MONASH University

Monash Governance Research Unit

SUBMISSION TO THE ELECTORAL MATTERS COMMITTEE

INQUIRY INTO THE CONDUCT OF THE 2010 VICTORIAN STATE ELECTION AND MATTERS RELATED THERETO.

by KEN COGHILL

BIOGRAPHY

KEN COGHILL

Associate Professor the Hon Dr Ken Coghill was born at Mansfield in 1944, qualified as a veterinary surgeon, worked as a Victorian public servant, and served as a Wodonga Councillor, a Member of the Victorian Parliament (1979-96), Cabinet Secretary (1982-88) and Parliamentary Speaker (1988-92). He joined Monash University in 1996, where he has teaches Governance to mid-career Masters degree students and supervises PhD research students studying diverse aspects of governance.

Associate Professor Coghill is Director, Monash Governance Research Unit, where he directs and undertakes research on Integrated Governance, that is, the dynamic, evolving inter-relationships of the public, corporate and civil society sectors as they affect the governance of nation-states.

He leads an international research team of investigating professional development programs for parliamentarians.

He has written extensively on Australian Commonwealth, State and Territory government accountability and parliamentary reform and given evidence to a number of Commonwealth and State parliamentary committee and other inquiries.

Associate Professor Coghill is a founding member of the Accountability Round Table (ART) (http://www.accountabilityrt.org/), the principle aim of which is:

Keeping Governments and Parliaments in Australia Open, Honest and Accountable.

In accordance with that aim, ART has made a number of submissions advocating reforms of aspects of the electoral system.

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SUBMISSION

The committee has invited me to provide my thoughts about electoral administration in general in Victoria, as well as any other issues relevant to draw to its attention. For instance, the Committee is interested in travelling overseas in 2012 and would be interested to learn about work on the parliamentary careers project (AusAid and the IPU).

Overview

This submission comments on three matters:

- parliamentary research conducted by the team based at Monash University;
- aspects of equity in voting raised in a number of submissions; and,
- the integrity of the electoral process as affected by campaign funding and expenditure.

Parliamentary research

The parliamentary research conducted by the team that I lead is the world leader in research and expertise in the professional development (also referred to as capacity building or training) for members of parliament. The current project investigates needs (knowledge, skills and abilities), the nature and content of induction and other formal and informal programs, and the effects of programs, in national parliaments representative of constitutional models (e.g. parliamentary; executive presidential), geographical region, duration of democracy. Parliamentarians, parliamentary officers and other training providers have been interviewed in 15 parliaments and surveys of parliamentarians and officers conducted in over 50 parliamentary chambers. As part of the project, five Pacific region parliaments are being studied for a PhD thesis by a scholarship awardee. The three-year project is funded by the Australian Research Council, AusAID and the Inter-Parliamentary Union.

Preliminary findings will be reported at a conference in October 2011 (Bern, Switzerland) and final reports published in late 2012 and 2013. The reports are expected to show wide variations in duration, content and learning techniques. Australia emerges as having some of the better developed programs but even so, there are major differences between the House of Representatives and the Senate. A theme emerging internationally is divergent views on whether programs should address ethics in any way.

A handbook for the design, implementation and evaluation of induction and other programs for parliamentarians is planned.

Our team also studied and evaluated the programs for Victorian local government councillors following the 2008 municipal elections. These programs were funded by Local Government Victoria and delivered by the Municipal Association of Victoria and the Victorian Local Governance Association.

I would be pleased to answer questions on any aspect of our research program.

Disability and democratic rights

- The submissions to this inquiry by Vision Australia, the Physical Disability Council Victoria, disAbility connections (victoria), People with Multiple Sclerosis and Ray Jordan, have called for polling sites and voting to operate so as to reduce inequities in the opportunities for voters with disabilities to cast, secret, independent votes. Accordingly,
    - places should be selected on bases which include conformity with the general requirement that "all buildings that service the public are required to have disabled access"[1] e.g. fully wheelchair accessible (FWA)
    - further provision should be made for vision-impaired voters. In particular Vision Australia draws attention to iVote developed in NSW:

