

Transparency of Lobbying, Non-party Campaigning and Trade Union Administration Bill

Introduction

The Christian Institute is a non-denominational charity established for the promotion of the Christian faith in the UK and elsewhere. We have over 30,000 supporters throughout the UK, including over 4,000 churches and church ministers from almost all the Christian denominations.

We hold traditional, mainstream Christian beliefs about marriage, sexual ethics and the sanctity of human life from conception.

Having taken legal advice and considered Part 2 of the Bill carefully, we believe the proposals jeopardise the ability of non-partisan groups to promote and defend some of their values in the 12 months before a General Election. We wish to defend the freedom of Christians - and others - to engage fully in campaigning on policy issues close to their hearts without being criminalised, or forced to become party political. Part 2 poses a real threat to grassroots campaigners who just want to participate in the political processes that govern their lives but to do so without a party political axe to grind.

Many important improvements to UK law have resulted from Christian campaigners using elections to pressure their representatives. Improving child protection, securing civil liberties for dissenters and abolishing slavery all came about through Christian-led campaigns which included informing electors about the views of candidates. The Lobbying Bill jeopardises this rich British tradition. By imposing severe spending restrictions, it pushes ordinary people out of the political process. At a time when public engagement and trust in politics is at a low ebb, a Bill which effectively declares that "politics is for the politicians" is a big mistake.

Third party campaigning – Part 2

Part 2 was not part of the Government consultation prior to the Bill which may explain why it is so badly drafted. It makes major changes to electoral law:

1. Widening the range of third party expenditure caught under electoral law by broadening the focus from expenditure on "election material" to any expenditure deemed to promote or procure electoral success for candidates, even where no party or candidate is named, including where the activity focuses on solely on the holding of particular opinions, and even where no such candidate currently exists.
2. Reducing the expenditure for which a third party in England must register with the Electoral Commission from £10,000 to £5,000. In Scotland, Wales and Northern Ireland the threshold is reduced from £5,000 to £2000. Registration requires them to comply with Election Commission guidance and burdensome reporting requirements.
3. Drastically cutting spending limits. Not only is a wider range of expenditure caught under the new test above, but:
 - a. The limit for a national campaign is reduced from almost £1 million to £390,000.
 - b. A new limit is imposed for a constituency campaign of just £9,750.

These limits apply to the entire year before a General Election. The limits now include advertising, press conferences, private meetings, public meetings, transport, research and staffing costs. Helen Mountfield QC argues even volunteer time could count. Any well-run campaign could easily breach these limits. Many responsible voluntary groups will want to avoid the stigma of being registered as a third party with the Election Commission. They will take a precautionary approach. The very low £2,000 limit in Scotland, Northern Ireland and Wales – for the entire year before a General Election – will prevent them embarking on any meaningful activity in that year that risks falling within the broad new definition.

An advertising campaign in the year leading up to a General Election which has the *effect* of increasing the prospects of candidates who, for example, support third world debt relief or freedom of speech, could fall within this definition even if the campaign group had no such intention. The Electoral Commission says: “It will often be hard for campaigners to identify with a reasonable level of confidence when an activity has ‘no significant effects’ in a given constituency... it seems arguable that the new test could apply to many of the activities of charities, voluntary organisations, blogs, think tanks and other organisations that engage in debate on public policy.”¹

In their Second Reading briefing on the Bill, the Electoral Commission gives the following example:

“[A] voluntary organisation is seen as having expertise in a policy area on which several political parties make policy announcements in the run-up to the election. The media frequently ask the organisation for its views on the issues and the parties’ policies, and sometimes invite it to provide interviewees for broadcast coverage. Will the cost of reactively setting out the organisation’s views count as ‘for election purposes’? If so, a proportion of the salaries of the organisation’s press and policy teams would be regulated and will require the organisation to register with us.”²

The effect of the new rules would be to incentivise setting up single issue political parties in order to secure vastly increased spending limits. It would also disadvantage sitting MPs since their views could be targeted – without spending limits – for four years after a General Election but the views of their opponents, often selected only months before an election, would not face the same scrutiny because of the limits imposed in the year before the election.

At every General Election churches in constituencies across the UK unite to arrange an opportunity for church-goers to hear from their candidates in the form of church hustings. Church hustings are a longstanding Christian tradition of enthusiastic engagement in public life. Our concern is that this Bill could regulate many church hustings out of existence. This cannot have been the Government's intention. But the vague wording of the new tests, and the drastically reduced expenditure limits, make this a real risk.

Key problems

We would like to raise specific problems that we think need to be considered:

- a. The current law limits expenditure on “election materials” if they enhance the standing of candidates with certain opinions. This causes no problems. But, as discussed above, the

¹ Third Sector Online, 27 August 2013, <http://www.thirdsector.co.uk/go/news/article/1208911/electoral-commission-brief-mps-lobbying-bills-effect-charities/> as at 30 August 2013

² See http://www.electoralcommission.org.uk/__data/assets/pdf_file/0007/156580/Transparency-of-Lobbying-Non-Party-Campaigning-and-Trade-Union-Administration-Bill-Second-Reading-Briefing.pdf

new definition catches anything deemed to be for “election purposes”. Schedule 3 of the Bill makes explicit that this includes public meetings. The costs of staff time, leafleting, advertising and booking a neutral venue for a church hustings could in some cases cost £5,000 (the proposed new threshold for registration in England and Wales). This then creates the problem that the organisers would, for the first time, have to register as a Third Party with all the attendant reporting requirements. Being neutral, they would be deeply unhappy to be put in the same category as groups which have a strong party affiliation.

- b. Most hustings will cost under £5,000 to organise, but if the costs are more than, say, £3,000 organisers will have the bureaucratic burden of proving that they have not reached the £5,000 limit to register as a Third Party. Our fear is that many churches when faced with the new legal risks and uncertainty will decide that it is no longer viable to hold a meeting. (The situation in Scotland and Northern Ireland will be particularly acute since the proposed registration threshold there is only £2,000.)
- c. There are particular problems monitoring expenditure for an entire year before an election if a group of churches are involved in working together to plan an event.
- d. Church hustings are not party-political. But aggrieved candidates who narrowly fail to win at the ballot box could invoke the new, wider law to allege that the hustings they took part in enhanced the standing of certain candidates holding opinions which resonated with those attending. Clause 26(2) of the bill catches anything “in connection with... enhancing the standing” of “candidates who hold (or do not hold) particular opinions”.
- e. Church hustings routinely exclude candidates such as the BNP or the Monster Raving Loony Party etc. At the last election the Church of England, made clear they would not invite the BNP to their hustings in order to signal their rejection of racism. The BNP reacted angrily. The new bill may give them a stick with which to beat the churches, allowing them to allege that their constituency hustings enhanced the standing of candidates who disagree with the BNP. It would be exceedingly regrettable if the effect of the bill was to force churches to invite the BNP to their hustings.
- f. The damaging effects of the Bill on church hustings is magnified by the prospect that anyone who gets it wrong could be committing a criminal offence. Most voluntary groups would be unwilling to take such a risk, so the chilling effect could be considerable.

The Christian Institute
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