

Uncorrected transcript

## **Electoral Finance Bill**

Justice and Electoral Committee

20 September 2007

### **Members**

Lynne Pillay (Chairperson)  
Chris Auchinvole  
David Benson-Pope  
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Hon Peter Dunne  
Christopher Finlayson  
Ann Hartley  
Heather Roy  
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Anne Tolley  
Nicky Wagner  
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### **Staff**

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### **Witness**

Nicky Hager

09:41:06

Hager            So the idea, which was as proposed by the National Party campaign manager, was that the Exclusive Brethren would say: “Change the Government.”, and the National Party itself would have all possible opportunity to say: “And the way to change the Government is to vote National.” The effect of that, of course, was to add about \$1.5 million extra money to the National Party election campaign. As I say, by May of that year they were far enough down the track that they had put their plans in writing, in that famous email of late May 2005, where they said that they were going to spend an extra million dollars beyond what they had already spent at that stage, with the sole goal of getting party votes for National.

At that stage the entire National Party campaign committee became aware of all the plans. There were discussions about it, there was nervousness about it. Some National MPs probably didn’t know about it, but the rest of them—the main strategy team—knew that the Exclusive Brethren were going to be spending money on that. They discussed, for example, going to the electoral authorities to check that it wouldn’t get them in trouble.

My point about saying this part of it is that later Don Brash, John Key, Murray McCully, Gerry Brownlee were all able to use the secrecy of the situation to deny that they had know that the Exclusive Brethren were involved and that they were liaising with the National Party. They all told lies about that, and the reason they could tell lies about it was because we don't have the basic structure of a transparent system.

It went on from there. My belief is—although I couldn't document this clearly enough to put it in the book—that the National Party probably helped to design the leaflets that were put out by the Exclusive Brethren on the simple basis that they would prefer to have effective advertising coming into their aid rather than talk about the supremacy of God and things which were less likely to get the public onside.

Tolley It wasn't even our \_\_\_\_\_ 09:43:09

Pillay Can we treat submitters with dignity, please? Thank you.

Hager There are none so blind as they who will not see! Even after the book came out, they tried to wriggle out of it, and both John Key and Don Brash claimed that they hadn't read the crucial email. In other words, even at that stage, they were using the non-transparency and secrecy of our current system to try to wriggle out of accountability for their links with the Exclusive Brethren. It wasn't until I released a subsequent email, which hadn't been in the book, which showed Don Brash had forwarded the crucial Exclusive Brethren email to someone else and commented on it, that it was clear that he had been telling lies about his involvement, and that was the point where he resigned from Parliament.

But it shouldn't be that difficult, because in most cases that information won't be available and people will get away with it. And that's why this bill is so important—because \$1.5 million is more than most political parties spend on the whole election campaign. That's a huge contribution, and if you notice the way it worked, the National Party had very little newspaper advertising and other direct advertising in the last 2 weeks before the election. Why would that be? Because they knew they had this \$1 million of parallel campaigning coming down the tracks to help them at that stage.

As I say, this is why the bill is needed, otherwise it's simply too easy for parties with wealthy backers to outspend the others and keep their linkages secret. This also, I believe, is why the National Party is attacking the bill—not because of the mistakes with the drafting which need to be fixed, but because they would rather not have controls on third-party campaigning.

The other thing I wanted to say is that this is not a one-off thing; this is actually a problem around the world which is getting bigger—which is why this committee needs to address it and mustn't be scared off taking action at this time. In other countries this is not an aberration. There's more and more of this being seen.

I want to tell you one other story about this because it will really focus your minds. This is what's happened in Australia with the Exclusive Brethren. What happened there was that even before New Zealand had the Exclusive Brethren advertising, it was popping up in Australia—for example, in Tasmania, where they used a leaflet which was subsequently used by the Brethren in New Zealand. After publicity there, you would have thought that maybe the Exclusive Brethren would be scared off it, but again, about a year ago, when there were Tasmanian elections, some shadowy people started advertising again. I can't say it's Exclusive Brethren—it looked like it was the Exclusive Brethren; it had all the signs of them—but not even the Australians yet know who that was. There were nasty newspaper advertisements, attacking gay marriage and other issues, which felt like the Exclusive Brethren. Large sums were spent, but the names on the bottom of the advertisements were just impossible to trace and to make sense of. And this is the problem; it's too easy to do.