> A Remote Electronic Voting System … introduced for the (NSW) election in March 2011.
>
> … the original impetus was to enable electors who are blind or have low vision to cast an independent vote, the legislation subsequently introduced has broadened those eligible to use the iVote option to electors who are illiterate, or have other disabilities, live more than 20km from a polling place or will be interstate or overseas on election day.[2]

- Hanover Welfare Services have drawn attention to other factors which limit citizens who as are homeless in the exercise of their democratic rights.
- It is a basic right of citizens to freely and independently cast their votes for the candidates of their choice. It is clear from a number of submissions that some citizens do not enjoy that right due their disabilities and that right is restricted by limited access. The limited access to some polling places is in apparent breach of Victorian Government policy and possibly Victorian law. It is clearly unacceptable that some Victorian voters are restricted n their opportunities to exercise a basic right of citizenship.
- **Recommendation:** that the Committee recommend that all polling place be required to have disabled access
- **Recommendation:** that the Committee examine iVote, its use in 2011 and the potential use of similar provision in Victoria.

[1] E.g. see: *Disability and access* retrieved 23 August from http://www.studymelbourne.vic.gov.au/living_in_melbourne/support-services/disability-and-access
[2] *iVote* Retrieved 23 August 2011 from http://www.elections.nsw.gov.au/voting/ivote

Integrity, campaign fund-raising and expenditure[3]

Introduction

> "Electoral funding may be inextricably linked to participatory democracy yet it can so easily be construed as a vehicle for both good and evil. Old sayings like, "he who plays the piper calls the tune" rings in ones' ears but if contributions to political parties are spontaneously given as a true reflection of popular opinion then the electoral outcome that follows such opinion can be seen as an honest and viable action. But the latter is to see the world through the brightest and clearest of spectacles. More often in our modern world we view it through a glass darkly, unable to readily see the shifty eyed intention of many a large donor."[4]

In addition

> "Participatory democracy is a constantly changing dynamic. There is never a lasting or perfect solution. The ever fertile human brain will seek to turn to advantage whatever system we put in place and in terms of political honesty the current love affair with marketing as the be all and end all of selling the political product has moved the funding of campaigns into dangerous territory."[5]

It must also be faced that the present system provides real opportunities for corruption and the temptation to corrupt.

> "The process creates a situation where persons who wish to engage in corrupt behaviour are given every opportunity, and the political party concerned becomes indebted to the people who made donations."[6]

Public Funding –election campaigns

The starting premise is that the cost of election campaigns should be borne entirely by the State.

Considerable public funding is already provided both directly[7] and indirectly[8], the latter through the allowing of tax deductibility for donations. The amount that has been allowed for such deductions per annum should be established by the Committee. Another matter that we submit the Committee should investigate and establish is whether tax deductions are claimed and allowed for money paid to attend functions to meet ministers and shadow ministers on the basis that they are business expenses and, if so, the amounts claimed and allowed per annum..

The following additional points are made in support of this argument:

- the purpose of election campaigning should be to enable voters to go to the ballot box with a reasonably informed view of how they want to cast their vote rather than to sell the political party or candidate.

- as election campaign expenditure has grown, so too has the time that has to be spent raising money by those we elect to govern for us. Such time would be better spent considering the complex policy issues that we face.

- the majority of privately funded donations, whether from corporations or individuals, are a cost borne by the consumer, and one which, in the case of corporations and trade unions, may not necessarily be in accord with the wishes of the ultimate source.

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[3] This part of the Submission is adapted from submissions by ART to the (Commonwealth) Joint Standing Committee on Electoral Matters Inquiry into the funding of political parties and election campaigns and my evidence to a related Public Hearing.

[4] Accountability Round Table 2009 submission to the federal government on its Electoral Reform Green paper.

[5] Ibid.

[6] Tim Smith, *Corruption*, The Australian Collaboration, 2010, 46.

7 In 2007, $40m – Tham, Joo-Cheong (2010) Money and Politics; The Democracy we can't afford, 128

8 In 2008, $10m per annum – Tham, Joo- Cheong, op.cit, 138

- advertising expenditure by incumbent governments should be subject to rigorous guidelines based on the following principles:
  - material should be relevant to government responsibilities;
  - material should be presented in an objective, fair and accessible manner; and
  - material should not be directed at promoting party political interests.[9]
- more rigorous standards and monitoring of advertising expenditure by incumbent governments would also release funds for public funding.

