

Malcolm Turnbull must end political donations rorts

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The Liberal Party is obfuscating and pussyfooting legally. The Prime Minister too is playing word games and linking Senator Sinodinos' future to current legal technicalities, rather than a higher standard of behaviour we expect from our elected representatives.



To mend this broken system, Prime Minister Malcolm Turnbull needs to commit to federal donations reform.

The passage of new Senate voting rules was arguably the most significant democratic development in three decades.

But as the *Herald* has stressed repeatedly, political donations reform is still unfinished democratic business.

Improved Senate ballot procedures add to the urgency because they are likely to help major parties lock in their financial and electoral dominance. And change is more important than ever following the extraordinary finding of the NSW Electoral Commission against a secretive slush fund that donates to the Liberal Party.

To mend this broken system, Prime Minister Malcolm Turnbull needs to commit to federal donations reform.

We need a level playing field for parties large and small; the real-time transparency voters demand; and less opportunity for donors to buy political influence.

This is not a partisan demand.

Both major parties receive public funding even as they game the system to hide or muddy the source of donations.

Big business and high wealth individuals tend to finance the Liberal Party.

There is nothing wrong with that, provided voters are told the identity of the donors and the party obeys the laws, no matter how weak they remain.

But the state Electoral Commission this week denied the NSW Liberal Party \$4.4 million of public money because the party had failed to file an acceptable list of donors from the 2011 state campaign.

The Liberals are threatening court action and have refused to change their declaration relating to almost \$700,000 donated by the Canberra-based Free Enterprise Foundation.

The FEF is famous for receiving an anonymous \$200,000 donation from former TV millionaire Reg Grundy, who wanted the money to go to the Liberals.

The foundation was also the focus of the Independent Commission Against Corruption's Operation Spicer, which cost many state Liberal MPs their jobs.

The Liberals have many foundations or "clubs" aimed at raising funds. One is the North Sydney Forum, which backed Joe Hockey.

Liberal Premier Mike Baird is right. His party must reveal the identity of the FEF donors: "They [the NSW Liberals] have done the wrong thing. It is unacceptable. The party should be beyond reproach in relation to these matters."

The Electoral Commission's decision was based on evidence Liberal party officials and others gave to the ICAC.

Turnbull confidante Arthur Sinodinos was finance director and treasurer of the NSW Liberals about the time of the donations. He told the ICAC in 2014 that if he had been at meetings where the FEF or illegal donations were discussed, the chatter must have gone over his head.

He admitted he had done nothing to ascertain the source of donations. Instead he suggested that was the responsibility of a party agent, whose role he could not "micro-manage".

In light of the electoral commission finding, Senator Sinodinos' future is fraught.

The FEF was outside the NSW jurisdiction and as such could bypass this state's tougher laws.

The foundation received money from donors in late 2010 then channelled it to the NSW division of the party for the 2011 election campaign. The effect was to mask the identity and source of donors, including property developers whose payments have been unlawful under NSW law since 2009. Tobacco and gambling groups are also banned.

The commission's chairman, Keith Mason, QC, found that the Liberal Party declaration "concealed rather than disclosed the statutory information. Parties seeking public funding must play by the rules."

The Liberals' NSW division claimed that whether or not the FEF, or the individual donors to it, were required to lodge declarations to the commission was not a matter for the party.

Similarly, the FEF argued it was not a front for donations but rather a discretionary trust – a crucial claim because it determines whether the donations remained in control of the donor, as the commission claims, or whether the FEF controls them and as such can be hidden.

The foundation also insists it is a "valid charitable trust" because "the theory and aim behind free enterprise is to maximise market efficiency, thereby improving economic growth and living standards" which in turn bring "social benefits".

The Liberal Party and the FEF are obfuscating and pussyfooting legally.

Mr Turnbull too is playing word games and linking Senator Sinodinos' future to current legal technicalities, rather than a higher standard of behaviour we expect from our elected representatives.

"If the law has not been complied with they should 'fess up, set all the facts out on the table and let the cards fall where they may," Mr Turnbull said on Thursday.

The problem is not a one-off.

Former federal Liberal Party treasurer Philip Higginson has said the party needs "better financial governance, there needs to be better organisational governance so that we can look our donors in the face, our voters in the face, the members of our party in the face. I know the new PM understands this a whole lot better than the previous PM." Mr Higginson approved the party's 2013-14 accounts only after being pressured by Mr Abbott.

Labor is not squeaky clean on donations, either.

Funds from unions and third-party lobby groups are regularly described as something else, as the unions royal commission has found in relation to federal leader Bill Shorten.

But while Labor baulks at some changes to the donations rules that would limit union influence, the party supports lower thresholds for disclosure federally as well as caps on donations.

Indeed, during the debate over Senate reforms last week Labor introduced amendments seeking to reverse the big increase in the disclosure threshold by John Howard in 2006, from \$1000 to \$13,000 in current dollars.

Labor also wants bans on foreign donations and donation splitting to avoid disclosure. It would also cap anonymous donations.

While Labor's Senate effort was a political stunt, it exposed the Coalition, the Greens and Senator Nick Xenophon for not including donations reform in their Senate voting reform agreement.

In particular, comments from Special Minister of State Mathias Cormann beggared belief: "In the government's judgment, the current donation threshold arrangements reflect the appropriate balance between transparency and enabling Australians to participate in the political process".

No matter the political spin or legal technicalities, the current system of donations can be gamed and corrupted.

Having done the right thing on Senate voting, Mr Turnbull, the Greens and Senator Xenophon should tackle donations rules at the earliest possible opportunity.

They can do that by reducing the disclosure threshold to \$1000, capping total donations, funding real-time, 24/7 reporting of donations, banning associated entities as well as foreign donors, and increasing public funding to reduce reliance on political influence-seekers.

Of course, Mr Turnbull knows how much reforming donations laws would hurt the Liberal Party.

<http://www.smh.com.au/comment/smh-editorial/malcolm-turnbull-must-end-political-donations-rorts-20160323-gnpydf.html>