

26/10/05.

FOR: IAN KAIN
NZ POLICE

RE: EXCLUSIVE BROTHERS COMPLAINTS FILE

additional material as discerned enclosed.

Regards

Angela Beare.

16 June 2005

FILE NOTE

Angela Beazer - for the press
It now appears that the visitors were members of the Exclusive Brethren & of course proceeded to issue pamphlets at the election subsequent to this discussion. A copy of this interview note was sent to them at the time.

No further contact came from them. *D Henry*
Chief Electoral Officer
21/10/05.

Meeting at Chief Electoral Office on 15 June 2005 to discuss election advertising

Attendees:

CEO: David Henry (Chief Electoral Officer), Robert Peden (CEO)

Visitors: Andrew Simmons, Phil Win, Matt Goudie, Michael Powell, Ron Hickmott (Ron arrived about 20 minutes into the meeting).

Background

Ron Hickmott and his colleagues sought a meeting with the CEO to discuss their plans for election advertising at the 2005 general election.

Discussion

Andrew Simmons and his colleagues explained that they were considering an advertising campaign with the objective of promoting a change to the Government and sought advice on what kind of advertising the Electoral Act would allow them to undertake.

David Henry and Robert Peden explained the principles and provisions from the Electoral Act that applied and advised –

- Advertising promoting or supporting, or appearing to promote or support, the election of a candidate or party is only allowed if authorised in writing by the candidate or party.
- Advertising promoting or supporting a party or candidate is an election expense and subject to expense limits.
- Third parties can advertise in relation to an election provided the advertising contains the true name and place of business or residence of the person authorising it.
- Third party advertising cannot promote or appear to promote the return of a candidate or party but can promote the policies supported by the third party and can attack candidates or parties and their policies.
- There is a continuum between election advertisements that are clearly promoting the return of a candidate or party and are therefore illegal unless authorised by the party or candidate, those that are borderline, and those that are clearly not promoting a candidate or party and are legal. Where an advertisement falls on the continuum will depend upon the facts and

context of the advertisement. The Chief Electoral Officer's advice to parties and candidates on questions of compliance with election advertising rules is to stay well away from the borderline so that there is no risk of complaints and the legal and opportunity costs they give rise to.

David Henry and Robert Peden reviewed a series of mock advertisements (attached) prepared by Andrew and his colleagues and advised where they thought they'd fall on the continuum.

David Henry advised that Andrew and his colleagues would need to get their own legal advice and assess for themselves the risks in proceeding with any kind of advertising but that the Chief Electoral Office would be prepared to review proposed advertising once it was developed and give a view on whether it complied with the Electoral Act. David warned that this would be just the Chief Electoral Officer's view and that a Court might take a different view.

Robert Peden
Manager Electoral Events

Walker, Irene

From: Henry, David
Sent: Wednesday, 8 June 2005 18:53
To: Peden, Robert
Cc: Walker, Irene
Subject: FW: Electoral Act 1993

Robert
Already in diary
Please note- could you also invite Geoff from EC by phone. It is clear that on the basis of their current proposal the advertising will have to be authorised by National and will form part of National's election expenses.
David

-----Original Message-----

From: G & J Boocock [REDACTED]
Sent: Wednesday, 8 June 2005 12:58 p.m.
To: Henry, David
Subject: Electoral Act 1993

Dear David,

Many thanks for your phone time today, and for making time available Tuesday next 9.00am your office. Those attending the meeting will be:-

Andrew Simmons Auckland
Phil Win Auckland
Matt Goudie Palmerston North
Ron Hickmott Rangiora

To assist in the process, we represent a group of Christian businessmen concerned as to the course and direction of the current government. Accordingly we have put together an election programme with a budget of \$1.2 million with the goal of "getting party votes for National" as this is the only way change will come about.

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 Nationals funding position**. Typically:-

1. Does it compromise Nationals position if we communicate to MP's and candidates our strategy?
2. Does it compromise Nationals position if we show them draft publications before they are published?
3. Is there any legality prohibiting us printing 'Vote National', 'Vote Brash' and including a photo of Dr Brash on DLE's? Can this be done without compromising Nationals funding position?
4. To what extent can we legally advise, direct, assist, communicate or other with National MP's and candidates?

We would appreciate your directives on the above and any other legal points you think appropriate.

Yours sincerley

Ron Hickmott
[REDACTED]
[REDACTED]

7/09/2005

MEL 05 05 03
File

16 June 2005

FILE NOTE

Meeting at Chief Electoral Office on 15 June 2005 to discuss election advertising

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Visitors: Andrew Simmons, Phil Win, Matt Goudie, Michael Powell, Ron Hickmott
(Ron arrived about 20 minutes into the meeting).