The level of private funding from the business community for particular parties has varied according to the views held as to who is most likely to win the forthcoming election. This can be grossly advantageous to the party which is thought likely to win the election and grossly disadvantageous to all the other parties. As to the level of funding, the following should apply:

a) The level of funding should be sufficient to ensure that parties and candidates can communicate adequately with the voting public. There is no reason to think that current levels of aggregate expenditure resulting from public and private funding are anything but excessive;

b) In addition to funding advertising, public funding should cover other campaign expenditure such as campaign rooms, preparation of advertising material, pre-poll and postal vote canvassing, and like matters;

c) There is no reasonable democratic basis for restricting public funding to parties or candidates by reference to the percentage of the vote received. Major parties which achieve a strong electoral would receive disproportionate funding which has the effect of giving the incumbent government parties an unfair advantage at the following election. That anomaly could be addressed by placing a ceiling on the amount received such that the governing party or coalition should not receive more than the Opposition party or coalition e.g. an average of the total entitlements (per vote) that each of the Government and Opposition parties would otherwise receive.

To effectively achieve fairness in the electoral system, limits on campaign contributions should be complemented by limitations on expenditure by or on behalf of candidates and political parties. Accordingly:

d) Campaign expenditure should be capped to correspond to the level of public funding to which a candidate or party is entitled.

To complement the limitations on private donations:

e) conditions should be introduced into broadcasting licences to require that party campaign information be broadcast as community service announcements.

As to timing, public funding should be provided from the dissolution of the Parliament. See generally the Canadian model.[10]

Private Funding

If private funding is to be permitted, it should be limited to membership dues and donations in all forms by natural persons totalling not more than $1,000 per person in each calendar year to each registered party and candidate. Reference should be made to the Canadian model (see Table 1.1 last page).[11] Such funds could be applied to a variety of purposes, for example, administration,

[9] Tham, Joo-Cheong (2010) *Money and Politics: The democracy we can't afford*

[10] For the details of the Canadian scheme see Sebastian Spano, *Political Financing*, http://www.parl.gc.ca/information/library/PRBpubs/prb0750-e.htm. See also Young, L and Jansen, HJ, EDS (2011) Money, Politics and Democracy, assessing the impact of Canada's Party Finance Reforms. Vancouver.ubc Press.

[11] above

research, training of candidates and so on during the period between elections but not during the three months immediately prior to the general election.

Any such scheme must be transparent. This requires timely disclosure of donations. With modern technology, disclosure within one working day is simple and should be required. Also critical is the level at which disclosure is required. The recipient or the recipient's agent[12] should be required to disclose any donation or commitment over $200[13] and its original source. Electronic lodgement of the information and verification of it should be mandatory and facilitated. Any donations exceeding a total of $1000 in a financial year should be forfeited to the Crown.[14]

In addition, the current practice of raising funds, often substantial, by offering access to members of parliament at functions, particularly ministers and shadow ministers provides opportunities for corruption, damages the reputation of all politicians, and confidence in our democratic system. It gives unequal access to politicians based on the ability to pay for it.

Is it a Crime?

The practice of holding "fundraisers" by political parties was discussed in a paper "When public and private interests clashed"[15] presented by the former Queensland Integrity Commissioner, Mr. Gary Crooke QC, at the 2009 Australian Public Service Anti-Corruption Conference. He comments[16]

> "Those elected to, or appointed, to high public office are no more and no less trustees of the capital which they hold for use and benefit of the Community. In no way, is it within their remit as a trustee to do things other than for the public good and, in particular, they should never make use of capital for their own interest"

After referring to the rejection of the argument by those involved in fund raising as beneficiaries that any such process "could affect proper and ethical decision-making in public administration" he went on,[17]

> "But, what of informed public perception of this process? Is there a perception that those in business, whether privately, or whether corporately and responsible to shareholders, are going to pay a significant amount to attend a particular function for no expected return? "Nothing is for nothing" as Gordon Nutall famously said in the witness box.
>
> What, for example, of the developer who pays $3000 for a seated next to a Minister responsible for making a decision about a contentious project in which the guest is involved? What of those objectors or other members of the Community who are interested in the outcome of the decision? Are they being perceived to be fairly treated?
>
> At the bottom of all this is the misuse of capital
>
> The esteem in which the holder of a high political office is held and the power to make decisions that goes with it, are part of the capital which is the property of the Community. It is not for sale for sectional interest. A political party is a sectional interest"

Later Mr Crooke stated [18]

> " It is the unspoken creation of an expectation of preferential treatment attending this, which will result in the inevitable conclusion by informed public opinion that the activity is untoward."