But there's an interesting side to this story. So here in Tasmania you've got this major contribution to try and stop the Green Party winning seats. No one knows who it was, but some of the ads were so offensive that although the electoral laws were useless and couldn't deal with them, there was a complaint made to the Anti-Discrimination Commissioner of Tasmania. What the Anti-Discrimination Commissioner of Tasmania discovered when she investigated it was that the advertisements had been placed by the advertising agency of the Liberal Party and that they were registered as being paid for by the Liberal Party. Now, this would never have come out if it wasn't for the fact that they were being so offensive in what they'd put in their ads, but what it again shows is that there was something going on, probably with the Exclusive Brethren, probably with the ads being helped to be drafted by the Liberal Party itself, but no one finds out any of this. It's an incredibly murky area.

My point about this, if it's not obvious, is that this is why this bill is needed, because otherwise New Zealand will just have more and more and more of this going on. These issues are much more important, much more fundamental, than cleaning up those drafting problems with the definition of election advertising—which I trust that you will do.

So as I have got a few points in my submission, which you can read there, which are the things which I believe need to be added to or taken from the bill, but the thing I would emphasise is that these Exclusive Brethren - type campaigns don't just happen in the last weeks. I would strongly urge you from being scared off keeping the new election period being the whole election year, because if it's not, we will just see the Exclusive Brethren campaign slightly before the campaign period. As I said, this is a growth area in dodgy election campaigning, and everything that can be done to control it will be an investment in not having corrupt, dodgy electioneering in the future. So the whole 9 months, or whatever it is, the limits on spending—I personally think \$60,000 is plenty of money for an individual or a group to spend—as long as the definitions are clear that they're not

spending it on their general political advocacy, but on campaigning. Thank you for your time.

Benson-Pope Thank you for your submission, Mr Hager. You won't be surprised to know that I agree with a great deal of it, but can I just ask two questions. In the first instance, in respect of the last comment you made about the capture period, much and all as I also think that's sensible, isn't the inevitable consequence of a decision on 1 January in an election year that people will start with the extra advertising prior to that period anyway? So you have a key area where you campaign, if you like, starting in November, December this year—wouldn't that be a consequence of that time?

Hager That may be a consequence. As you all know, modern election campaigns begin the day after the election before, and in a really comprehensive bill we'd have controls through the other 2 years, as well, if you were to try to stop outspending by wealthy backers of parties. However, the whole of the election year would be a vast improvement over the current situation, so that at least will have a substantial effect, even though it doesn't comprehensively deal with the issue. So, yes, it's not perfect, but it's far better than now.

Benson-Pope Thank you. My other question relates to a comment I think I heard you making at the start of your submission, before the tape started rolling, in respect of who you think was intimately aware of what was happening with this relationship between the National Party and the Exclusive Brethren. Could you just run through the names of the people whom you think knew what was going on and were involved?

Hager Yeah, I tried to be very careful in evidence here I explained what I suspected and what I knew. I suspect that the National Party helped to draft the Exclusive Brethren ads, but I don't have proof of that. What I am absolutely sure of, what I have absolutely confident knowledge of, is that the people who the Exclusive Brethren liaised with and informed of their plans completely were the leader, Don Brash, the finance spokesperson, John Key, and the campaign manager, Steven Joyce, and that a very short period after that, the whole campaign team—people like McCully and Brownlee—also knew. The subsequent denials were not correct. They were untrue.

Benson-Pope Thank you.

Pillay Thank you. Any other questions?

Woolerton No, I've read the whole submission, Madam Chair, and that's fine.

Hager Can I make one further point, then?

Pillay Of course.

Hager           That is that on the third-party spending and on the other issues, this is likely to be the best opportunity for many years around to make progress on this. We've been waiting since the royal commission 21 years ago to get some progress on these things, and there may not be another chance for a long time. So I want to raise the subject of anonymous donations and indirect donations through trusts. It seems to me that this committee has it in its powers to reintroduce that to the bill. The way that that would happen, given the politics of the situation, is by this committee recommending that there be a small increase to the funding of parties in an election year—the State funding. What I am talking about is, the simplest device for doing this would be that we've already got the broadcasting allocation, and to add, perhaps, \$2 million more in an election year to that amount would cover the concerns particularly of the Labour Party, which is not prepared to move unless it can get money to replace the loss of funding from anonymous donations.