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Robert Peden
Manager Electoral Events

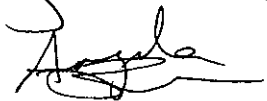
* note 26/10/05 MB: Robert & David have confirmed that ^{the} view as expressed at the meeting in relation to each brochure was:
Pamphlet (1) - not 221. However, 221A applied & a PO Box was not sufficient. True name & address requirements were explored.

(2) - borderline & probably caught by 221. Robert warned them against the use of the party details in the name proposed. Explained that while it did not directly promote or ask for party vote for National, when viewed as a whole it "appears" to promote National.

(3) - clearly caught by 221. Would require authorization of National & would be election expense.

It was stressed that they should stay clear of the "grey area" to avoid breaching the Electoral Act. To our knowledge no member took up an offer to review their brochures before publication.

- Number (1) brochure was distributed around the time of this meeting. We are not aware of (2) or (3) ever being used, it appears they did not go out with those.



CLARK-LED New Zealand

Government leaves virtually defenceless

A RESPONSIBLE GOVERNMENT WILL...



>> Disturbing FACTS

- ✗ **AXED** defence spending to less than half of Australia's (comparative GDP)
- ✗ **DECIMATED** defence personnel numbers
- ✗ **DISBANDED** air combat wing
- ✗ **CANCELLED** F16 deal
- ✗ **LOST** experienced pilots to overseas positions
- ✗ **REDUCED** frigates from 3 to 2
- ✗ **BLUDGED** on Australia for regional security
- ✗ **REJECTED** pleas to re-instate the ANZUS treaty
- ✗ **REFUSED** port access to the U.S. Navy and accommodated Chinese Navy (China is a nuclear power)
- ✗ **SNUBBED** security guarantees from the U.S.
- ✗ **NEGLECTED** maintenance of Orion and Hercules aircraft fleets
- ✗ **RUN DOWN** essential reserve stocks (fuel, ammunition, spares)
- ✗ **OFFENDED** traditional allies
- ✗ **BRUISED** defence personnel morale
- ✗ **OVERSPENT** on (driver-less) LAV's
- ✗ **PREFERRED** appeasement and pacifist ideals

What she said...

We live in a strategically benign environment

JULY 2002

Bali Bombing – 158 Australians killed FEBRUARY 2004

HER 10 YEAR PLAN

New spending announced 19 May 2005

- **DRIP-FED** slowly over 10 years
- **95%** allocated to maintenance, depreciation, administration and personnel
- **5%** allocated to new equipment, mainly 7 unarmed patrol vessels
- **TOTAL SPENDING** remains at 0.9% of GDP which is less than half Australia's comparative rate
- **NO** guarantee to increase personnel levels
- **NO** honest intention to restore defence links with our traditional allies – USA, UK and Australia

make no mistake...

**HELEN CLARK HAS
INTENTION OF EQUIPPING OUR
DEFENCE FORCE ADEQUATELY!**



- ✓ **BOOST** defence spending to complement Australia
- ✓ **INCREASE** personnel numbers to relative levels
- ✓ **RESTORE** air combat wing
- ✓ **REBUILD** Navy to benefit our island nation
- ✓ **REVIVE** the ANZUS treaty
- ✓ **RESUME** training with Australia and the U.S.
- ✓ **OPEN** our ports to the U.S. Navy – (64% of NZ want this – DIGIPOLL 5/05)
- ✓ **RE-ESTABLISH** intelligence sharing with the U.S.
- ✓ **CONTRIBUTE** fairly to regional security
- ✓ **PURCHASE** new equipment that is compatible with our traditional allies
- ✓ **CONSULT** Defence chiefs and experts on equipment purchasing strategies
- ✓ **PROTECT** the country's sovereignty
- ✓ **HUNT DOWN** chinese spies

**RESTORE THE CONFIDENCE AND
SECURITY OF ITS OWN PEOPLE**

**MAKE CERTAIN YOUR PARTY
VOTE WILL CHANGE
THE PRIME MINISTER**



**WHAT
IS
GOING ON?**

**FACTS YOU
NEED TO
KNOW!**

OUR DEFENCE DOES MATTER!

The Government of every nation has
FUNDAMENTAL OBLIGATIONS TO ITS PEOPLE

- **DEFENCE** of its territory
- Comprehensive **SECURITY** for the people
- Protection of its **SOVEREIGNTY**

IS **YOUR**
CLARK-LED
GOVERNMENT
DOING THIS
FOR YOU?