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[12] Re "agent" see Electoral Act 1992 s 209 and 304

[13] This appears to be the Canadian requirement; Canada Election Act 2000 s 424 in quarterly returns filed within 30 days of the end of the period to which it relates approach and under s 451 and 453 within four months following the polling day re contributions received; see also Spano, above, p.15. For reasons above, we regard the periods specified in the Canadian legislation also as being excessive.

[14] As provided in Canada Election Act s 405(4)

[15] Third Australian Public Sector Anti-Corruption Conference (APSACC). Retrieved from www.apsac.com.au/2011conference/2009/2009papers.html , p5

[16] P5

[17] P6

[18] P7

Questions must be considered as to whether those

- who organise the occasions
- who pay the fee to attend the occasions
- to whom access is to be provided and who participate for that purpose

breach any statutes[19] or the common law?

The Crimes Act 1958 (Vic) does not appear to address such conduct.

However, the Members of Parliament (Register of Interests) Act 1978 - SECT 3 arguably does so. It provides in " PART I CODE OF CONDUCT" the following:

"3. Code of conduct for Members

(1) It is hereby declared that a Member of the Parliament is bound by the following code of conduct-

(a) Members shall-

(i) accept that their prime responsibility is to the performance of their public duty and therefore ensure that this aim is not endangered or subordinated by involvement in conflicting private interests;

(ii) ensure that their conduct as Members must not be such as to bring discredit upon the Parliament;

(b) Members shall not advance their private interests by use of confidential information gained in the performance of their public duty;

(c) a Member shall not receive any fee, payment, retainer or reward, nor shall he permit any compensation to accrue to his beneficial interest for or on account of, or as a result of the use of, his position as a Member;

(d) a Member shall make full disclosure to the Parliament of-

(i) any direct pecuniary interest that he has;

(ii) the name of any trade or professional organization of which he is a member which has an interest;

(iii) any other material interest whether of a pecuniary nature or not that he has- in or in relation to any matter upon which he speaks in the Parliament;

(e) a Member who is a Minister shall ensure that no conflict exists, or appears to exist, between his public duty and his private interests;

(f) a Member who is a Minister is expected to devote his time and his talents to the carrying out of his public duties.

(2) Without limiting the generality of the foregoing in the application and interpretation of the code regard shall be had to the recommendation of the Joint Select Committee of the Victorian Parliament appointed pursuant to The Constitution Act Amendment (Qualifications Joint Select Committee) Act 1973 presented to the Legislative Assembly on the 23rd day of April, 1974 (D.14/1973-74) contained in paragraph 12 of that report.

[19] As to the Commonwealth position, see the ART Supplementary Submission to the JSCEM (Parliament of Australia)

The question of Sanctions for breach is dealt with in Part 111 as follows

"Failure to comply with Act

9. Failure to comply with Act

Any wilful contravention of any of the requirements of this Act by any person shall be a contempt of the Parliament and may be dealt with accordingly and in addition to any other punishment that may be awarded by either House of the Parliament for a contempt of the House of which the Member is a Member the House may impose a fine upon the Member of such amount not exceeding $2000 as it determines."

The practice of holding funds-for-access functions involves members of parliament agreeing to make themselves available to their parties for meetings with members of the community. Because of the payments made for their parties' benefit, the members of parliament involved give priority to those who make the payments over other members of the community in their important duty of receiving and considering their representations.

It is arguable that this constitutes members of parliament permitting compensation to accrue to their beneficial interests as members of the party that receives the compensation as a result of the use of their position as members of parliament (s3(1)(c)). There may also be a question of -potential breach of s 3(1)(a).

The enforcement of the above provisions is in the hands of the Parliament not the courts. Research has not identified any other statutory provisions that are relevant. Accepting that is the case, the question that remains is whether such conduct may constitute a breach of a common law offence.

