

The Honourable Lionel Fernandez-Mendez, Senator
 The Honourable Angeles Mendoza de Ortiz, Senator
 The Honourable Ernesto Mieries-Calimano, General
 Superintendent of the Board of Elections
 Mr. Luis Colon, employee of the Senate of Puerto
 Rico
 Mr. Luis Sanchez-Cappa, representing the newspaper
 "El Mundo"
 Professor Donald G. Herzberg, Director, Eagleton
 Institute

Your Committee is grateful to Mr. David B. Greenspan, legal counsel, Jean-Marc Hamel, Chief Electoral Officer, and to all others who assisted the Committee in the preparation of this report.

RECOMMENDATIONS

Your Committee recommends that the Government of Canada consider incorporating the following proposals in a bill to be presented for consideration of the House at the earliest possible date.

PART I. FORM OF LEGISLATION

RECOMMENDATION 1

Rather than recommending the passing of a separate Act under the name of the Election and Political Finances Act as suggested by the Barbeau Committee on pages 57 and 58, we recommend that all the Committee's recommendations be implemented by amendments to the Canada Elections Act, which amendments could replace present sections 62 and 63, with such other consequential amendments to other sections and other acts as may be necessary.

COMMENT

(a) The two subjects, namely the conduct of elections, and the expenses of elections, are like the lyrics and music of a song, inseparable and inextricably intermingled.

(b) A second Act would have to incorporate many of the existing provisions of the Canada Elections Act, either by reference or by a repetition thereof. Legislation by reference has been condemned by the judiciary and complicates both administration and comprehension.

(c) Under the Barbeau scheme with two Acts, one creating a Chief Electoral Officer and the other a Registrar of Election and Political Finances, each official would in the first instance be constrained from acting exclusively on his own but would have to refer to the other; this would be a disadvantage in itself, without more. Further, notwithstanding their desire to co-operate, a genuine and intractable conflict of opinion could arise (for example, over the appropriateness of a new party's name; or over the question of whether a small new party one of whose candidates dies later than 28 days prior to election day, leaving it with less than 50 candidates in the

field, is still a valid registered party); but in the absence of a higher authority, how would these conflicts of opinion be resolved?

(d) In addition to being a manual of procedure and a guide to politicians, the Canada Elections Act is also an educational vehicle in that it is widely distributed to students throughout the country. It is less difficult for them to receive and to study one Act than two.

(e) The Canada Elections Act already requires the party to register with the Chief Electoral Officer. A new Registrar of Election and Political Finances would of course have to require the parties to register with him also. He would of necessity require separate forms. The cumbersomeness of parties registering twice (and perhaps on different forms with different requirements) could cause both administrative chaos and political criticism.

(f) We have considered, and have rejected, the alternative of placing these changes in a separate schedule to the Canada Elections Act. The existing schedules to the Canada Elections Act govern voting procedures for well identified, small groups of electors. The control of election expenses, in contrast, is envisaged as an integral part of the general electoral process.

PART II. RECOGNITION OF PARTIES

RECOMMENDATION 2

We recommend that registration with the Chief Electoral Officer, as already required under Section 13 of the Canada Elections Act, be a prerequisite before any political party be allowed to incur election expenses and that the said Act be amended to provide accordingly.

COMMENT

(a) The present position is:

(i) The deadline for registration for all parties is seven weeks prior to election day, i.e., by enumeration day. Parties which fail to register before the election is called therefore have approximately ten days to register, which period ends on the 49th day.

(ii) All new parties (i.e., parties not now represented in the House of Commons by twelve members or more) must have 50 candidates officially nominated by the 28th day prior to election day (i.e., the nomination deadline for candidates in Schedule III districts); otherwise the Chief Electoral Officer *may* delete that party from the registry.

(b) The purpose of this legislative provision is simply to allow the use by candidates of their respective party's name on ballot papers and election documents. Under Section 13(4) of the Act, the Chief Electoral Officer is authorized to refuse recognition of a new party seeking registration under a name similar to that of an existing party.