NO!

**MAKE SURE YOUR PARTY
VOTE WILL CHANGE
THE GOVERNMENT**



This leaflet has been distributed by fellow New Zealanders who are deeply concerned about the future of our country.

PRINTED AND AUTHORISED BY: ABC, 21 PENNY LANE, FOXTON BEACH

**WHO
CAN YOU
TRUST
WITH
NEW ZEALAND'S
DEFENCE
?**

STOP

So who cares?

Who is prepared to guarantee the safety of our nation with **SOLID SENSIBLE ACTIONS?**

THE **ONLY SAFE CHOICE...**



FACT

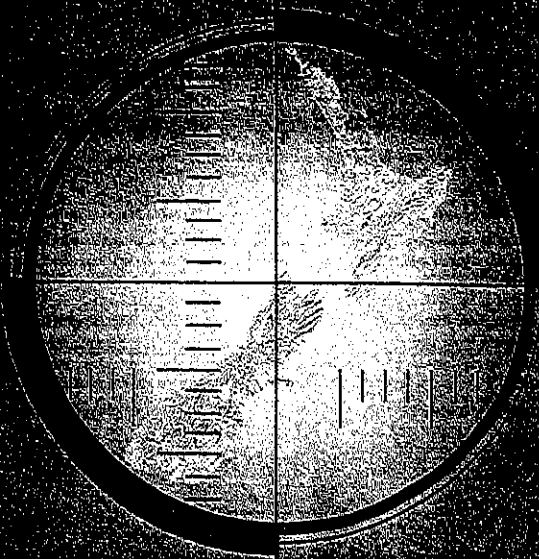
Brash will:

- Rebuild an effective defence force
- Protect our assets and future
- Restore our international relevance
- Restore essential trade and defence links with key allies

A Brash Government is committed to ***your*** security.

You can trust Brash to make the right decision in a time of crisis!

DANGER!



WE ARE A TARGET

Are we in
safe hands?

THE LABOUR DEFENCE DELUSION

The Labour Defence Record:

AXED!

- Defence Spending – from 1.8% to 0.9% GDP
- Whenuapai Airbase to be closed
- A-4 Skyhawk Strike Wing deceased
- HMNZS Canterbury Frigate deceased
- Experienced military "Top Brass" sacked

REJECTED!

- ANZUS Treaty abrogated
- Professional advice, and paid twice the price for an unsuitable choice of Army LAV's *(cost to tax payer \$300 million)
- F16 deal cancelled
- Highly skilled A4 Pilots forced to leave New Zealand

NEGLECTED!

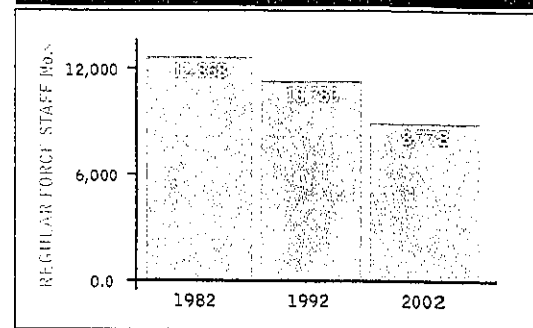
- Overdue Orion Upgrade cancelled
- Hercules broke down while on Humanitarian Aid missions
- NZDF attrition rate currently 750 per year
- Essential reserve stocks (fuel, ammunition, spares) at critically low levels

The Spending Splurge:

ILL-ADVISED BECAUSE:

- Only \$0.2 of the \$4.6 billion for new equipment
- It does not guarantee protection by USA or Australia
- There is no allocation for substantially increasing vital capabilities
- It doesn't revive the Airforce
- It will be spent by the Party that has a history of careless defence spending
- It is primarily aimed at staff retention
- It is drawn out over 10 years

DECLINE IN NZ'S REGULAR FORCES



We have a beautiful
country – resource rich –
free for the taking.