At common law, the offence of bribery of public officers may be described as follows:

> " Bribery is the receiving or offering any undue reward by or to any person whatsoever, in a public office, in order to influence his behaviour in office, and incline him to act contrary to the known rules of honesty and integrity .....
> It is an indictable misdemeanour at common law to bribe or attempt to bribe any person holding public office, and for any person in an official position corruptly to use the power or interests of his position for the rewards or promises".[20]

The statement of the common law elements of the offence are arguably applicable to the typical situation described above. In substance the practice involves the offering and acceptance of indirect rewards to and by public officials, the members of parliament, on the basis of which those public officials will give priority to the donors over other members of the community in performing their duty of receiving and considering their representations.

There may be scope for legal argument. This is unsatisfactory. Any uncertainty should be removed by legislating to make the practice illegal.

[20] Russell on Crime, 12th edition, 381and authorities there cited

If, however, this practice is not illegal or made illegal, it is critical to ensure that there be complete and prompt disclosure of each transaction. Although sums received by political parties in Victoria must be reported pursuant to *Commonwealth Electoral Act 1918* s 314AB and the Victorian Act requires those reports to be provided to the Victorian Commissioner, it is understood that disclosure is not required[21] of details of monies received by political parties in return for access to their members of parliament, in particular, ministers and shadow ministers. That result appears to arise from the definition of the term "gift" in the *Commonwealth Electoral Act 1918*, s 287 which provides, so far as is relevant, that

> "***"gift"*** means any disposition of property[22] made by a person to another person, otherwise than by will, being a disposition made without consideration in money or money's worth or with inadequate consideration, and includes the provision of a service (other than volunteer labour) for no consideration or for inadequate consideration, …"

Giving access is regarded as providing adequate consideration for the payment for access. As a result, details of such payments do not have to be disclosed.

Payments for access are already a significant source of funding for political parties.[23] Full details should be promptly disclosed. If more rigorous disclosure rules are to be applied to other sources of funding but not payments-for-access, that source is likely to become an increasingly popular way to seek and receive funding -- particularly for large amounts.

There is no obvious reason why such payments should be excluded from a statutory disclosure scheme. They are included under the New South Wales legislation and the principal method employed there might be used under the Victorian system. The *Election Funding and Disclosures Act 1981* (NSW) provides in s 85(2):

> "(2) An amount paid by a person as a contribution, entry fee or other payment to entitle that or any other person to participate in or otherwise obtain any benefit from a fund-raising venture or function (being an amount that forms part of the proceeds of the venture or function) is taken to be a gift for the purposes of this section."

It would also be necessary, however, to review the provisions of the legislation, to ensure that they will require disclosure of the original sources and sums of moneys received for such purposes by "associated entities" [24] or any other person or body that has raised funds for the ultimate benefit of candidates and parties.

The Duties and obligations of Ministers

As our elected representatives in a representative democracy, entrusted with power to be exercised on our behalf, it may be said that Ministers are expected to provide access to any person wishing to make representations to them on the bases of criteria other than whether or not money was paid for that access. In particular fairness is required. It may also be said that, with the reputation of our parliamentary democracy entrusted to them, they are under an obligation to avoid creating the impression that their decision-making can be, and/or has been, influenced by financial inducement. The provisions of the former Brumby Government's draft Victorian Ministerial Code of Conduct support those propositions (as indeed does the Prime Minister' Ministerial Code).

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[21] Australian Electoral Commission, Submission to the Joint Standing Committee on Electoral Matters Inquiry into Electoral Funding and Disclosure, October 2000, para 8.4; http://www.aec.gov.au/pdf/committee/jscem/funding_disclosure/sub7.pdf; see also the Submission of Joo-Cheong Tham and Graeme Orr, Part 111, http://www.aph.gov.au/house/committee/em/donations/subs/sub5.pdf.

[22] Includes payments

[23] See examples including individual sums of the order of $50,000 referred to provided in Joo-Cheong Tham, Money and Politics; The Democracy We can't Afford, UNSW Press, 2010, 81-

[24] Note that on the Electoral Commission's website, in the Record of receipts and payments included for 2008-9, there is the report of an "associated entity" of the ALP, "Progressive Business". It organises fund raising events of the type in question. The report shows receipts by it of $1.6 m but does not provide details of those receipts.

