate Mr Lau distributed a how to vote card which was different from that which had been authorised by the Unity Party itself.

I regard the issue with some concern because the Unity Party had, prior to the election represented to voters in New South Wales that the Unity Party was preferencing the Australian Labor Party in all NSW elections.

Upon receiving that information from the Unity Party itself citizens who were intending to vote for the Unity Party were entitled to assume that their second preference would go to the Australian Labor Party candidate ahead of the Liberal Party candidate.

In those circumstances I think there was a substantial prospects that voters who voted in accordance with the preference distribution advocated by Mr Lau may not have voted in accordance with their actual desire.

The basic response of officers of the Australian Electoral Commission on the day was that the matter was in essence an internal party matter within the Unity Party and not one that concerned the Australian Electoral Commission. Quite frankly, I think that response is adequate and the matter does require legislative attention because of the prospect of voters being misled by similar conduct in the future.

I would appreciate your response in respect to this matter.

Yours sincerely

**ROBERT McCLELLAND MP**  
Shadow Attorney General  
Shadow Minister for Workplace Relations  
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14 February 2002