



*Report on international investigations into political donations and disclosure  
and voter participation and informal voting*

Meeting report – POLITICAL DONATIONS AND DISCLOSURE

As part of its international investigations into political donations and disclosure the Committee held meetings in Canada, the United States of America and the United Kingdom. The Committee met with the following individuals and organisations and discussed a range of issues relating to political and campaign regulation and reform.

**CANADA**

**Monday 25 August 2008**

**Professor Fred Fletcher, Professor of Political Science at York University  
Dr Leslie Seidle, Senior Research Associate, Institute for Research on Public Policy, Montreal**

Professor Fred Fletcher and Dr Leslie Seidle discussed international approaches to political funding and campaign finance. Dr Seidle told the Committee about Canada's experience with political finance regulation and mentioned some of the factors which led to closer public and parliamentary scrutiny of political finance arrangements in Canada. The Committee learnt that impetus for reform to political funding arrangements was driven partly by Canada's provinces; for instance, in 1963, Quebec introduced an election financing regime that was the first of its kind in Canada. It was also suggested that the US Watergate scandal of the 1970's contributed to greater recognition in Canada of the need for stronger political finance regulations.

Regulation of donations by third parties – such as unions, corporations and interest and advocacy groups – was discussed. Professor Fletcher and Dr Seidle considered the role of third parties in Canadian politics. The Committee learnt that the Canadian parliament attempted to regulate third party donations on a number of occasions during the 1980's and 1990's.

Recent reforms in Canadian political finance were considered. The Committee learnt of the Royal Commission on Electoral Reform and Party financing, known as the Lortie Commission, established in 1989 to inquire into the Canadian electoral finance system.

Professor Fletcher, Dr Seidle and the Committee reflected on the impact of the "Adscam" sponsorship scandal in Canadian politics. "Adscam" occurred between 1993 and 2006, involving the Liberal Party of Canada.

## **Elections Canada (Mr Marc Mayrand, Chief Electoral Officer)**

Elections Canada is an independent, non-partisan agency that reports directly to the Parliament of Canada. Amongst other duties it conducts federal elections, by-elections and referenda and administers the political financing provisions of the *Canada Elections Act*.

Political financing arrangements in Canada were outlined by Mr Mayrand. Five key features underpin Canada's legislative framework for political financing. These are:

- a) Registration of candidates and political parties;
- b) Limits of expenditure and contributions;
- c) Public funding;
- d) Reporting on public disclosure; and
- e) Compliance and enforcement.

The Committee learnt that political parties, candidates, local associations and third parties which spend more than CAD \$500.00 on advertising must be registered with Elections Canada. Registration carries certain benefits. Benefits include being able to issue tax receipts and appoint financial advisors to monitor expenses against set limits – these agents assume responsibility if a breach of these limits is established.

Elections Canada outlined limits in place on expenditure and campaign contributions. The average expense limit for a candidate in the 39<sup>th</sup> general election was approximately \$80,000.00 CAD. The average expense limit for a third party, such as a trade union or a corporation, was approximately \$3,516.00 per electorate. The Committee was informed about some of the formulas used to calculate expense limits.

Current campaign contribution limits in Canada came into effect in 2004 and apply to monetary contributions and contributions in kind, but exclude voluntary labour and donated goods and services worth less than CAD \$200.00 and donated by someone not in the business of providing those goods or services. The following specific contribution limits apply:

- a) the limit for a single donor is CAD \$1,100.00 for donations to a political party, and CAD \$1,100.00 to all leadership contestants in a particular electoral contest.
- b) candidates are permitted to self-fund a campaign by up to CAD \$1,000.00.

Only Canadian citizens or permanent residents are able to donate to a political party, candidate or political association.

The Committee was also informed about public funding arrangements for political activity. There are two types of public funding arrangements in Canada; direct expense reimbursements for candidates and political parties, and quarterly allowances for political parties. There is also indirect public funding to contributors through tax credits. The contributor receives a tax deduction equal to 75 percent of the first \$400.00 CAD they contribute, 50 percent of the next \$350.00 CAD, and 33 1/3 percent of any further amount up to \$650.00 CAD.

