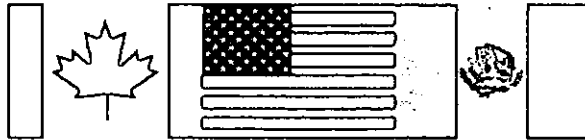


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ENFORCEMENT OF THE ACT DURING FEDERAL ELECTIONS IN CANADA:

Legislation on Elections Financing

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**THIRD ANNUAL CONFERENCE ON
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ENFORCEMENT OF THE ACT DURING FEDERAL ELECTIONS IN CANADA

Legislation on Election Financing



ELECTORAL OFFENCE

- **Authority responsible for enforcing Act**
- **Inquiry procedure**
- **Current problems**



AUTHORITY RESPONSIBLE FOR ENFORCING ACT

- **Commissioner of Canada Elections**
 - **historical background**
 - **appointment**

COMMISSIONER OF CANADA ELECTIONS

Roles and responsibilities

- compliance with Act
- enforcement of Act
- authority to conduct inquiry
- authority to institute prosecution



COMPLAINT TO COMMISSIONER

- **Within six months of offence**
- **Must be in writing**

COMPLAINT TO COMMISSIONER

- **Initiative of Commissioner**
- **Role of Chief Electoral Officer**
 - auditor of candidate
 - internal audit

INQUIRY PROCEDURE

- **Special investigators**
- **Royal Canadian Mounted Police**

ELECTORAL OFFENCES

3 types

- **Simple offence**
- **Illegal practice**
- **Corrupt practice**

SIMPLE OFFENCE

Punishment

- unless otherwise indicated
 - fine not exceeding \$5,000
 - imprisonment for term not exceeding 5 years
 - loss of right to act as election officer

SIMPLE OFFENCE

Example

- **Failure of chief agent of political party to transmit return (maximum fine of \$25,000)**

ILLEGAL PRACTICE

Punishment

- unless otherwise indicated:
 - fine not exceeding \$5,000
 - imprisonment for term not exceeding 5 years
 - loss of right to act as election officer

ILLEGAL PRACTICE

Loss of right

- to be elected
- to sit in House of Commons

ILLEGAL PRACTICE

Loss of right

- to vote in election
- to hold any Cabinet-appointed office for 5 years

ILLEGAL PRACTICE

Example

- **candidate who exceeds maximum authorized election expenses**

CORRUPT PRACTICE

Punishment

- **identical to punishment for illegal practice**
- **ineligible for 7 years**

CORRUPT PRACTICE

Example

- party that incurs expenses to promote election of particular candidate other than the leader of party

MOST COMMON OFFENCES

- **Obligation to keep separate bank accounts**
- **Exceeding maximum election expenses**

MOST COMMON OFFENCES

- **Transmission of returns**
- **Identification of advertising**

PREVENTIVE MEASURES

➤ **Training**

➤ **Publicity**

➤ **1-800-INFOVOTE**

ROLE OF JUDGES

- **Late return**
- **Changes to return**
- **Payment of expenses after submission of returns**

PROBLEMS OF CURRENT SYSTEM

- **Jurisdiction of “criminal” courts**
- **Administrative nature of offences**

PROBLEMS OF CURRENT SYSTEM

- **Unconstitutionality of certain provisions**
- **Ambiguity of certain definitions**

PROPOSED REFORM

- **Decriminalization of process**
- **Compliance agreement**
- **Compliance order**

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