



The Right To Know

Openness, accountability, transparency and the public interest are essential principles and protections in a democracy

November 2006



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\$22.5 million to pour into political printing without proper scrutiny

This edition of *Right To Know* has been produced under a new Senators' Printing Entitlement schedule. A schedule that has been dramatically cashed up by the Government and had accountability mechanisms removed.

Last month, the Australian Democrats, Labor and the Australian Greens joined forces in an attempt to disallow the proposed increase in printing entitlements for Members and Senators. Regrettably the disallowance motion was voted down by the Coalition.

To explain, under *Schedule 1*, printing entitlements for Members increase from the current \$125 000 to \$150 000. With 150 House of Representatives Members, this entitlement amounts to \$22.5 million per year.

There will also be a provision to carry forward a portion of unused benefits into the following year. This increase has the potential to allow Members (not Senators!) to access printing entitlements of up to \$225,000 during an election

year, a grossly unfair advantage to an incumbent over other candidates in an election.

A quantum of this magnitude is unconscionable and indefensible. While the Democrats support Members and Senators having printing entitlements to do their job effectively, they strongly support them being capped at a very much lower figure and being audited.

Under *Schedule 3*, the printing entitlements of Senators will increase to \$20,000 per annum. This was set at 10 reams of paper valued at about \$1000. However, this \$20 000 allowance will now cover all stationery including letterheads, envelopes and Christmas cards that were previously uncapped. In the

past, the average cost per senator for printing per annum was estimated at \$11,000 for newsletters and \$5700 for stationery.

The real problem with the new Senators' system is the significant reduction in accountability and the loss of independent Senate department oversight that ensured parliamentary entitlements were not used for party political purposes.

The Democrats are deeply concerned about the nature of these increases and changes. In particular, *Schedule 1* gives an incumbent member the power and ability to knock off competitors in the political field who are not incumbents because of the sheer weight of taxpayer funds available to incumbents.

“The real problem is ... the loss of independent oversight that ensured parliamentary entitlements were not used for party purposes.”

Ethics and integrity in public life

This year my thoughts turned to the democratic relevance of our parliament in the 21st century.

The catalyst for my renewed interest in this subject was partly due to my attendance in April at the World Ethics Forum in Oxford, England. The theme of the Oxford

conference was “Leadership, Ethics and Integrity in Public Life” and the purpose was to highlight the crisis of integrity in world affairs and to suggest ways to improve matters.

While it is acknowledged that advances have been made, the challenge to develop more effective measures to promote integrity and to combat corruption persists. Australia is part of this challenge, because it also needs more effective measures to promote integrity and to combat corruption. In a report in the *Sydney Morning Herald* in August by Matthew Moore it was said:

“Australian governments are so practised at frustrating the democratic process that legislation is urgently needed to try to make them accountable, a report urges. Authors of the paper, including a former Liberal speaker of the NSW Parliament, Kevin Razzoli, and a former Labor speaker from the Victorian Parliament, Ken Coghill, say an ever-growing desire to maintain political advantage has eroded the way democracy operates.”

“Information is denied, processes are manipulated and accountability is deliberately frustrated, they

write in their paper released yesterday, *Why Accountability Must be Renewed*.”

“Ministerial accountability fails as governments seize and hold political advantage, putting partisan interests ahead of the democratic rights of citizens and their entitlement to be treated with integrity, dignity and respect.”

The promotion of integrity and ethics in public life, especially when applied to political governance, is essential. It is certainly essential to maintaining and improving healthy representative democracy. It is also essential to minimising corruption.

In the context of ensuring our democracy remains a vigorous one, the particular issue I wish to focus on is the need for the establishment of a joint parliamentary ethics committee. Such a body would oversee an enforceable code of conduct for ministers and members of parliament to help ensure political integrity and accountability. It would replace the current ministerial guide to conduct, which is not only insufficient to ensure that ethical standards in parliament are of the highest order but also inadequate to lift public trust in our system of government.

This is an issue that the Democrats have campaigned on for some considerable time, and it is embodied in my private senator’s bill, the Charter of Political Honesty Bill. The proposed code of conduct would clarify what is required of parliamentarians in the exercise of their duties. It would also act as a public

statement on the minimum standards of behaviour that the public and the media can and should insist upon. Like other countries, it would necessarily establish an office of commissioner for ministerial and parliamentary ethics to enforce the code.

As a result of attending the World Ethics Forum, I am convinced more than ever of the need for a code of conduct for our public officials. Britain did it in 1994. Under the then Conservative Prime Minister John Major, the high-powered Committee on Standards in Public Life was established. It is funded by the Cabinet Office and produces an annual report as well as a series of papers on expected standards of conduct. There is still no equivalent in Australia, and there should be.

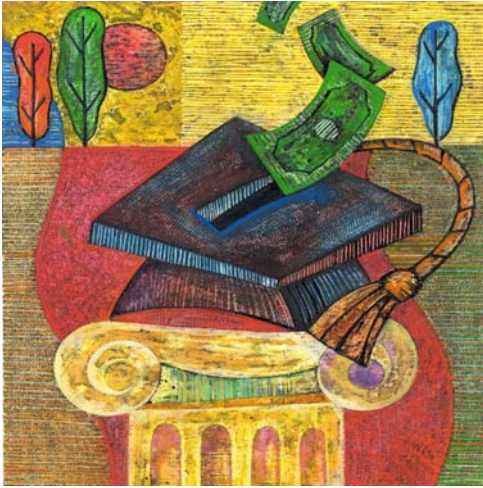
There is little doubt that strings-attached political donations are of concern to voters. Also, there would not be such disquiet about governments using taxpayers’ money for political advertising—something the Democrats have attempted to outlaw through my Electoral Amendment (Political Honesty) Bill.

