

## Help us to clean up secret money in elections

After months of delays, the Government's Electoral Finance Bill was introduced to Parliament in late July. We were dismayed to discover that many important parts of the new legislation had completely disappeared in the preceding weeks (see *The curious incident of the bill in the night-time*, page 3) and business lobbies and the National Party immediately began attacking some of the remaining important sections. If left to the politicians, it is probable that Parliament would - yet again - fail to clean up New Zealand's election finance system.

So please don't leave it to the politicians! Now that the bill has arrived in Parliament, the public has until FRIDAY 7 SEPTEMBER to support the good parts of the bill and recommend

changes to the rest. Please join us, and make a difference, by taking the time to write to Parliament (see *It is easy to have your say*, below).

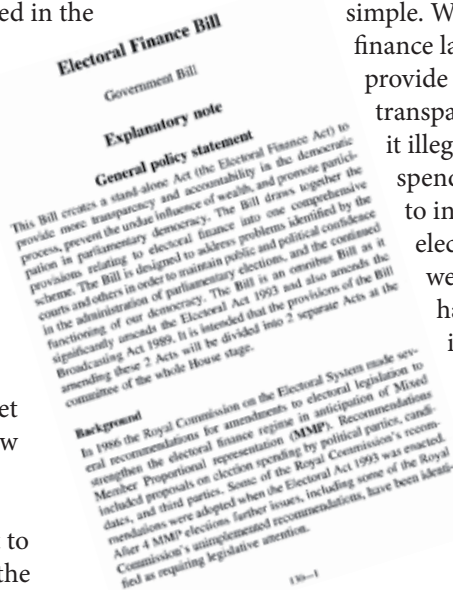
The message is simple. We want election finance laws that provide openness and transparency - making it illegal to give and spend money secretly to influence an election - and avoid wealthy interests having an unfair influence in deciding who governs the country. In the words of the

1986 Royal Commission on the Electoral System, "if elections are to be fair and our democracy to prosper, it is important that the effects of inequality are

minimised."

Our politicians ignored most of the Royal Commission's recommendations on election finances for the 21 years since. Their short-term concerns about fundraising always came first. Finally the need for change came to a head in the 2005 election, when the Exclusive Brethren secretly spent more on election campaigning than most political parties, the National Party received very large sums from political and business lobbies without declaring who they were and Labour exceeded the legal spending limits. It is time for the public to have a say. Our success or failure in reshaping this bill will affect the political environment in New Zealand for many years to come.

The Electoral Finance Bill has over 150 clauses, including good parts, technical parts and disappointing parts. There are five issues that matter most of all and we urge you to have a say about them. *cont'd pg 2*



## It is easy to have your say

It will only take a few minutes for you to make a difference to a new law tackling the influence of big money and secret money in our elections. Public pressure is vital to ensure we take secret money out of our elections.

- Anyone is allowed to comment on the Electoral Finance Bill. For electronic, simply go to [www.parliament.nz](http://www.parliament.nz), then click on "select committees", then "submissions called for" then click on Electoral Finance Bill. Or for a short cut, simply go to our website [www.cog.org.nz](http://www.cog.org.nz) and follow the link.

Put in your name and address then clearly state the points you want to make. We list the five most important issues in this publication. You can even just write why you support the Coalition for Open Government proposals (we will also be making a detailed submission). If you feel confident about your views, indicate that you would like to appear in person at the Select Committee investigating the bill. If you do not have e-mail, simply address a letter to Clerk of the Committee, Justice and Electoral Committee, Select Committee Office,



Parliament Buildings, Wellington, and write what you want to say.

- Please write today. The last day for public input is FRIDAY 7 SEPTEMBER
- Multiply your effect. Make a project of encouraging five friends, family and workmates to write as well.

# Help us to clean up secret money in elections (cont'd from page 1)

## 1. MOST IMPORTANT: REINSTATE THE BAN ON ANONYMOUS DONATIONS AND SECRET TRUSTS

If you only ever say one thing about this legislation, please insist that it prohibits secret election contributions via anonymous donations and secret trusts. The Government promised this and until recently it was the centrepiece of the new law. We suggest a law that requires all donations above \$500 to be declared and that makes it illegal to siphon funds through a third party, such as a secret trust fund. These two measures, combined with stronger penalties for breaking the law, will remove the most corrupting influence from our election system. Essentially, the same strong rules being introduced in the bill for 'third parties' (such as lobby groups) doing election-time campaigning should be applied to political parties as well.

