

# OPENING STATEMENT

BY  
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## SENATE SELECT COMMITTEE ON THE LINDEBERG GRIEVANCE

11 June 2004

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Mr Chairman and fellow Senators

Some may ask why has the Senate come back to this matter again? Some may say it is a waste of time; some may ask what is new? Some may say that this is yet another occasion where I am tilting at windmills, like some modern day Don Quixote.

But others, who have taken the time to acquaint themselves with the facts, and who are not diverted by myths and untruths, will join me in saying that this Committee's task is a hugely important one based on new evidence, and by no means a waste of time. Those eyes, nationally and internationally, are watching these proceeding with keen interest.

Mr Chairman, this Committee's prime task is to see whether or not its privileges and immunities were knowingly abused at an earlier time. The character the evidence to be advanced may prove that criminal contempt of the Senate has taken place.

In simple terms, if a government and law enforcement authority can appear before the Senate and provide false and misleading evidence to cover up serious crimes which go to the heart of a democratic society, and the Senate doesn't care, then we are in deep strife.

I am talking about crimes such as the need to protect the administration of justice by properly protecting known and actual evidence from unlawful shredding in anticipated and pending judicial proceedings, the need to protect children in care and not cover up the crime of criminal paedophilia, the need to properly protect public records, the need to protect the integrity of evidence provided to the Senate, the need to properly disburse public moneys and not use it as hush money to cover up crime, the need for probity in high public office.

If this is all too hard, and the Senate balks at the immensity of the task when evidence subsequently surfaces showing that perjury or contempt may have been committed by a State Government and law enforcement authority which, at the earlier time, prevented the Senate from making full and proper findings and recommendations pursuant to its *Constitutional* function, then we can give the game away. We can fold our tents. We would be lost as a nation. Our system of democratic representative government will have been subverted to become a farce, a joke, a circus of clowns.

But Mr Chairman, I aim for higher mountains and refuse to live in deep valleys of despair, fear and cynicism, and that is why I know that this Committee's task concerning the full protection of its privileges and immunities to its full *Constitutional* extent may turn out to be a watershed moment in national politics. Today, we are commencing a journey which must be seen through, no matter the duration, tension or expense.

We all live our lives as Australians in civility and social cohesion because of the rule of law, and its judicious enforcement, from the Houses of Parliament to the local magistrate. This is so because we live in a society where our forefathers like Sir Samuel Griffith, Alfred Deakin, Edmund Barton and others framed our formidable *Constitution* which was founded on the rule of law, the separation of powers and placed constraints on government from being able to unilaterally ride roughshod over the rights of the individual. Their wisdom and foresight, sealed in the sacrifice of subsequent generations to protect these values, gave us the freedom and liberty we enjoy today. It allows me to sit before you today but such a civil society crumbles if the national Senate is lied to and treated contemptuously when it is investigating matters under the laws of the land.

Within this inheritance, while each of us is able to hold to differing political philosophies on what role government should play in our lives, we all live out our lives according to a set of values which come to us from our mother's knee, education, and our family and national traditions. We are rightly encouraged to believe that our governments, law enforcement and regularity authorities can be trusted to uphold the law. That belief dissuades us from taking the law into our own hands, and to reject terrorism of any kind.

But, Mr Chairman, is that true or is it a myth fostered by a system which functions, when push comes to shove, for its own sectional interests against society's better interests. Is the reality that our system of government is suckled and sustained on the life blood of systemic corruption where, when the occasion arises, a coterie of well-placed mates in government acts as the damage-control brigade to protect vulnerable mates, and where our elected

representatives may be only prepared to take the measure of the law so far and no further for fear that the same blow-torch of truth and justice may be applied to them when they are in government?

So, instead, they engage in a charade of indignation, huff-and-puff, and outrage always falling just short of upholding the interests of equal justice across the Australian community. In short, it seems, left to politicians and bureaucrats themselves where accountability may be lacking, our democracy appears to function on the basis of “*You’ve had your turn, now it’s our turn.*”

It becomes the ultimate club of hubris which lives by its own laws, winks and nods, where ambitious men and women will be prepared to do anything to join, and once inside, do any and everything to stay within its protected borders.

Mr Chairman, I refuse to live by those rules. It is fascism or totalitarianism by another name where Executive decree replaces the rule of law. The marrow in my bones tells me that I must fight against such abuse and bullies, as all good men and women should.

I refuse to accept a cynical view of politics which can engender a dangerous indifference to the political process and invite contempt for all politicians. I want to protect the political process. I want respect for public life and those who enter it. I care deeply about our nation’s democratic wellbeing and its future. I refuse to accept defeat and be worn down by abuse of power and the passage of time in a struggle to see the great democratic principles embodied in the Heiner affair prevail. I reject completely the cynical view of “*...you can’t beat them, you may as well join them.*” That is not the Australia I want for myself, my children, and their children, nor for others.

Mr Chairman, if history teaches us one thing, it is this: There is a time for everything. There is a time when lies can be sowed, and there is a time when their bitter crop will be reaped. There is a time when the seeds of truth sowed by one farmer may perhaps wither and die under the oppressive dry heat of indifference and lies, and his hopes of success ridiculed when nurturing his seed against the apparent overwhelming hopelessness of massive abuse of office and indifference. But, as happens and the seasons dictate, the optimistic farmer knows that the rains will eventually come, and his faith will be rewarded. But for the truth to prevail, the farmer’s abiding task is to endure, and endure, the hard years.