Two million dollars would be a trifling sum. It's less than the MPs spend in an election year, flying round on planes and all sorts of other things. And if that was the price of taking out anonymous donations and secret trusts from New Zealand forever, it would be a tiny price. And so, New Zealand First, United Future, other people involved in this, I beg you, don't do the scheme that Labour was putting up, which was—I don't know—a big chunk of money all 3 years of the election cycle. Just do a little one, just like \$2 million in election year, which is very small change in organising a democratic society. Do through the broadcasting allocation, which means it doesn't require a huge new bureaucracy and lots of new decisions and policy. If that was the price of cleaning up anonymous donations, you will have done a great service to the country.

Dunne           Thank you for that. It's a useful lead-in to the question that I wanted to ask. Just going through all your evidence and I'm one of those who actually hasn't sat down and read this book from cover to cover yet, but I've read various sections of it. But let's assume that the bill passes substantially as it's drafted. I get the sense from what you're saying that while you would see that as an improvement, you wouldn't see it as being an ultimate resolution?

Hager           Correct.

Dunne           So could you, therefore, indicate to us, on the assumption that the bill's passed, what you would expect to see the likely course of behaviour from the sorts of shadowy groups you've mentioned being in the future? What will they do, in other words?

Hager           It's no surprise to say money moves around. Money is very mobile. So if people want to win favour with or show their appreciation of a party by giving them lots of money, there are different ways they can do that. So the main thing that this bill will allow is continuing secret donations and through trusts to parties. That is actually worse than a third-party campaign. That is the dodgiest thing in our election finance realm in New Zealand,

and that will all continue. The problem with that is that although we've got a cap on expenditure in New Zealand—\$2.4 million for a party—parties spend lots of money which doesn't fit within that cap. They raise lots of money which is never seen because it's \$10,000 or below. So we have millions of dollars in every election that no one even knows was given or how it was spent.

So the main two things which would be missing are the controls on anonymous donations and secret trusts, and, at the same time, a tightening of the declaration of how money is spent, which I think is a really big issue which hasn't really been addressed much—that is, at the moment we all know the declarations that come from parties; they're very general. And it would be a very simple move for this committee to say that there has to be specific, item-by-item declaration of how money's being spent. Then everybody, including the electoral authorities, will be able to see, if something looks dodgy, where they can investigate, what's been going on, because otherwise there are millions of dollars that we don't even know is being spent because it falls outside the definitions, it's not precise enough, and so we don't know what's going on. Thanks for asking me.

Dunne Thank you.

Benson-Pope Two very brief matters. The first one is I am reminded when I look in your book at the appendices of not just the Brethren but the so-called Fair Tax campaign. Yes or no—see, I'm in trouble with the chair—do you believe that the parties you mentioned before were also aware of those initiatives, even though they were at a much lower level, but in terms of rorting the campaign rules?

Hager I know 100 percent that they negotiated and helped to draft the stuff for Fair Tax—

Benson-Pope Did the National Party—the Fair Tax, Christian Cullen, and so on?

Hager —the National Party campaign manager Steven Joyce did, yes. And wrote their direct mail letters and discussed their slogans and worked it through with them.

Benson-Pope All right, that's very helpful. And the other one is—and I don't believe you canvassed this in the book, but you'll know of it—I have in front of me a letter from David Henry in respect of the initial approach that came from the Brethren to his organisation, which were the draft ads featuring Don Brash quite overtly. Have you got any comment you can usefully make about that process and that interaction?

Hager Well, what that showed was that the electoral authorities possibly knew or suspected who was behind the ads, but there was no reason why they had to declare it. This is why we need a system of registering third parties far enough back from the election so that other people can think about who they are and what it means. So I don't know much about those particular

circumstances beyond the email in front of you and those details, but that highlights that unless you have a formal process which has that information declared in public so that journalists can pursue it and other interested people can notice the names, then that doesn't stop dodgy things going on.

Benson-Pope Thank you.

Pillay Thank you for coming to the committee, and thank you for supplying everybody with one of your books.

Hager My pleasure.

Pillay Much appreciated.

**conclusion of evidence**