



Before the Senate Standing Committee on Legal and Constitutional Affairs during its Study of Bill C-50

Mario Dion – 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, Senior General Counsel.

Bill C-50 requires registered political parties to publicly advertise political fundraising events attended by ministers, party leaders or leadership contestants, where the cost to attend is more than \$200. They would have to publicize such “regulated fundraising events” in advance, by posting the prescribed information prominently on their websites.

The bill also creates a reporting regime. Registered political parties would be required to submit a report on any regulated fundraising event to the Chief Electoral Officer, who would then publish it. The report would identify the party leaders, interim leaders, leadership candidates or cabinet ministers who attended the event. It would also identify other attendees, as well as each person or entity that organized the event.

Bill C-50 does not directly impact the two regimes that I administer. One is the *Conflict of Interest Act* for public office holders, including ministers, parliamentary secretaries, ministerial staff and most other Governor in Council appointees. The other is the *Conflict of Interest Code for Members of the House of Commons*.

The proposed legislation does, however, apply to some individuals who are covered by those regimes. Cabinet ministers are subject to the *Conflict of Interest Act* as reporting public office holders. I would like to point out, though, that the bill does not cover parliamentary secretaries. Any leadership candidate, party leader or interim party leader who is a Member of the House of Commons is subject to the Code.

My predecessor testified before the House of Commons Standing Committee on Procedure and House Affairs during its study of Bill C-50 last October and expressed support for its direction, given that it seeks to increase transparency around political fundraising events.

I hold a similar view of the amended version of the bill that is before this Committee.

Transparency is crucial to maintaining Canadians' trust in the conduct of their elected and appointed public officials. Its importance is acknowledged in one of the principles of the *Conflict of Interest Code for Members of the House of Commons*. It states that Members are, and I quote, "expected to perform their official duties and functions and arrange their private affairs in a manner that bears the closest public scrutiny." End quote.

I believe that making party leaders, interim leaders, leadership candidates and cabinet ministers subject to an advertising and reporting regime for regulated fundraising events will contribute to transparency and trust.

Bill C-50 is timely, as public trust appears to have been eroded somewhat by several political fundraising events that received a high level of media attention in recent years. Various described as "cash-for-access" or "pay-to-play" fundraisers, they gave paying attendees the opportunity to meet featured ministers or party leaders.

My Office received complaints from many Canadians about some of those fundraisers, and several requests for investigation. We did not, however, have much scope to act.

The *Conflict of Interest Code for Members of the House of Commons* does not mention fundraising at all.

The *Conflict of Interest Act* contains only one provision that directly addresses public office holders' participation in fundraising activities, and it does not distinguish between political and charitable fundraising.

As my predecessor explained before the Commons committee in October of last year, 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."

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, as defined in section 4 of the *Conflict of Interest Act*.

Another provision of the *Conflict of Interest 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*. 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 *Conflict of Interest 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, parliamentary secretary or member of ministerial staff. They would not arise when the fundraiser takes place or when stakeholders make the required donation, but could come into play later.

For example, section 6 of the *Conflict of Interest Act* prohibits ministers, parliamentary secretaries and other 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 of the *Conflict of Interest Act*, which deals with preferential treatment, 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.

Overall, I believe Bill C-50 could have a positive impact by increasing transparency around fundraising events, which could help prevent ethical issues from arising.

It could also help our Office administer the *Conflict of Interest Act* in cases where it is alleged that a stakeholder who attended a regulated fundraising event later received a benefit from a minister featured at the event.

I will be happy to answer any questions you may have.