Further evidence was obtained about reporting requirements for public disclosure, and compliance and enforcement arrangements utilised by Elections Canada.

**Tuesday 26 August 2008**

**Dr Lisa Young, Researcher and Lecturer, Department of Political Science, University of Calgary**

Dr Young informed the Committee of the impact of Canada's recent reforms to political finance regulation on political parties, including the affect of these reforms on party financial administration.

The Committee and Dr Young exchanged views about campaigning techniques. While it was suggested that some Canadian political parties had particular expertise in securing grass-roots support, Dr Young cautioned that it was difficult to generalise about this given the overall downward decline in membership rates in Canadian political parties.

## **UNITED STATES OF AMERICA**

**Wednesday 27 August 2008**

**United Nations, Electoral Assistance Division (EAD), Department of Political Affairs**

Representatives from the United Nations' EAD discussed UN research relating to political finance. The following facts were reported to the Committee:

- a) Around 60 percent of the world's nations have some form of public funding system for elections;
- b) Approximately half of these countries pay funds to candidates during election periods;
- c) The EAD provided some information about the use of tax credits as a form of public funding for electoral activity;
- d) Approximately 150 countries permit private contributions to electoral campaigns and political parties; and
- e) The role of public funding for elections in developing countries was also discussed.

## **New York City Campaign Finance Board (NYCCFB)**

The NYCCFB was created in 1988 following a series of political finance scandals in New York City. The Board is an independent, non-partisan agency that aims to increase public confidence in the electoral process through the regulation of election campaign finance. The Board is composed of five members: two are selected by the Speaker of the New York City Council, two by the Mayor and the fifth, a chairman, is appointed to the Board by the Mayor following consultation with the Speaker.

Ms Amy Loprest, Executive Director of the NYCCFB, explained that the Board remained non-partisan by allowing only two of the four board members to be members of the same political party. Budgetary authority for the Board is also kept separate from the Mayor and City Council.

The Committee was told about the Board's Campaign Finance Program. The program is used to regulate campaign finance and issue public funding. It pertains to candidates in elections, not political parties. Over 70 percent of candidates in New York City elections participate in the program.

Public funding is generally provided to candidates at a rate of US \$6.00 for every US \$1.00 an individual New York City resident contributes, up to US \$175.00, marking a public funding commitment of US \$1,050. Funding is paid before elections and indexed for inflation. To qualify for public funding a candidate must:

- a) Be on the ballot;
- b) Have an opponent – no public funding is given where a candidate is unopposed; and
- c) Show that he or she is a serious candidate by attracting \$5,000.00 in donations.

Where a candidate runs against a high spending, self funded (not state funded) candidate, the Committee was informed that the Board may not place a limit on the spending of the lesser spending candidate, and that this candidate may attract more public funding.

Candidates are also restricted from spending matched public funding in the following ways:

- a) Paying family members;
- b) Pay a business the candidate owns more than 10 percent of;
- c) Make payments in cash;
- d) Pay personal rent or living expenses; or
- e) Buy themselves clothes.

Some groups, such as corporations, are restricted from contributing directly to a candidate's campaign. Corporations are free to form political action committees which might contribute financially to a candidate's campaign, but these financial donations were not to come from corporate funds, but from non-corporate sources. These committees are subject to a contribution limit.

Recent legislative changes in New York City have tightened restrictions on donations by companies who have a financial relationship with the City Council. A database is maintained to keep track of all firms who, for instance, bid for work with the City Council, have development agreements, and the managers of businesses applying for zoning vacancies.

NYCCFB representatives explained how disclosure requirements are managed in New York City. Candidates are regularly required to disclose details of the money they have raised and their campaign expenditure.

The Committee was informed about a unique piece of software that the NYCCFB has developed in recent years, as part of the Campaign Finance Program. The Board provides a free, web-based software program to candidates to record contributions easily and quickly and report this information to the NYCCFB. Recently the software has been further enhanced for compliance purposes.

At the meeting the NYCCB also outlined auditing, enforcement and penalties procedures.