Mr Chairman, in the beginning, my few courageous supporters and I have faced many harsh times over many years, but we carried on because we knew that a time would come when truth would prevail over the lies. Those other times when lies were told to the Senate by the Queensland Government and CJC had to be endured in humiliation. Along the way, we saw other times come and go which conditioned the nation. We saw a time when our Governor-General was forced to resign over his handling of child abuse allegation in order that accountability be seen to have been served; we saw another time when an Australian citizen was charged by Queensland authorities and found guilty over destroying evidence of child abuse some 5 years **before** the relevant judicial proceeding commenced while at the same time knowing that the very same conduct those authorities engaged in the Heiner affair was not put before the courts by the deliberate twisting of the same criminal provision.

In short Mr Chairman, our nation has been prepared over 14 years for this huge harvest which you, Mr Chairman and Committee members, are now in a position to reap. It promises to be a very bitter harvest for those who have abused their positions of trust, but, with Grace and hope, good for those who believe that the privileges and immunities of the Senate must be preserved and upheld without fear or favour, and who also believe that the criminal law throughout the Commonwealth of Australia must be applied equally in materially similar circumstances, even if it concerns Executive Government itself.

Mr Chairman, there is a perfect time in the life of all nations. It is one where compelling irreversible and irresistible forces converge to cause great things to happen and be done which can set the stage for the next 100 or 200 years. The signing of the Magna Carta was one, and the framing and signing of the American Declaration of Independence was another. In Australia, just over 100 years ago, those forces converged when great minds forged our *Constitution* which has given us one of the most stable democracies on the face of the earth. Our nation was prepared politically, if not even spiritually, to embrace that great document when put to the vote through the conditioning of harsh times that went before.

It is my view that another perfect time faces the nation in 2004. It is in the form of the Lindeberg Grievance, not because it carries my name, but because of the great democratic issues it embodies as set out in my main submission of 28 May 2004 and in the Greenwood QC submission. Ironically, Mr Greenwood QC signed his document on 9 May 2001 in Sydney, the very same day our Federal Parliament celebrated the 100<sup>th</sup> anniversary of its first sitting in Melbourne.

This Grievance is a single moment in Australian history, brought about by Providence, which brings before the nation a high watermark to reveal our national character. It is a test to see whether we can either grasp its harvest and advance our democracy and values such as equality before the law for all, or whether we will squander it through lack of courage and political will, and bow to its bitter taste which says that the Senate's privileges and immunities can be treated with utter contempt by a State Government and law enforcement authority, to such an extent, that the Senate may be misled in order to cover up serious crime and wrongdoing – and no one cares. If that is the outcome of this test, we can all give the game away.

To conclude, if you, however, in the course of your investigation, are satisfied that sufficient evidence has been adduced to suggest, beyond a reasonable doubt, that the Senate was deliberately misled and criminal contempt committed when it took evidence on the Heiner affair at another time some years ago, then you must act to the full extent the *Constitution* allows – as happened to famous British author and politician Lord Jeffrey Archer when his perjury was discovered years later and for which he was justly punished. If necessary you must create new precedents and impose appropriate penalties so that it never happens again. In short, the Senate must find and exert its full powers, it must subpoena witnesses, no matter how high or how far away, it must call for documents, no matter how deeply buried by the Queensland Government or CMC, and in so doing, better secure our democratic processes for years to come.

Mr Chairman, whistleblowers and would-be whistleblowers, abused children, some of whom are now adults still awaiting justice, journalists, lawyers, public officials, politicians of all persuasion, archivists, and ordinary decent Australians are watching and waiting. You can either give us a light on the hill, or turn it out.

Put squarely, our democracy will fail if you do not do your duty and protect the privileges and immunities of the Senate without fear or favour, especially when the contempt is criminal in kind as I have suggested. This is your highest duty as an elected Senator to our nation's premier democratic institution. It must be faced with courage, integrity, determination and resolve. Nothing less will do. If necessary, the Senate should seek rulings on its powers under the *Constitution* from the High Court of Australia if challenges come during this Grievance matter.

Above all, your deliberations must not be tainted by party political considerations. This is about the enduring privileges and immunities of the Senate.

In Queensland we appear not to have a modern-day Bill Gunn in our midst, someone who was courageous enough to say enough is enough, and brought about the Fitzgerald Inquiry. We have a smiling Premier who professes to care about our children as a priority but is more interested in talking about “hot dinners” than getting to the truth of this matter. When the Fitzgerald Inquiry ended, we were left with a job half-done, and the subsequent Forde Inquiry into the Abuse of Children in Queensland Institutions was a complete farce when it came to this matter. The reality is that the cancerous tentacles of the Heiner affair have eaten the heart and soul out of our public administration. The systemic corruption has sucked it dry of goodness and a preparedness to do the right thing by law, difficult though that may be politically in Heiner, or to act ethically. Self-interest rules the roost.

We have been forced to look elsewhere to the Senate to bring our State back into the fold of decency and good governance under our *Constitution*. You must not turn your back on us. You are seeing in this affair, writ large like Watergate, the inevitable end result of a unicameral system of government gone mad, drunk on its own Executive power, and of a Queensland media which has failed in its essential democratic task of asking the difficult questions and never giving up until the truth is revealed. And, it cannot go without being said, to date, we also suffer from a Queensland Opposition that lacks heart and fails to show us an alternative way forward. Courage is missing on all fronts.

As Australians, Bruce Grundy and I have sowed our crop. We have diligently nurtured it through years with the constant trickle of water found in our pursuit of truth. We have been wonderfully helped by others of like spirit. However, we have been plagued with attacks on our integrity, ridiculed as being obsessed, suffered stress and hardship, endured obstacles, dissembling, deceit and abuse of power. But, we have prevailed and stand before you. The harvesting is now yours. Our democracy’s future awaits with great expectation your grading of our crop.

Thank you.

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