The Brumby Government's draft Code commences with a Statement of Values which states that

> "01 The values required of Ministers in the Westminster system of government reflect the fact that, as holders of public office, Ministers are entrusted with considerable privilege and wide discretionary power.
>
> 02 In recognition that public office is a public trust, therefore, the people of Victoria are entitled to expect that, as a matter of principle, Ministers will act with due regard for integrity, fairness, accountability, responsibility, and the public interest, as required by this Statement of Values (Statement) and the attached Code of Conduct (Code).
>
> 03 Ministers should demonstrate the following values in carrying out their public duties:
>
> i Ministers must ensure that they act with integrity – that is, through the lawful and disinterested exercise of the statutory and other powers available to their office, appropriate use of the resources available to their office for public purposes, in a manner which is appropriate to the responsibilities of the Minister.
>
> ii Ministers must observe fairness in making official decisions – that is, to act honestly and reasonably, with consultation as appropriate to the matter
>
> at issue, taking proper account of the merits of the matter, and giving due consideration to the rights and interests of the persons involved, and the interests of Victoria.
>
> iii Ministers must accept accountability for the exercise of the powers and functions of their office – that is, to ensure that their conduct, representations and decisions as Ministers are open to public scrutiny and explanation.
>
> iv Ministers must accept the full implications of the principle of ministerial responsibility. They will be required to answer for the consequences of their decisions and actions – that is, they must ensure that:
>
> › their conduct in office is, in fact and in appearance, in accordance with this Statement; and
>
> › they promote the observance of this Statement by leadership and example in the public bodies for which they are responsible.
>
> 04 When taking decisions in or in connection with their official capacity, Ministers must do so in terms of advancing the public interest – that is, based on their best judgment of what will advance the common good of the people of Victoria.
>
> 05 Ministers are expected to undertake whatever actions may be considered by the Premier to be reasonable in the circumstances to meet the general obligations set out above.
>
> 06 This Statement summarises behaviours that Ministers should seek to embody and promote."

The Code then goes on to spell out specific requirements including the following:

> **Integrity**
>
> "2.1 Ministers must not use public office for private gain. In particular, Ministers must not use any information that they gain in the course of their official duties to provide personal gain or personal benefit for any individual, enterprise or group (outside of their status as a member of the public or a section of the public)."

In this context, "any … enterprise or group" clearly includes a political party or related entity.

As suggested above and on this analysis, raising funds on the basis of providing access to members of Parliament may be found to be contrary to law. Alternatively, if that is not correct, there is a

significant gap in the law which needs to be addressed directly because of the serious threats posed to our democratic system and the proper administration of government. But such a course of action will not of itself be enough to stop the practice (or variations on it) so long as the present political funding approach continues. So long as political parties and candidates are engaged in the so-called "arms race" and, to remain competitive, have to use every advantage and opportunity they may have to raise the funds needed to do so, politicians and political parties will look for ways and means around the legislation. The only permanent solution is to remove both the pressures and the incentives.

Regulatory Models

The New South Wales provisions for the regulation of political party fund-raising and expenditure represents current best practice in Australia, and offers the best opportunity of achieving a uniform national approach pending action by the Commonwealth. However, even the New South Wales approach falls short of the standards set by Canada.

Details of the Canadian provisions are outlined in Young & Jansen 2011. Table 1.1 on the last page shows a summary of these provisions.[25] This indicates that the Canadian regulatory regime includes allowances that do not exist under the Australian regime. The quarterly allowances paid to political parties are among these.

The Canadian Governor-General indicated in the Throne Speech at the Official Opening of Parliament following the recent (2011) election that:

> Our Government will reintroduce legislation to restore fair representation in the House of Commons. It will take steps to phase out direct taxpayer subsidies to federal political parties over the next three years.[26]

In the Budget speech on the following Monday, 6th June 2011, Finance Minister Jim Flaherty announced that the Government "will gradually phase out the quarterly allowances for political parties".[27, 28]

It was also reported that the "$2.04 yearly allowance that parties get for each vote they received in the previous federal election will be cut by $0.51 a year until the subsidy is completely gone in 2015-16."[29] Annual allowances are paid in quarterly instalments,[30] hence the Minister's reference to quarterly allowances.