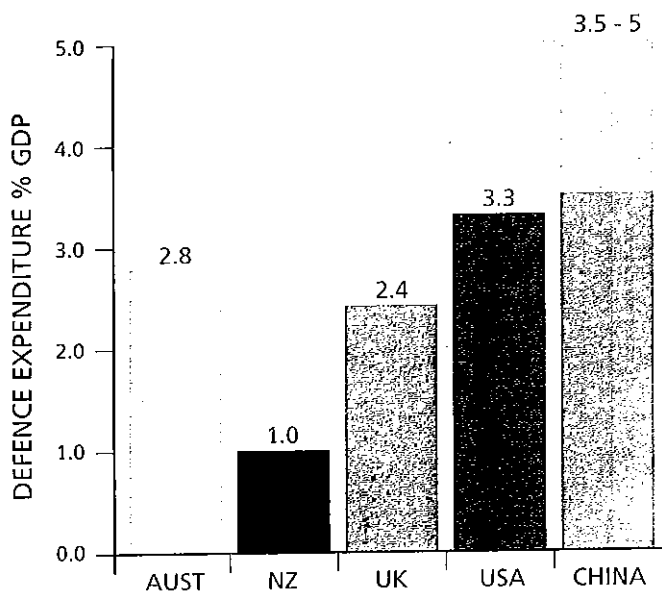
DON'T BE DELUDED

These are *not* the actions of a responsible Government.
LABOUR HAS NO INTENTION OF EQUIPING OUR DEFENCE FORCE ADEQUATELY

*See Asia Pacific Defence Reporter Aug/Sept 2000

WAKE-UP CALL FOR NEW ZEALANDERS

DEFENCE SPENDING 2003



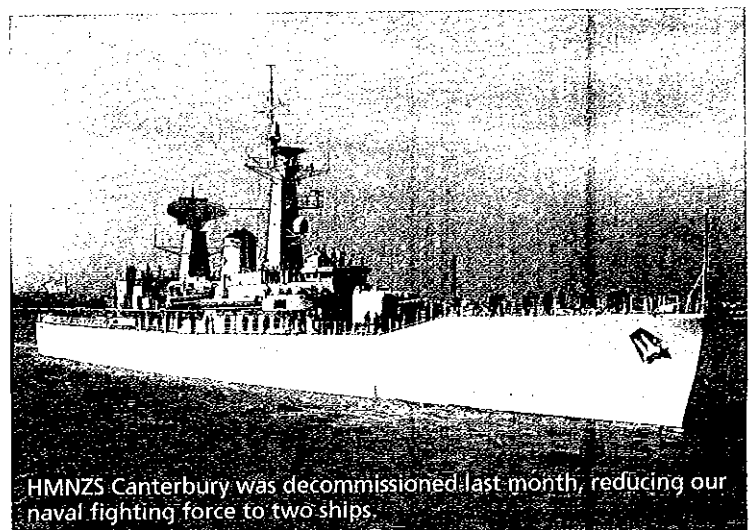
Why has our nation enjoyed peace and prosperity for most of its modern history?

It cannot be denied that the protection and friendship of Australia, USA and the UK has assured these conditions. Belief that this will continue indefinitely without the certainty of these strategic alliances is **irresponsible and dangerous**. Our Prime Minister has said we live in "an incredibly benign strategic environment" and has reduced defence spending to one of the lowest rates in the developed world.

As a result New Zealand is practically defenceless.

NEW ZEALANDERS: OUR POSITION IS CRITICAL

- Successive governments have culpably neglected our armed forces so that they are now an **international embarrassment**.
- We have insulted our **traditional ally** – the U.S. – with an illogical, impractical and totally unrealistic piece of anti-nuclear legislation.
- We are pursuing agreements with chronically **unstable and undemocratic Asian nations** instead of our traditional Western friends with whom we share our Judeo-Christian heritage, traditions and freedoms.



OUR POSITION MUST CHANGE!

We need to

- **Rebuild** our Armed Forces – regain an effective military which complements that of our friends.
- Respect and co-operate with Australia and the U.S.A. – we have everything to gain by aligning ourselves with these **freedom loving countries**.
- Repeal the ban on nuclear ship visits and reignite the **ANZUS Treaty**. Demand to know the truth of the **Somers Report** from your M.P.
- **Demand the truth from the media** – refuse to accept the half-truths and bias so prevalent in our media.

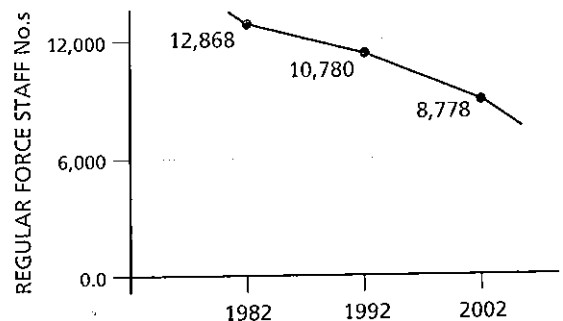
"At current rates of administration, [hospital] patients in Auckland, for example, every day release more than twice as much radioactivity into local waters as the entire US nuclear fleet and support facilities release annually to all harbours and coastal waters around the world"