There are other important points worth making:

## 2. BAN OVERSEAS AND CORPORATE DONATIONS TO POLITICAL PARTIES

Until recently this bill included a ban on overseas donations. As the 1986

Royal Commission said, as a matter of principle it is not legitimate for wealthy and powerful interests outside New Zealand to intervene in our electoral system. The ban on overseas donations should be reinstated. Likewise, in a one-person, one-vote system, why should corporations and other organisations that are not entitled to vote be allowed to influence political parties and elections with money? The bill should follow the Canadian example and only permit political donations from NZ citizens and permanent residents.

## 3. STRONGER PENALTIES FOR BREAKING ELECTION FINANCE LAWS

Unless there are strong penalties, parties and wealthy lobby groups will simply break the law when it suits them. One industry lobby group is already boasting that it intends to break the new law. We suggest there should be up to seven years in prison and a \$1 million fine for "corrupt practices", where a person knowingly breaks the election finance law.

## 4. SUPPORT CONTROLS ON EXCLUSIVE BRETHREN-STYLE CAMPAIGNS

The bill contains rules for restricting big-spending third party campaigns of the sort we saw from the Exclusive

Brethren in the 2005 election. The rules would make third parties disclose their big donors, who would not be allowed to hide behind secret trusts. Those clauses are good – and they should apply to political parties, too. It's also sensible to regulate how much individuals and corporations can spend trying to influence the election debate. But the bill should strike a better balance between free speech and sensible controls.

## 5. SUPPORT OTHER GOOD PROVISIONS IN THE BILL.

Especially a) support spending limits for political parties during the full election year (from 1 January), not just for the last three months as at present. This is to avoid parties with wealthy backers outspending their opponents before the three-month official election campaign period begins. And b) support public disclosure of election donations throughout the election year, so the public can know who is funding parties' election campaigns before casting our votes.



# The Bill: what we wanted, what we got

### Political parties

	What COG wanted	What we got
Caps on donations	\$5000/year	No caps
Post-election disclosure of donations above...	\$500/year	\$10,000/year (same as current law)
"Anonymous" donations and routing through secret trusts	Ban for donors who give more than \$500/year	No ban; issue referred to independent review
Disclosure before the election	Regular disclosure of identities of donors leading up to election	Disclosure of donations above \$20,000 leading up to election, but identities can be hidden by secret trust
Caps on spending	Max \$2.4 million in 3-month election period (same as current law)	Max \$2.4 million in election year
Foreign donors	Ban	No ban

### Third parties

Caps on donations	Reasonable cap	No caps
Disclosure of donations over:	\$500	\$500
"Anonymous" donations and routing through secret trusts	Disclosure of significant donors; anti-collusion laws	Disclosure of all donors over \$500; anti-collusion laws
Caps on spending	Perhaps \$100,000-\$150,000 in 3-month election period	\$60,000 in election year
Advertising in last three days of election	Ban	No ban

cont'd pg 3

# The curious incident of the bill in the night-time

One of the Labour Government's most important long-term decisions, made late last year, was approving a 50-page Cabinet Paper titled "Review of the Electoral Finance Regime". The government was reacting to that growing list of revelations about dodgy election money: the secretive million-dollar Exclusive Brethren smear campaign, parties hiding known donors as 'anonymous' and big money being siphoned to parties through secret trusts. After many years of turning blind eyes to these problems, a government was finally acting.

***We requested a copy of the Cabinet Paper but were refused. We have got one anyway and can now tell you exactly what had been agreed to before the disappearances.***

Then messy politics intervened. Shortly before the new Electoral Finance Bill was introduced to Parliament, whole sections of the bill simply disappeared. Gone was anything about stopping anonymous donations. The same for secret trusts. A ban on donations by foreigners also disappeared without a trace. And the government kicked to touch the sections about extra state funding for parties, announcing a review.

We requested a copy of the Cabinet Paper from the Government under the Official Information Act but were refused. We have got one anyway and can now tell you exactly what had been agreed to before the disappearances.

The Cabinet Paper was unequivocal. "The lack of controls on anonymous donations in New Zealand significantly weakens the current disclosure regime," it said, "and therefore weakens the integrity of the electoral process. I [the Minister of Justice, Mark Burton] recommend further controls to improve transparency and accountability."

"In the interests of democratic transparency" he recommended that no anonymous donations, "including donations through trusts," be permitted above \$5000. He said there would be a ban on "indirect donations" (a person donating via someone else to hide their identity) to "minimise avoidance" of disclosure laws; and there would be new offences "similar to those in Canada" to prohibit people hiding the source of donations or colluding with others to do so. He said that, as in the UK and Australia, if a party could not identify the donor, then it would have to pass it on to the electoral authorities.

The paper also imposed a ban on donations from people living overseas, unless they were entitled to vote in New Zealand. It quoted the compelling quote from the 1986 Royal Commission, which said that as a matter of principle it is not legitimate for wealthy and powerful interests outside New Zealand to intervene in our electoral process. Why, we ask, was this cut from the bill that arrived in Parliament?