## **Thursday 28 August 2008**

### **DEMOS (Mr Miles Rapoport, President)**

Mr Rapoport and the Committee considered a number of issues relating to political finance in the United States and Australia. Topics included:

- a) 'Access purchasing' was seen as a major issue by Mr Rapoport. It was suggested that the practice was common in the United States but difficult to detect.

Mr Rapoport suggested the Committee might find it useful to consider the case of *Buckley v. Valeo*, 424 US. 1 (1976). In this case, the Supreme Court of the United States ruled that spending money on election campaigns is a constitutionally protected form of free speech.

The Committee was informed that some US states, notably Connecticut, maintain a voluntary system of campaign contribution limits.

## **UNITED KINGDOM**

### **Monday 1 September 2008**

#### **Professor Keith Ewing, Professor of Public Law, King's College, London**

Professor Ewing placed Britain's experience with political finance regulation into context. He discussed some of the contributing factors leading to calls in Britain for greater regulation of political finance, including the influence of foreign donations, the relative degree of secrecy surrounding political finance, and the general escalation in election expenses in Britain during the 1990's.

Political advertising was discussed. Professor Ewing explained that political advertising was banned from screening on United Kingdom television networks. Considering this ban, he also noted that it was most likely the case that the recent upward trend in election expenditure in Britain was the result of political parties spending money on electronic forms of advertising, and billboard advertisements. Legislation and regulation needed to account for changes in online media technologies, such as streaming internet content.

Professor Ewing discussed the role of third parties and political influence in Britain. Various political controversies were referred to, including the 2000 'Cash for Honours' affair and concerns surrounding tobacco sponsorship, the Labour Party and the CEO of Formula One Management Bernie Ecclestone in the late 1990's.

The Committee learnt that one of the key pieces of legislation relating to political donations is the *Political Parties Elections and Referendums Act 2000*. Professor Ewing outlined some of the changes enacted by the legislation to political finance regulation in

the United Kingdom, including the strengthening of the powers of the Electoral Commission.

'Point in time' disclosure systems were considered by the Committee during its meeting with the New York City Campaign Finance Board. Point in time systems allow users to input donations and contributions in real time, via a website or networked database. While acknowledging the benefits of such disclosure arrangements, Professor Ewing questioned whether real time disclosure enjoyed widespread support amongst political parties and electoral participants.

### **United Kingdom Electoral Commission (Mr Sam Younger, Chairman)**

The Electoral Commission was established in 2001 following the passing of the *Political Parties Elections and Referendums Act 2000*, which was in part informed by the findings of a report by the Committee on Standards in Public Life. The Electoral Commission has several functions, including but not limited to:

- a) advising on electoral law and practice;
- b) setting and monitoring performance standards for the administration of elections; and
- c) creating voter awareness programs directed at potentially disenfranchised voters.

Unlike Australian electoral authorities, the Electoral Commission does not have a direct operational role in the running of elections, although it has some responsibility for the administration of national referenda and decisions regarding ward boundaries with local government.

Mr Younger, Chairman, explained to the Committee that the United Kingdom had in recent years sought to control party expenditure rather than the financial contributions parties receive.

The Electoral Commission outlined some of the key features of the *Political Parties Elections and Referendums Act 2000*. The Committee was informed that the legislation aimed to achieve restrictions through strict transparency: all contributions over £5,000 to a political party centrally and over £1,000 to a local political party have to be declared with, and are then published by, the Electoral Commission.

Mr Younger mentioned the debate in the United Kingdom about the role of foreign donations in the political process.

The Electoral Commission has a range of investigatory powers and sanctions available to it. However the Committee was told that these powers were too narrowly defined, and it would be appropriate to introduce graded civil penalties for some electoral offences, given that there is little prescription in current legislation and many minor offences, which are not necessarily the result of a planned electoral offence, are punishable at present only via criminal prosecution.

## **Tuesday 2 September 2008**

### **House of Commons – Parliament and Constitution, House of Commons Library**

The Committee met with Mr Steve Priestly, Secretary to the Speaker for the Electoral Commission Committee, and Ms Oonagh Gay, Head of the Parliament and Constitution Section, Department of Information Services.

