

**AUSTRALIAN LABOR PARTY
NEW SOUTH WALES BRANCH
INTERNAL APPEALS TRIBUNAL**

IN THE MATTER OF JULIA FINN

Introduction and procedural history

1. Mark Lennon, the President of the NSW Branch of the Party, has charged Julia Finn, the Member for the State seat of Granville, with conduct '*contrary to the principles and solidarity of the Party*' per r.A33(a).
2. A copy of the initial charge is Annexure 1 to this decision. The substance of the complaint is that on 5 December 2014, Ms Finn signed the branch attendance book of the Granville Central Branch after the conclusion of the branch meeting.
3. The matter came to light as part of an independent investigation commissioned by the Party's Administrative Committee into a range of alleged misconduct, following an anonymous complaint made on 5 November 2019. Evan Moorhead, the investigator, prepared a report dated 6 March 2020 (**the Moorhead Report**).
4. A hearing was conducted on 19 August 2020, by videoconference due to COVID-19 restrictions. Mr Lennon relied on pages 12-14 of the Moorhead Report and exhibits 2, 8, 8A and 9. Mr Moorhead attended and spoke to the report.
5. Ms Finn attended the hearing. She gave evidence by way of a statutory declaration, and supporting documents. In addition, she relied on the evidence of:
 - a. Maroun Nassif;
 - b. Ilce Pandilovski;
 - c. Elie Kaltoum;

d. Vanessa McNeil; and

e. Patricia Read,

all of whom provided statutory declarations and were questioned by Mr Lennon's representative.

6. For the reasons set out below, it is concluded that:

a. Ms Finn did technically breach r.l.16(a) (r.l.15(a) at the relevant time) by signing the branch attendance book after the conclusion of a meeting; but

b. in the circumstance, the charge that this constituted '*conduct contrary to the principles and solidarity of the Party*' is not made out.

Findings of fact

7. The Granville Central Branch held its Christmas party on 5 December 2014. It also held a formal branch meeting on this date.

8. The Tribunal notes that the Minutes of the General Meeting of 5 December 2014 were not of a satisfactory standard, and neither recorded the commencement nor conclusion times for the meeting formalities.

9. Ms Finn's witnesses who attended the Branch meeting did not, in their written evidence, distinguish between the formal meeting and the Christmas party. When questioned by Mr Lennon's representative, each ultimately gave evidence to the effect that the event proceeded as follows:

a. at or around 7pm, a short branch meeting was conducted in accordance with r.l.11; and

b. after the meeting was declared closed, the Christmas party began.

10. Ms Finn, in her written submissions, repeatedly contends that the '*meeting*' concluded at 8.45pm. This is rejected. It is a submission which appears to misunderstand the processes prescribed by Party Rules as to what is and is not a meeting, and is contradicted by Ms Finn's own evidence. While the

event concluded at around 8.45pm, strictly speaking the meeting concluded earlier and the books should have been ruled off at this point. The significance of this being a strict interpretation is discussed below.

11. The books were initially placed at the back of the hall in which the meeting was held, open for signature.
12. Ms Finn, a candidate for preselection at the time, had first attended a Christmas party hosted by the Mayor of Holroyd. She estimates arriving at somewhere between 7.30pm to 8pm, timing which Ms Read agreed with.
13. It is, however, uncontroversial that Ms Finn did not attend the meeting until (in her words) '*the formalities of the meeting had concluded*'.¹ Ms Finn's witnesses, notably Ms Read, agreed. This is consistent with the minutes of the meeting, which record her as an apology.
14. Ms Finn's evidence is that she saw the book at the back of the hall and signed it as a visitor.
15. The complaint which arose from the Moorhead report included photographs of the Granville Central Branch attendance book for the 5 December 2014 meeting. These photos show:
 - a. at 'photograph 4', a single page with signatures on lines 1 to 29, taken in good light on what can be seen to be a person's lap;
 - b. at 'photograph 5', the same page, with an additional name at line 30, in similar light with background clutter visible; and
 - c. at 'photograph 6', a photograph of a second page with signatures at lines 1-14, clearly taken in a car in daylight.
16. Ms Finn's name appears at line one of photograph 6. As the branch books stand, there are signatures at lines 1 to 26.