Quote from Somers Report 1992

The USA has used its military power for the good of mankind in:

- **Bosnia** – saved a Muslim people from genocide.
- **Afghanistan** – established democracy.
- **Libya** – dismantled its nuclear weapon programme without a **shot being fired**.
- **Iraq** – removed a brutal dictator.
- The Indian Ocean – immediate Tsunami relief provided by the **U.S Navy**.
- WWI – US intervention **shortened the war**, saving Kiwi lives.
- WWII – US expended the lives of its servicemen to save N.Z. and Australia from **imminent Japanese invasion**.
- US resolve has brought **liberty to millions** in communist regimes.
- As a Christian nation the US rebuilt post-war Germany and Japan with **unprecedented generosity**.
- The US has never taken a country by force without **restoring government** to its people.
- The US has proven to be the **bastion of the free world**.

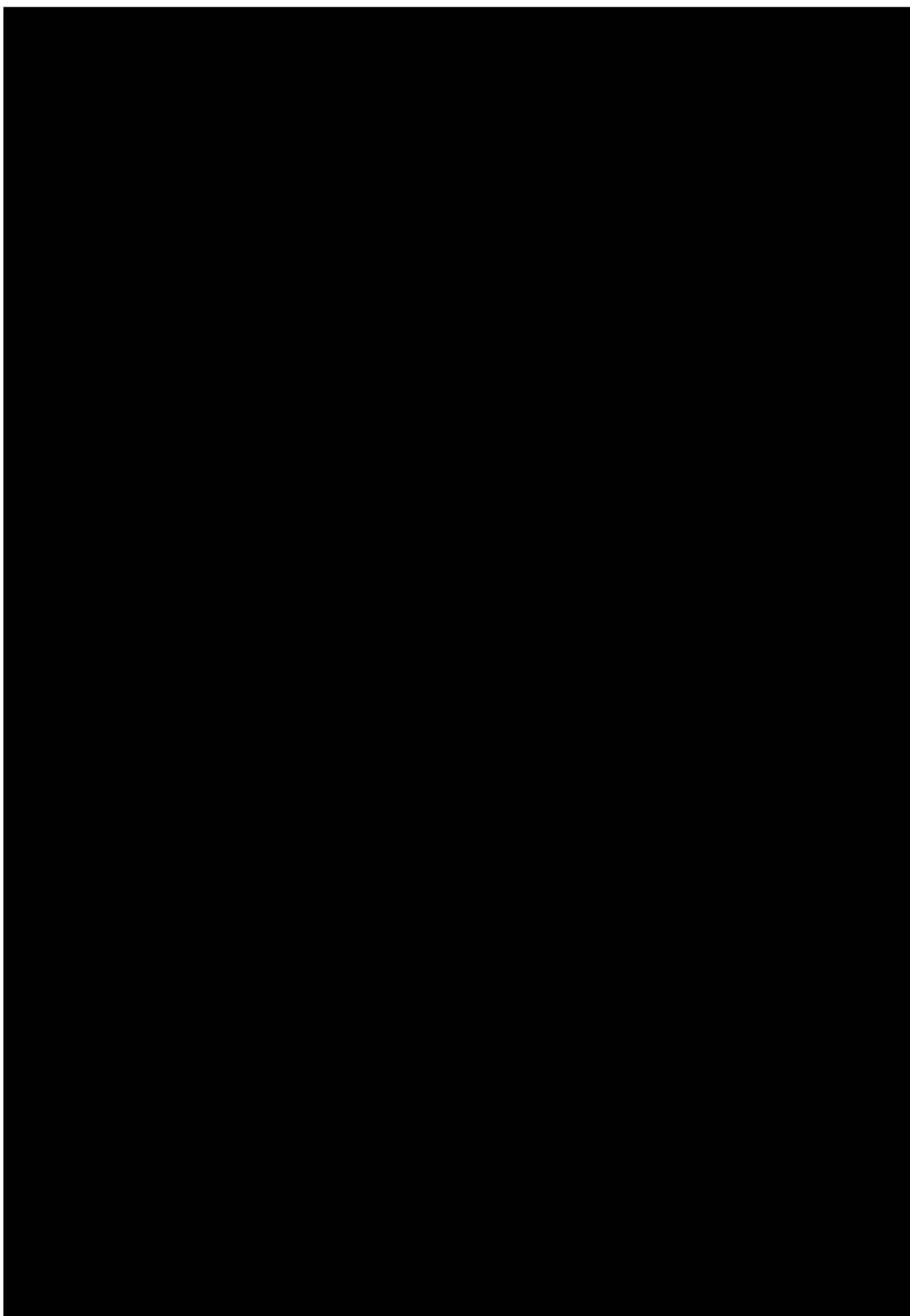
DECLINE IN NZ's REGULAR FORCES

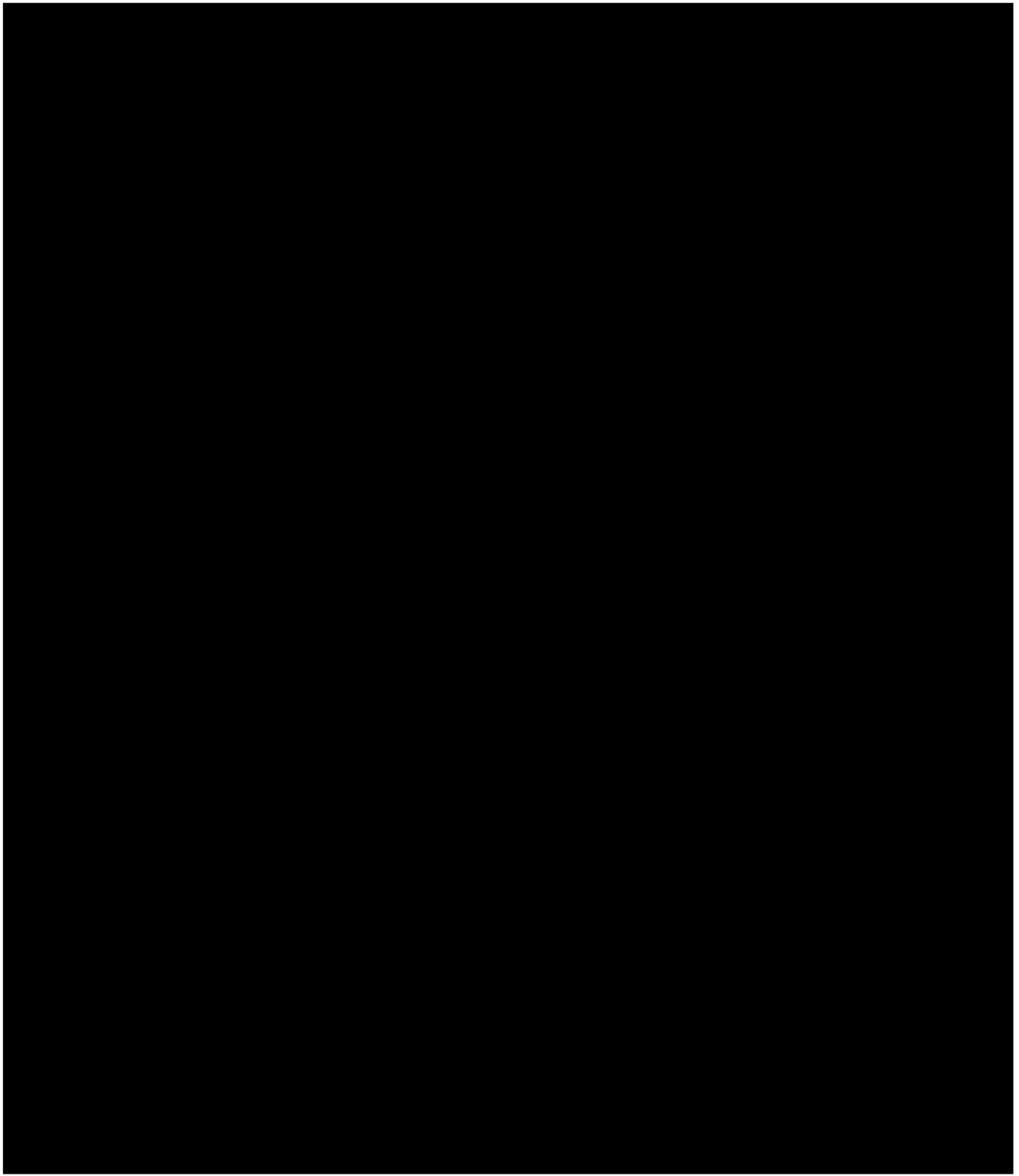


NEW ZEALANDERS: WAKE UP!

Why would we prefer the overtures of Communist China to a place in the circle of nations that uphold the principles of liberty and democracy?