No indication has been found on the public record that the Canadian Government proposes to amend any other provisions of the electoral regulatory regime affecting the funding of political parties and election campaigns. Accordingly, it appears that the main features of the Canadian regime are entrenched and will remain in operation.

Continuous Disclosure

The extra-ordinary delays in the publication of sources of funds received by candidates and political parties make a mockery of the purpose of disclosure. Donations which voters may perceive as reflecting adversely on the recipients are unknown to voters until many months after they have cast their votes.

Continuous disclosure is now technically simple and can be undertaken efficiently. As indicated in the ART submission to the JSCEM, which pointed out that the Deputy Director of the Liberal Party

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[25] Young, L. and H. Jansen, Eds. (2011). *Money, Politics, and Democracy*. Vancouver, ubcpress, p.6

[26] Throne Speech (2011) Retrieved 19 August 2011 from 3rd June 2011 <http://www.speech.gc.ca/eng/media.asp?id=1390 >

[27] Flaherty, J (2011) Retrieved 19 August 2011 from http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=5081248&Language=E&Mode=1&Parl=41&Ses=1 > at (1610)

[28] Canada, Government of (2011) Updates to Budget 2011. Retrieved 19 August 2011 from http://www.budget.gc.ca/2011/plan/chap5-eng.html

[29] National Post (2011) Retrieved 19 August from < http://news.nationalpost.com/2011/06/06/budget-brings-end-to-federal-party-subsidies/ >

[30] Elections Canada (2011) Information Sheet 8. Annual Allowances for Political Parties. Retrieved 19 August 2011 from http://www.elections.ca/res/loi/inf/fs08_e.pdf

New South Wales branch Richard Shields, has indicated that full details of the receipt of any private funding could be readily disclosed within two working days of receipt. The explanation is that political parties are required to undertake exactly that sort of record keeping and monitoring for their own internal purposes to ensure compliance with the provisions of the New South Wales legislation on disclosure of donations and expenditure of funds.[31]

Proposals

Recommendations: that the Committee

1. Establish and report on the precise levels of direct and indirect *(e.g. tax concessions for donations or contributions to political parties and candidates)* public funding of political parties.

2. Consider, and make recommendations on, the application of the Canadian model of public and private funding of political parties

3. Include in its recommendations the following,
    a) A requirement that full details of the receipt of any private funding be disclosed within 2 working days of receipt,
    b) A ban on the soliciting and/or the payment of money or other benefits for access to members of the Parliament.

I hope these comments assist your Committee in its deliberations.

Ken Coghill

23 August 2011.

[31] Coghill, Ken (2011) Evidence given to the Joint Standing Committee on Electoral Matters, 10 August, p.1

TABLE 1.1

Summary of regulation of party and election finance in Canada

Transparency

- Reporting names of all contributors over $200, including contributions to nomination and leadership contestants
- Reporting party, candidate, nomination candidate, and leadership candidate election expenses
- Reporting contributions to registered third parties
- Reporting expenditures by registered third parties
- Reporting assets held by electoral district associations

Spending limits

- Candidates' election expenses (based on number of electors in district)
- Registered political parties' election expenses (based on number of candidates running for party)
- Registered third-party election expenses ($3,666 in an electoral district; $183,300 nationally)
- Candidate nomination expenses (20% of election spending limit for electoral district)

Public funding

- Political Contribution Tax Credit (75% credit on contributions up to $400, sliding scale on larger contributions)
- Election expense reimbursements:
- 60% for candidates winning at least 10% of popular vote
- 50% for registered parties (winning 2% of national popular vote or 5% of vote in districts where the party ran candidates)
- Per-vote quarterly allowance to registered political parties winning 2% of national popular vote or 5% of vote in districts where the party ran candidates

Contribution limits

- Only Canadian citizens/permanent residents can make political contributions, in the following amounts:
- Maximum $1,100/annum to each registered party
- Maximum $1,100/annum in total to various entities of each party (registered association, nomination contestants, candidates)
- Maximum $1,100/annum to each independent candidate in a particular election
- Maximum $1,100 in total to leadership contestants in a particular leadership contest

Note: All dollar amounts are indexed to inflation; they are adjusted annually.

Source: Young, L. and H. Jansen, Eds. (2011). Money, Politics, and Democracy. Vancouver, ubcpress, p.6