The Government says the reason for the changes is Labour's coalition partners,

which would not support increased state funding of parties. Unless there was extra state funding, Labour argued, the bans on anonymous donations and secret trusts would leave most political parties with simply too little money to run an election campaign.

***Shortly before the Bill was introduced, whole sections simply disappeared. Gone was anything about stopping anonymous donations. The same for secret trusts. A ban on donations by foreigners also disappeared without a trace.***

The Coalition for Open Government wishes the coalition partners (New Zealand First in particular) had allowed the bill to proceed as planned. But we believe the Government should proceed with the full legislation anyway. There will probably always be some short-term obstacle like that. The Labour Government needs to take a longer view and do what is right.

Because the Minister was correct. New Zealand will lag behind other countries in the openness and transparency of our elections until we deal with anonymous donations and secret trusts. As he said in the Cabinet paper, "the lack of controls on anonymous donations in New Zealand significantly weakens the current disclosure regime and therefore weakens the integrity of the electoral process." The integrity of the electoral process is of paramount importance in a democracy. There is no excuse for not fixing this.

## The Bill: what we wanted, what we got (cont'd from page 2)

<u>Other</u>	<u>What COG wanted</u>	<u>What we got</u>
Penalties for corrupt practices	Up to 7 years' jail and \$1 million fine	Up to 1 year in jail and \$40,000 fine
Election agency structure	Combine and rationalise four election agencies	Issue referred to independent review
Public funding	Make existing public funding more fair and transparent; consider increasing public funding to promote deliberative democracy	Issue referred to independent review
Broadcasting allocation	Remove big party representation in allocation decision	Remove big party representation in allocation decision
Broadcasting spending limits	Equalise the cap for all parties and allow parties to spend own money	Parties still only allowed to spend allocated money

# Their views - anonymous donations

## Editorial - The Press

The bill aims, among other things, to maintain public confidence in the administration of elections. The best way to do that would be by the fewest and simplest rules possible, coupled with the greatest possible openness about the sources of political financing. A good start would be to make all anonymous donations to political parties or entities involved in elections unlawful.

- 26 July 2007

## Vernon Small, DomPost

The hope remains that the select committee will be able to make some meaningful changes to the proposals now on the table. Tougher trust-busting measures should be possible. They had

apparent bi-partisan Labour and National support before the bill was drafted.

- 26 July 2007

## David Farrar, kiwiblog.co.nz

The irony is that considering National publicly said they would support a clampdown on trust and anonymous donations, and National asked to be consulted - then Labour could have approached them for support. If National refused to, then the heat could have gone on them.

- July 24 2007

donations are available for public inspection.

- 26 July 2007

## Idiot/Savant, NoRightTurn blog

So overall it's a disappointing bill. While I like the general thrust of the third party rules ... the rules around candidates and parties are practically unchanged. There's no limits on donations, no ban on large anonymous donations, and no restrictions on laundering.

- 23 July 2007



## Editorial - The Herald

The simplest and most credible solution would be to require all parties to maintain open books, where all

## About Us

The Coalition for Open Government was originally formed in 1979 and played a leading role in achieving New Zealand's Official Information Act (1982). The Coalition has re-formed in 2007 to work for strong new election finance law.

The group's patrons are Lloyd Geering, Patricia Grace, Anton Oliver and Paul Harris. Members of the re-formed

Coalition For Open Government in 2007 include Shane Cave, Shaunnagh Dorsett, Graeme Edgeler, Rachael Ennor, Kevin Hackwell, Nicky Hager, Sam Huggard and Steven Price.

**www.cog.org.nz.** Our website is updated regularly, and be sure to check in for CogBLOG - our regular blog on the election funding debate. You can register for electronic updates via the website.



## Join Us!

This is a once-in-a-generation opportunity to reduce the influence of big and anonymous money in our elections. The next few months will make the difference. You can help by talking about the issue to friends, writing letters to the editor, writing a submission on the legislation, raising the issue in groups you belong to and joining the Coalition for Open Government campaign.

### I want to do something about it!

Please send me COG publications and action ideas (including how to write a submission on the legislation)

Name; address and/or email:

---

The following people might be interested too (names and contacts)

---

I have special skills/contacts to offer the campaign

---

### I can help to oil the wheels

I enclose a donation of \_\_\_\_\_ (Post to Coalition for Open Government, PO Box 2667, Wellington)

I have deposited a donation of \_\_\_\_\_ in Kiwibank bank account 38-9006-0395884-00, acc name 'Coalition For Open Government'.

To be consistent with our principles, the Coalition for Open Government will disclose all donations over \$200, which fortunately is something to be proud of!