



Opening Statement before the House of Commons Standing Committee on Procedure and House Affairs during its Study of Bill C-50

Mary Dawson – Conflict of Interest and Ethics Commissioner

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Mr. Chair and members of the Committee, thank you for inviting me to appear before you today as the Committee studies Bill C-50 amending the *Canada Elections Act* in relation to political financing.

I am accompanied by Martine Richard, General Counsel.

Bill C-50 amends the *Canada Elections Act* to create an advertising and reporting regime for political fundraising events attended by ministers, party leaders or leadership contestants, where the cost to participate is more than \$200. The aim is to increase transparency about who is attending such events.

I support the direction of this proposed legislation. As I have said on previous occasions, transparency is important for any kind of regime that touches on conflict of interest.

Bill C-50 does not amend or directly affect the regimes that I administer: the *Conflict of Interest Act* for public office holders and the *Conflict of Interest Code for Members of the House of Commons*. It does, however, apply to some individuals who are subject to those regimes.

Ministers, including the Prime Minister, are reporting public office holders under the *Conflict of Interest Act*. Leadership contestants and party leaders who are sitting MPs would also be subject to one or both of these conflict of interest regimes.

I welcome the move to make all party leaders and leadership contestants, and not just ministers, subject to the new advertising and reporting regime.

I note, however, that Bill C-50 does not cover parliamentary secretaries, who are subject to the *Conflict of Interest Act* as reporting public office holders. The Committee may wish to consider this omission.

It appears that the impetus for Bill C-50 was the high level of media attention and public concern about several so-called “cash-for-access” or “pay-to-play” fundraisers that have taken place in the past two years. These are events in which a relatively small number of attendees, in return for the price of admission, gain the opportunity to meet a featured minister or party leader. The fundraisers prompted a great many calls to my office and several requests for investigation.

The level of public interest in fundraisers involving federal politicians is particularly high at present. However, concerns about political fundraisers were also raised much earlier during my mandate as Commissioner.

In fact, the issue of political fundraising came up in three of my examination reports under the Act: *The Raitt Report* in May 2010, *The Dykstra Report* in September 2010, and *The Glover Report* in November 2014. I also addressed the matter in my submission to the parliamentary committee that conducted the five-year review of the Act, which concluded in 2014.

The *Conflict of Interest Act* contains only one provision, section 16, that directly addresses participation in fundraising activities. There is no specific mention of political fundraising in the *Conflict of Interest Code for Members of the House of Commons*.

Section 16 of the Act reads, “No public office holder shall personally solicit funds from any person or organization if it would place the public office holder in a conflict of interest.” This provision does not distinguish between political and charitable fundraising.

Two elements must exist to establish a contravention of section 16. First, a public office holder must have personally solicited funds from a person or organization or have asked someone else to do so. Second, it must be established that the personal solicitation would place the public office holder in a conflict of interest.

I should mention as well that another provision of the Act relates to political fundraising. Paragraph 11(2)(a) establishes an exception to the gift rule to allow for gifts that are permitted under the *Canada Elections Act*. As you will recall, the gift rule prohibits public office holders and their family members from accepting a gift or other advantage that might reasonably be seen to have been given to influence the public office holders in the exercise of an official power, duty or function.

Other sections of the Act, while not specifically about fundraising, could be triggered, but this could only occur at a later date, when a person who made a donation to attend a fundraiser seeks a particular outcome from a minister or member of ministerial staff. They would not arise when the fundraiser takes place or when stakeholders make the required donation.

For example, section 6 prohibits public office holders from making an official decision or participating in making such a decision if they know or should reasonably know that, in doing so, they would be in a conflict of interest.

Under section 7, the issue is not who a public office holder may speak with at a fundraising event, but whether that person is given preferential treatment after the fact. Section 7 is problematic, however, because it is so limited in scope. It does not prohibit all preferential treatment, only preferential treatment based on the identity of the person who makes the intervention.

Sections 8 and 9 prohibit public office holders from using insider information to improperly further or seek to improperly further a donor's private interests, and from seeking to influence a decision in order to do so.

I have recommended strengthening the fundraising provision of the Act on several occasions, for example, by putting in place a more stringent rule for ministers and parliamentary secretaries. I even went so far as to say in my 2012-2013 annual report that I could support an absolute prohibition on ministers and parliamentary secretaries attending fundraising events if the government wanted to go that far.

In *The Glover Report*, I recommended amending the Act to include a contravention for ministers or parliamentary secretaries who knew or should have known that funds were being solicited by their staff in circumstances that would place them in a conflict of interest and failed to take appropriate action. I have also referred on several occasions to the Prime Minister's accountability document, which has since been updated and renamed *Open and Accountable Government*. Some of its provisions could be added to the Act.

I have suggested, as well, that the House of Commons consider implementing a separate code of conduct to address the political conduct of Members and their staff, including political fundraising.

As amendments to the regimes that I administer are not the issue currently before the Committee, I mention these recommendations only as context and to establish my longstanding general position that fundraising rules should be tightened.

The amendments to the *Canada Elections Act* contained in Bill C-50 would increase transparency around fundraising events.

I believe this is a positive development that would be beneficial to our electoral process.

It would also assist in the administration of the *Conflict of Interest Act*. Ease of access to the names and addresses of attendees at a fundraising event could prove useful if my Office were to look into an allegation that a stakeholder who attended such an event subsequently received a benefit from a minister.

This ends my formal presentation. I am pleased to answer any questions that the Committee may have.