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Parliament's last hurrah of the year

Parliament is set for its last hurrah of the year this week, as MPs return to the Debating Chamber for a final frenzied sitting before rising for the long summer recess.

Despite the usual round of Christmas parties and drinks, however, there is likely to be a little less cheer around Parliament than normal. The Electoral Finance Bill will dominate this final sitting and it's likely to be a grim fight to the death for both sides.

The ramming through Parliament of last-minute legislation to clear the decks before Christmas is every bit as familiar a Yuletide tradition as mistletoe and fig pudding. But this year the Opposition is likely to put up more than its usual token resistance and will drag out the debate on the bill for as long as it possibly can.

And so it should. The bill has potentially far-reaching consequences for the democratic right of opponents of the government to have their say in election year.

I say potentially because in all likelihood newspapers won't be prosecuted for endorsing a political party in an editorial and schools championing the environment won't be required to register with the Electoral Commission for inadvertently supporting the Green Party.

Much of what Parliament passes each year could be subverted by the courts or a vindictive prosecution if taken to its nth degree. This newspaper could be designated a terrorist entity by Prime Minister Helen Clark tomorrow if she so chose, under the Terrorism Suppression Act. She is unlikely to do so, however subversive she might find it on occasion.

After stringent opposition to the bill Labour has finally introduced tougher limits on anonymous donations, an end to the funnelling of money through blind trusts into party coffers, and raised the bar on the limit of third party campaign expenditure from \$60,000 to \$120,000.

But despite attempts by Labour to patch up the worst of the bill's flaws, it remains a shoddy piece of legislation that should be consigned to the dustbin. Even the kindest interpretation of its aims and objectives would still require, as the Electoral Commission itself says, "a law of common sense" to apply.

It should not be the job of the commission or the police to have to apply such a test. All legislation – and particularly electoral legislation – should be as prescriptive and clear as possible, to avoid others having to try to interpret what Parliament meant.

The greatest sticking point, however, is Labour's insistence that the various funding caps apply for the entire election year. The reason the Government has been unmovable on this particular clause is that it goes to the heart of the intent of the legislation: to stop either National or its allies from spending their way to victory in 2008.

The reclusive Right-wing religious sect, the Exclusive Brethren, has been used by Labour as a justification. Its million-dollar advertising campaign last election has entered political folklore and its impact on the 2005 result will be debated for years to come.

Even if the electoral laws were not changed, the ham-fisted attempts of the Brethren to influence the election would be seen by the public for what they were. Smear campaigns usually go down badly. Just look at the Australian Liberal Party's embarrassing attempt to portray Labor as terrorist sympathisers using fake pamphlets in Sydney recently.

No, the real reason Labour wants a cap on spending for the entire election year is to limit National to \$2.4 million – the total amount any party may spend during an election campaign, currently designated as a three-month period.

Labour is scared witless over the size of National's bank balance and fears it would launch a sustained advertising and billboard blitz in the months leading up to the official campaign period if it were not prevented from doing so.

It's an issue that does require debate. Money can, and does, help buy power. Politicians wouldn't advertise otherwise. Wider questions deserve some scrutiny, such as should there be a limit on what parties can spend at all? Is \$2.4m still a realistic amount? Should it be funded by the taxpayer based on the amount of votes a party gained at the last election, as is the case across the Tasman? Would six months be a better timeframe? Are there other ways to prevent a third party spend-up of Brethren proportions?

Although Labour claims they have been tackled through the select committee process, the committee was necessarily limited to the clauses of the bill in front of it.

As a result, legitimate questions about whether National should be allowed to spend a fortune during election year have been lost in the noise of the Opposition galloping to the high moral ground Labour has vacated by so deliberately trying to stack the deck in its favour.

There can be no doubt that National is every bit as motivated by self-interest as Labour over the bill. While the Opposition in public keeps its comments focused on the impact on legitimate public debate, it is deeply concerned its ability to campaign will be constrained by this legislation.

There is also no doubt that the debate has been effectively hijacked by Right-wing supporters of National such as David Farrar and John Boscawen, who have even appeared in the media as "independent" commentators, despite one being National's Wellington Central campaign manager and the other an Act Party fundraiser.

Labour only has itself to blame, however. It missed a golden opportunity to hold National to an earlier pledge to support the end of secret trusts and Brethren-style campaign tactics by over-reaching itself in a bid to stamp out any anti-government expenditure in an election year.

The Government appears set to continue with the bill regardless. Its own polling – and, it would appear, that of several other pollsters including Fairfax's own Nielsen and the Roy Morgan poll – is telling it that it is closing the gap on National.

It's quite possible that the general public, away from the Wellington beltway of politics watchers, media groups and various vested interests, has bigger concerns than a complicated piece of electoral law.

But if that is what Labour is banking on it makes the move all the more cynical. Regardless of whether this bill has any merit ramming any electoral law through Parliament on a bare majority weeks before it is due to come into force is bad government.

Labour has already rolled over companion legislation dealing with the funding of parties' office budgets until after the next election and it should do the same with the bill. Only in the relative calm post-election can these issues be properly debated. In the meantime, the entire lot should be farmed out to a properly constituted Royal Commission of Inquiry. Electoral law is too important to be decided by back-room deals and without the support of the major opposition party.

If that means Labour must take the risk of being out-spent by National next year, then so be it.

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