Phone: 0800 778-333

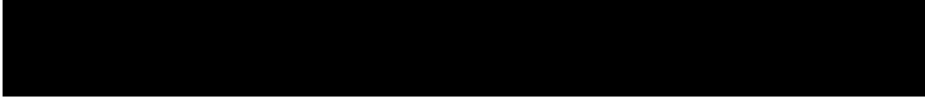




**Exclusive Brethren Complaints file
(Prepared by the Chief Electoral Office)**

PART 1: Complaint no 1 – Breach of Section 221(3)(a)

INDEX

- 1 Letter of complaint from Secretary of the Green Party dated 5 September 2005 regarding “Beware” leaflet – point number 2 only¹
- 2 Two letters from Labour Party dated 13 and 29 September respectively, and copies of the leaflets complained of
- 3 
- 4 Correspondence with the National Party
- 5 Public Statement of the Chief Electoral Officer dated 7 September 2005, regarding the requirements of the Electoral Act 1993 with respect to electoral advertising (copies of which were sent to all political parties); and
Excerpts from 2005 Chief Electoral Office publications for Party Secretaries and candidates on electoral advertising rules.

¹ Note that the complaint at point 1 of this letter is not being referred to police; and point 3 is dealt with in part 3 of this file

² The legal advice in section 3 in Part 1 of this file is privileged. The content of that advice is not permitted to be communicated, disclosed, or copied in any way, in full or in part, to any person who is not an authorised member of the New Zealand Police involved in the investigation or prosecution of this matter. For the avoidance of doubt, this legal advice may not be disclosed to any other person or for any other purpose without the express written consent of the Chief Electoral Officer.





20 October 2005

Dr Russel Norman
Green Party National Campaign Manager
Green Party of Aotearoa New Zealand
P O Box 11652
WELLINGTON

Dear Russel

“Beware” leaflet

I refer to your letter dated 5 September 2005. You allege that a leaflet entitled “Beware” encourages or appears to encourage voters to vote for the National Party, without the requisite authorisation of the National Party as required by section 221(3)(a) of that Act. You also assert that the leaflet contravenes section 218 of the Electoral Act.


I have carried out a preliminary enquiry into your complaint. My general approach to such issues is set out in my public statement dated 7 September 2005 (copy attached), which I sent to all political parties.

I have concluded that the leaflet does appear to promote the party vote for National. I have decided to refer the matter to police for investigation as to whether any person has breached section 221 of the Electoral Act 1993, and if so, whether any prosecution in terms of section 221(4) is appropriate.

I do not consider that section 218 applies to the leaflet. Section 218 is aimed at undue influence in the nature of physical threats that compel a person to vote or not vote in a particular manner, with acts that physically prevent a person from voting, or with the use of unlawful means. I do not think that a leaflet expressing views falls into this category, and accordingly I am not referring that aspect to the police.

I regret that, due to the pressures associated with running the general election, I was unable to formally respond to your complaint earlier.

Yours sincerely


David Henry
Chief Electoral Officer





20 October 2005

Mike Smith
General Secretary
New Zealand Labour Party
PO Box 784
WELLINGTON

Dear Mike

Advertising by members of the Exclusive Brethren

I refer to your letters dated 13 and 29 September 2005, alleging that brochures published by members of the Exclusive Brethren promoted the party vote for the National Party, in breach of the requirements of section 221(3) of the Electoral Act 1993. You have also asked me to consider whether the advertising is an election expense of the National Party for the purposes of section 214B of the Electoral Act 1993.

Section 221 of the Electoral Act 1993

I have carried out a preliminary enquiry into your complaint. My general approach to such issues is set out in my public statement dated 7 September 2005 (copy attached), which I sent to all political parties. I have referred the pamphlets to the police for investigation of whether there has been any breaches of section 221(1)(b), in particular in relation to a pamphlet entitled "Beware" (authorised by S Win), which I have concluded does appear to promote the party vote for the National Party. If a breach is established in respect of this or any of the other pamphlets, it is of course a matter for police to decide whether a prosecution in terms of section 221(4) is appropriate.

Section 214B of the Electoral Act 1993

The National Party has advised me that it did not authorise or consent to the publication or distribution of the "Beware" brochure, and I understand that the same applies to other brochures linked to members of the Exclusive Brethren. I think it is unlikely, based on the information I have, that the cost of the brochures are required to be returned by the National Party under section 214B. I have, however, copied this letter to the Electoral Commission, which supervises compliance with the requirements of party expense returns.

Yours sincerely

David Henry
Chief Electoral Officer

CC: Dr Helena Catt, Chief Executive, Electoral Commission





20 October 2005

Steven Joyce
Secretary
New Zealand National Party
PO Box 1155
WELLINGTON

Dear Mr Joyce

Advertising by members of the Exclusive Brethren

I refer to our previous correspondence dated 5 and 9 September 2005. I have received complaints that one or more brochures alleged to have been produced by members of the Exclusive Brethren encourage or persuade, or appear to encourage or persuade, voters to vote for the National Party, without the requisite consent of the National Party as required by section 221(3)(b). As part of those complaints I have also been asked to consider whether the advertising is an election expense of the National Party for the purposes of section 214B.