Mr Priestly, Ms Gay and the Committee discussed general attitudes to political finance regulation in the United Kingdom.

Another issue discussed was the use of the internet for political advertising. Internet advertising is new form of political communication in the United Kingdom. There are concerns that legislation has not kept pace with developments in this field of communication. Online communication was a feature of Boris Johnson's campaign for Mayor of London. Similarities were noted between the communication style of the Johnson campaign and political communication styles in the United States.

The Committee was interested to gain an appreciation of public attitudes to political donations in the United Kingdom. Ms Gay believed that there was a healthy skepticism amongst Britons in terms of perceptions about money in politics. Consequently, Ms Gay suggested it would be difficult for legislators to introduce public funding for elections in the United Kingdom, should the political impetus arise.

## **Wednesday 3 September 2008**

### **Committee on Standards in Public Life**

The Committee on Standards in Public Life was established in October 1994 by the then Prime Minister, the Rt Hon Sir John Major. It was given terms of reference to examine concerns about the standards of conduct of all public office holders. The Committee's terms of reference were extended in November 1997 by the then Prime Minister, the Rt Hon Tony Blair, to include issues in relation to the funding of political parties.

Mr Peter Hawthorne, Assistant Secretary of the Committee, drew the Committee's attention to the 2006 Phillips Report. The report was overseen by Sir Hayden Phillips and examines the case for a political donations cap in the United Kingdom.

### **Parliamentary Commissioner for Standards – Acting Commissioner, Ms Alda Barry**

The Parliamentary Commissioner for Standards' responsibilities include:

- a) overseeing the maintenance and monitoring the operation of the Register of Members' Interests;
- b) Providing advice on a confidential basis to individual Members and to the Select Committee on Standards and Privileges about the interpretation of the Code of Conduct and Guide to the Rules relating to the Conduct of Members;
- c) Preparing guidance and providing training for Members on matters of conduct, propriety and ethics;

- d) Monitoring the operation of the Code of Conduct and Guide to the Rules and, where appropriate, proposing possible modifications of it to the Committee; and
- e) Receiving and investigating complaints about Members who are allegedly in breach of the Code of Conduct and Guide to the Rules, and reporting the findings to the Committee.<sup>1</sup>

The Office of the Parliamentary Commissioner for Standards was set up by the House of Commons in 1995 as a result of recommendations made by the Committee on Standards in Public Life.<sup>2</sup>

The Commissioner is appointed by Resolution of the House of Commons and is an officer of the House. The current Commissioner, Mr John Lyon CB, commenced his appointment on 1 January 2008.<sup>3</sup>

The Office of the Parliamentary Commissioner for Standards is wholly funded by the House of Commons.<sup>4</sup>

Ms Barry provided the Committee with some background information about the Register of Members' Interests. In the United Kingdom during the 1940's and 1950's, it was common for members of parliament to keep a second job outside their parliamentary duties. Employment of this nature was not restricted by the Parliament and the Register was designed to capture as much of this activity as possible. The Register is not an assets register. It is not designed to report on what a member owns.

Other topics addressed included on disclosure requirements for campaign donations, members' entitlements and potential directions for legislative change in relation to political finance in the United Kingdom.

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<sup>1</sup> Parliamentary Commissioner for Standards. Retrieved February 18, 2009, from [http://www.parliament.uk/about\\_commons/pcfs.cfm](http://www.parliament.uk/about_commons/pcfs.cfm)

<sup>2</sup> Parliamentary Commissioner for Standards. Retrieved February 18, 2009, from [http://www.parliament.uk/about\\_commons/pcfs.cfm](http://www.parliament.uk/about_commons/pcfs.cfm)

<sup>3</sup> Parliamentary Commissioner for Standards. Retrieved February 18, 2009, from [http://www.parliament.uk/about\\_commons/pcfs.cfm](http://www.parliament.uk/about_commons/pcfs.cfm)

<sup>4</sup> Parliamentary Commissioner for Standards. Retrieved February 18, 2009, from [http://www.parliament.uk/about\\_commons/pcfs.cfm](http://www.parliament.uk/about_commons/pcfs.cfm)