Such a practice has certainly escalated under this coalition government. Remember the Work Choices campaign? That would have to have been the most flagrant abuse of executive authority with partisan advertising.

If we were to adopt a code of conduct for public officials there also would not be so

“Australia needs more effective measures to promote integrity and to combat corruption.”

New laws reinforce the public view that money will buy political access



Electoral integrity and representative democracy in Australia is not as it was when I produced the last edition of *“Right To Know”*.

In June the Coalition Government used its numbers in the Senate to pass the *Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Bill 2006*.

The Bill put to the Senate blatantly sought to advantage the Government, reduce accountability, weaken funding and disclosure rules and undermine Australia’s proud history of leading the world in enfranchisement.

All proposed amendments to the Bill by the Australian Democrats and non-government political parties were rejected.

The only comfort that can be gleaned from the passage of this Bill is Labor’s commitment to improve the political donations disclosure system. When they are next in Government in Australia, their votes on amendments to this Bill indicate that hidden multiple donations, foreign loans and donations will be prohibited. Here’s hoping they do that!

With that introduction, I will now offer some additional detail about the Bill but I urge you to visit my website to read my full remarks about all the changes.

The Bill repeals existing voting rights for prisoners serving less than a three-year sentence. This is replaced with a universal voting exclusion for all persons serving a sentence of imprisonment. It reduces the

present seven-day period after the writs for the closing of the rolls. The rolls will now be closed on the day the election writs are issued. The early closure of rolls will disenfranchise tens, perhaps hundreds of thousands of Australians.

The bill provides a new definition for associated entities. It broadens the extant definition of ‘associated entity’—which I suspect is aimed at the unions—to include an entity that is a financial member of a registered political party, an entity on whose behalf another person is a financial member of a registered political party, an entity that has voting rights in a registered political party and an entity on whose behalf another persona has voting rights in a registered political party.

It increases the non-disclosure threshold from \$1500 to \$10,000. The Democrats strongly opposed this provision, as we are of the opinion that the current threshold of \$1,500 is already a generous sum—and, I might add, it is regarded as a generous sum internationally. There is also the issue of the financial gain achieved from the cumulative benefit of multiple donations. Presently, donors are able to write separate cheques of just under the threshold of \$1500 to each of the federal, state and territory divisions of the same political party. For instance, a donor who makes a donation of \$1499 to each of the nine branches of the Australian Labor Party can give a total of \$13,491 without disclosure. Similarly, multiple donations to the eight branches of the Liberal Party allow for \$11,992 to be donated without disclosure. With the level now raised to \$10,000, this will facilitate multiple donations amounting to close on \$90,000 for Labor and \$80,000 for the Liberals without triggering the disclosure requirements.

The new laws do nothing to address the perception of the moneyed buying policy access or favours. I think it is fair to close with the comment that in no way does this Bill measure up to its title of ‘electoral integrity’.

“The early closure of the electoral rolls will disenfranchise ten, perhaps hundreds of thousands of Australians.”

One million reasons for reform

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many allegations of governments being involved in political pork-barrelling. We would not have government appointments being made on the basis of political patronage, rather than by an independent merit based system. We would not have a situation in which departing ministers and senior bureaucrats are able to take up consultancy work in areas closely linked to their portfolio interests. We would not have government activities being concealed when they ought not to be. We would not have a freedom of information system that obstructs our citizens from having the power to access

and independently scrutinise government information—and that obstructs the media as well. We also would not be without effective legislation that would offer comprehensive protection for whistleblowers.

In sum, all of these shortcomings in government accountability mechanisms damage Australian democracy. It is made worse because the party system works against the conscience vote, the ruling party's members are subservient to the executive and self-regulation is erratic in its standards and enforcement. We have Australian governments that consider themselves bigger than the democratic system—

arguably, reason enough for them to be put out to pasture.

It may appear that I consider a body akin to Britain's Committee on Standards in Public Life, and its principles, to be the panacea to all the accountability problems I have encountered and outlined. I do not. Rather, I am of the opinion that such a process would go some way to turning around the public's pretty grim attitude toward our politicians and democracy. However, ultimately it is the quality and integrity of political candidates and political incumbents that will raise standards, and the way in which they conduct themselves.

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FOI - High Court Decision

McKinnon v Secretary, Department of Treasury

In September the High Court brought down its decision in the controversial *McKinnon v Secretary, Department of Treasury* appeal.

Journalist Michael McKinnon had sought information regarding tax bracket creep and was refused it, with the Treasurer finally issuing a conclusive certificate to deny access. McKinnon fought the decision of the Court and the Treasurer to the High Court and was unsuccessful. In a 3-2 split decision, the Court upheld the right of the Executive to withhold matters from public scrutiny, even when they are in the public interest.

I have been calling for many years for an overhaul of FOI legislation and I am supported by the findings of the Australian Law Reform Commission and the Commonwealth Ombudsman. As the Ombudsman pointed out in his recent report, the FOI Act works well in facilitating public access to personal information but not so well in providing access to policy-related information.

I was heartened that the minority Judges, Gleeson, CJ and Kirby J said that the object of the FOI Act was to extend the right of the Australian community to access information in the possession of the Government. The FOI Act was passed to ensure open and accountable Government and it is worrying that Ministers now have a court sanctioned ability to issue conclusive certificates leaving no recourse for applicants. This defeats the stated purpose of the Act.

This decision indicates that Parliament needs to re-visit my Freedom of Information Amendment (Open Government) Bill as soon as possible.