Section 221 of the Electoral Act 1993

I have carried out a preliminary enquiry into these matters. My general approach to such issues is set out in my public statement dated 7 September 2005 (copy attached), which I sent to all political parties. I have concluded that one of the brochures, titled "Beware", does appear to promote the party vote for National. I have decided to refer all brochures to police for investigation as to whether any have been published in breach of section 221(1)(b), and if so whether any prosecution in terms of section 221(4) is appropriate. What further action is taken is of course a matter for police.

Section 214B of the Electoral Act 1993

You confirmed in your letter dated 9 September 2005 that the National Party did not authorise or consent to the publication or distribution of the "Beware" brochure, and I understand that the same applies to other brochures linked to members of the Exclusive Brethren. I think it is unlikely, based on the information I have, that the cost of the brochures are required under section 214B of the Electoral Act to be included in your return of election expenses to be filed with the Electoral Commission. I have, however, copied this letter to the Electoral Commission, which supervises compliance with the requirements of party expense returns.

Yours sincerely

David Henry
Chief Electoral Officer

CC: Dr Helena Catt, Chief Executive, Electoral Commission



20 October 2005

M Powell



Dear M Powell

Election advertising linked to members of Exclusive Brethren

I have received complaints about various pamphlets that are said to have been published by members of the Exclusive Brethren and distributed during the election period.

This includes pamphlets authorised by you (copy attached).

The complaints are that one or more of the pamphlets:

1. Promote or appear to promote the party vote for the National Party without the requisite authorisation of the National Party as required by section 221(3)(a) of the Electoral Act 1993; and/or
2. Do not comply with section 221(3)(b) of the Electoral Act 1993 in that a "true" residential or business address of the person who has authorised the brochure has not been provided; and/or
3. Was distributed on election day in breach of section 197(1)(g) of the Electoral Act 1993.

I have referred complaints 1 and 2 to police to investigate whether one or more breaches of section 221 of the Electoral Act 1993 have been committed in respect of these complaints, and if so, whether any prosecution in terms of section 221(4) of the Act should be taken against any person. I have also referred complaint number 3 to police for investigation and, if appropriate, prosecution of any person responsible for distributing or authorising the distribution of any election material on election day.


Yours sincerely



David Henry
Chief Electoral Officer



20 October 2005

A Smith


Dear A Smith

Election advertising linked to members of Exclusive Brethren

I have received complaints about various pamphlets that are said to have been published by members of the Exclusive Brethren and distributed during the election period.

This includes a pamphlet authorised by you (copy attached).

The complaints are that one or more of the pamphlets:

1. Promote or appear to promote the party vote for the National Party without the requisite authorisation of the National Party as required by section 221(3)(a) of the Electoral Act 1993; and/or
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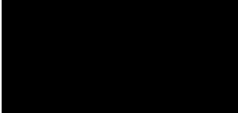
Yours sincerely



David Henry
Chief Electoral Officer



20 October 2005

Mr Stephen Win


Dear Mr Win

Election advertising linked to members of Exclusive Brethren

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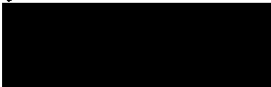
Yours sincerely



David Henry
Chief Electoral Officer



20 October 2005

J Hawkins


Dear J Hawkins

Election advertising linked to members of Exclusive Brethren

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This includes pamphlets authorised by you (copy attached).

The complaints are that one or more of the pamphlets:

1. Promote or appear to promote the party vote for the National Party without the requisite authorisation of the National Party as required by section 221(3)(a) of the Electoral Act 1993; and/or
2. Do not comply with section 221(3)(b) of the Electoral Act 1993 in that a "true" residential or business address of the person who has authorised the brochure has not been provided; and/or
3. Was distributed on election day in breach of section 197(1)(g) of the Electoral Act 1993.

I have referred complaints 1 and 2 to police to investigate whether one or more breaches of section 221 of the Electoral Act 1993 have been committed in respect of these complaints, and if so, whether any prosecution in terms of section 221(4) of the Act should be taken against any person. I have also referred complaint number 3 to police for investigation and, if appropriate, prosecution of any person responsible for distributing or authorising the distribution of any election material on election day.

Yours sincerely



David Henry
Chief Electoral Officer