¹ Statutory Declaration of Finn at [12].

17. The aspects of the Moorhead report on which Mr Lennon rely conclude that the records have been falsified, in that it is contended that persons who did not attend the meeting at all have signed the book.
18. Much was made in submissions and evidence about what could be discerned from the photographs, and in particular whether the lighting could be described as clear daylight, or merely a bright summer's evening.
19. It is not necessary to resolve this for the purpose of this charge. Even if it is accepted, as Mr Lennon would have it, that the photographs were taken in broad daylight (i.e. after the end of the event), they are not sufficiently clear to outweigh the testimony of Ms Finn and her witnesses – particularly noting the concessions discussed above. While there is a suggestion, the inconsistencies as to page one on photographs 4 and 5 do not say anything directly about the state of page 2 at the conclusion of the meeting – it is equally possible that a line was skipped in error. In other words, an allegation (to the extent that it is made) that Ms Finn signed the books after 5 December 2014 cannot be sustained. Whether any such finding could be made in respect of any other person is beyond the scope of the present inquiry.
20. It is concluded, therefore, that:
 - a. Ms Finn signed the books after the conclusion of the meeting;
 - b. she did so at around the time she arrived at the Christmas party, having seen the books open at the back of the room.

Unworthy conduct?

21. The Tribunal must now turn to the question of whether Ms Finn's conduct as found constituted '*conduct contrary to the principles and solidarity of the party*' as charged.
22. Conduct which is contrary to Party rules is capable of meeting both criteria. The Rules are a codification in part of the principles by which Party

members have agreed to conduct themselves; solidarity necessarily includes compliance with this regime.

23. However, questions of scale and seriousness remain relevant. A technical breach is less significant, and less likely to justify the upholding of a charge, than wilful or deliberate disregard.
24. On the one hand, Ms Finn was at the relevant time a party member of long-standing, aspiring to a position of seniority. She could reasonably be expected to be familiar with the rules, to understand the importance in particular of the integrity of branch records, and to exercise a high level of diligence in complying with them. On arriving at a venue in which a formal meeting was obviously not occurring, it was on one view beholden on her to ask as to the status, rather than simply signing the books. This is of some significance given that the material before the Tribunal raises at least some concerns about the integrity of the Granville Central Branch membership records for this meeting, noting Mr Moorhead's comments as to the practice of having visitors sign walked books to increase the appearance of legitimacy.
25. On the other hand, Ms Finn was at the relevant time neither a parliamentarian nor a member of the Branch. The event she attended was contiguous with the actual Branch meeting. She did not seek out the books deliberately but rather signed them after noticing they had (in an unsatisfactory state of affairs) been left out for signing. She did not personally benefit directly from doing so; it is not a case, for example, wherein she obtained voting rights from recording her attendance.
26. The conduct goes no higher than carelessness. It is worth observing that while, as set out above, more caution was warranted, it is not the case that a conclusion that the meeting had concluded was *inevitable*; it would have been entirely possible that the Branch had instead suspended standing orders for the duration of the party, or taken other steps to have the 'meeting' encompass the full event. The breach is technical in nature. While unsatisfactory, in that it is less than would be expected of someone

in Ms Finn's position, it does not reach the threshold suggested by Mr Lennon.

27. The matter might have been different if Ms Finn had been a parliamentarian at the time, or Mr Lennon had proven that she had engaged in the more serious misconduct said to be demonstrated by the photographs. Neither is so.
28. As such, the Tribunal concludes that, notwithstanding its finding that Ms Finn acted contrary to the Party Rules, the charge is not made out.
29. The Tribunal draws the common practice of leaving books unattended at Branch meetings to the attention of the Party Officers. As stated above at clause 24, this is unsatisfactory and has the potential to give rise to situations such as the current matter, in that it places the onus on attendee(s) to make inquiries as to the status of the meeting.
30. Further, the variable practices for Branch Christmas parties of either suspending standing orders to engage in festivities, or engaging in festivities at the same time as the meeting remains in train, or closing the meeting and then conducting festivities will invariably continue to lead to breaches of the Party Rules. Accordingly, the Tribunal recommends that Party Officers remind Branch Secretaries of the proper observance of r.l.16(a).