

Democracy Story

Legality of finance plan questioned

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By [Audrey Young](#)

Crown Law has cautioned the Government that some of its election financing proposals could breach freedom of expression protections in the Bill of Rights.

It has told Justice Minister Mark Burton that restrictions on advocacy and activities by non-party groups in the lead-up to an election – which includes the Exclusive Brethren and trade unions – could impact on freedom of expression rights under the Bill of Rights Act.

The Weekend Herald also understands that Crown Law says a proposed ban on political parties accepting donations from foreign sources is potentially an unjustifiable restriction on relevant rights.

Crown Law is required to advise the Government where it believes any new laws might impact on the Bill of Rights Act 1990. But there is no requirement on the Government to heed Crown Law's advice and laws have been passed despite cautions on the Bill of Rights from Crown Law.

Among a raft of election finance proposals under consideration, Labour wants to limit any non-party group spending to no more than \$60,000 nationally or \$2000 in an electorate.

Groups would be exempt if they are communicating with members.

Labour is also proposing to include attack advertising within the new controls. That would cover the sort of advertising produced by the Exclusive Brethren in support of National last election but which did not specifically mention National.

The group of seven businessmen who designed a \$1.2 million campaign have not yet decided whether to campaign in next year's election but one of them, Neville Simmons, told National Radio yesterday to "watch this space".

Mr Simmons said that his group had "never ever come out and backed National".

But emails to the then Chief Electoral Officer, David Henry, released under the Official Information Act, indicate their support was specifically for National: "We have put together an election programme with a budget of about \$1.2 million with the goal of getting party votes for National.

"Our programme involves extensive publications throughout New Zealand with a theme showing and demonstrating mistrust in the current Government and building trust in a Brash-led National Government. We write seeking clarification and direction re the election funding issue, specifically that anything we do does not compromise National's funding position."

Meanwhile, Mr Burton and National deputy leader Bill English continued to exchange statements yesterday, mainly over non-party advertising.

Mr Burton said one needed to look no further than the 2005 campaign to see how unlimited third party campaigning could be abused. The more protest he heard from groups like the Exclusive Brethren "the more we know we are on the right track".

Mr English described the Exclusive Brethren this week as "people whose stupidity is beyond estimation".



Mr Burton said non-party expenditure was capped in Britain and in Canada and registration and disclosure of expenditure was required.

"What the reforms will do is create a level playing field for all those involved in the electoral process and, critically, they will ensure the public know who [the donors] are."

Legal right

Freedom of expression: Everyone has the right to freedom of expression, including the freedom to seek, receive and impart information and opinions of any kind in any form.

– Part of the democratic and civil rights listed in the NZ Bill of Rights Act 1990.