

**Minutes  
Election Advisory Committee  
June 7, 2002**

10:00 a.m., June 7, 2002  
Office of the Ombudsman  
200 - 1111 Melville Street, Vancouver, British Columbia

**Attending:**

Committee members (alpha by Party):

British Columbia New Democratic Party: Russ Neely, Nicola Hill

Green Party Political Association of British Columbia: Ian Hignell

Liberal Party of British Columbia: Hector MacKay-Dunn, Kelly Riechert

Unity Party of British Columbia: Tim Bonner

**Elections BC:**

Linda M. Johnson, Deputy Chief Electoral Officer

Nola Western, CA, Director, Electoral Finance

Peter Whelan, Director, Voter Registration

Vivian Pearcy, Director, Electoral Operations

Derek Cockburn, Manager, Electoral Finance

Don Main, Recording Secretary

**Absent:** Rob Gillespie, British Columbia Marijuana Party

**Welcome and Introductions:**

Linda Johnson, Deputy Chief Electoral Officer, called the meeting to order and welcomed the members of the Committee. Ms. Johnson announced the retirement of Robert Patterson, Chief Electoral Officer and the establishment of a committee to select a new Chief Electoral Officer. The meeting agenda and a document describing the composition and role of the EAC were distributed.

**Purpose of Meeting:**

Ms. Johnson explained that the purpose of the meeting was to review and discuss 39 recommendations for amendments to the *Election Act*. The recommendations will be included in the Chief Electoral Officer's report on the 37th Provincial General Election.

**Development of Recommendations:**

Ms. Johnson stated that the recommendations were developed as a result of experiences from the 2001 General Election as well consultation with District Electoral Officers, District Registrars of Voters and political parties. We also receive comments and suggestions from the public and other clients. In addition, we monitor what is happening in other jurisdictions.

**Update on Previous Recommendations:**

The Chief Electoral Officer developed 51 recommendations after the 1996 Provincial General Election, of which one has been brought into force. In March 1999, four additional recommendations were made, two of

which have been brought into force. An outstanding recommendation from 1999, to restrict access to the Provincial Voters list for electoral purposes only, has not been included in the current list of recommendations. Elections BC is in the process of finalizing a request for legislation, which will be submitted to government in June 2002.

Mr. MacKay-Dunn asked what Elections BC's timing is for the Chief Electoral Officer's report on the 37th Provincial General Election, and asked what opportunities the Committee had to bring things forward. He also asked if the contents of Bill 59 would be discussed.

Ms. Johnson stated that consultation with the Election Advisory Committee is intended to be a two-way process. The *Election Act* requires the Chief Electoral Officer to consult with the Committee before making any recommendations for amendments to the Act, and the process is ongoing. Bill 59 was introduced at the end of the spring session and will likely be debated in the fall. It amends the *Election Act* and the *Recall and Initiative Act*. Ms. Johnson stated that consultation with the Election Advisory Committee was the final step before completing the Chief Electoral Officer's report, which is to be submitted to the Speaker in Fall 2002.

Mr. MacKay-Dunn asked if the Committee could make their own suggestions for changes to legislation and if there was any recommendation for the extending of election financing report filing deadlines.

Ms. Western stated that the Chief Electoral Officer chose recommendations based on what appeared to be most important from experiences gained through the 2001 Provincial General Election. She also stated that Elections BC has found that education is key for the financial agents and has resulted in far fewer extension requests and late filings.

Ms. Johnson stated that a number of the recommendations for discussion at this meeting are brought forward from our previous recommendations. Some of our earlier recommendations have been dropped, as more experience with the Act and improved communication and education has resulted in better compliance. There are also a number of new recommendations.

**Signage Proposal:**

**Recommendation:** During each electoral event this office receives numerous complaints from residents of rental properties and strata properties in regard to the fact that they are forbidden from displaying election advertising posters on their own premises. The *Election Act* is silent on this issue; however, the *Canada Elections Act* specifically permits such activity. With reflection on the *Canadian Charter of Rights and Freedoms*, and specifically section 2(b) as it relates to freedom of expression, consideration should be given to permitting individuals to display election advertising posters on the premises of their dwelling units.

**Discussion:**

There was no discussion on this item.

**Proposal - Section 24 - Order for a general election: and**

**Section 25 - Order for a by-election:**

**Recommendation:** Tuesday be made General Voting Day for all elections held under the *Election Act*.

In the Chief Electoral Officer's report on the 36th Provincial General Election, there was a recommendation for a fixed day of the week for General Voting Day. By an amendment to the *Constitution Act* in 2001 to establish a fixed election date, Tuesday has been established as General Voting Day for the next general election. For consistency, it would be desirable to establish that General Voting Day for all elections be a Tuesday.

**Discussion:**

There were no comments regarding this recommendation.

**Proposal - Section 27 - General voting day:**

**Recommendation: Provision should be made that children will not be in attendance at school on General Voting Day for a general election. The example of Quebec may be followed or General Voting Day could be designated as either an "administrative day" or a "non-instructional day" as defined in the School Calendar Regulation.**

A Tuesday voting day presents a major concern for children's safety. The most accessible, convenient, and well-known locations for voting places are public schools, but using these facilities creates potential risk to students' safety. These safety concerns continue to be raised with this office by parents and school administrators. The best option would be to not have students in attendance at school on General Voting Day. In the province of Quebec, General Voting Day has been declared "a holiday for pupils in every school of a school board situated in an electoral district in which an election is held" [section 306, Quebec *Election Act*]. This solution has worked extremely well.

**Discussion:**

Mr. MacKay-Dunn questioned if this provision is just in Quebec and stated his concern about parent hardship with more daycare costs. He also questioned that if there hasn't been a problem reported, was there a need to institute the provision. He believes that the electoral process is more of a "civics class" for children to learn about the electoral process.

Ms. Johnson agreed that it provided an educational opportunity. She also stated that now that there is prior knowledge of the election date, it could be combined with the professional day planning for the school year. Ms. Johnson also stated that complaints have come from parents about the security of their children.

Mr. Bonner stated that he had no problem with the provision if the recommendation for a reduction to 3 hours off for voting was brought into force.

Mr. MacKay-Dunn asked that it be noted that the Committee should show caution about this recommendation.

Mr. Hignell supported the recommendation if it is combined as a professional day for teachers.

Ms. Johnson noted that the recommendation could be built into the *School Act*, and that it could be limited to general elections.

Mr. Neely supported the recommendation, if included as a professional day rather than adding an additional non-instructional day, but stated that by-elections should be dealt with separately.

**Proposal - Section 31 - Who may register:**

**Recommendation: Permit the provisional voter registration of 16 year olds.**

At less than 30% of those eligible, voter registration by voters 18 - 24 years of age is the lowest of all age groups. Many theories have been put forward for the lack of participation by this age group, but once registered, the youth segment turn out to vote at the same rate as the rest of the voter population. The challenge is to get youth registered. The most effective means of registering youth is to approach them in high school. Currently, voter registration is restricted to those at least 18 years of age; an age when many youth have left high school. Australia has addressed this issue in a unique way. Its electoral legislation allows for a provisional voter registration of 17 year olds. In British Columbia, using the age of 16 would permit Elections BC to work with schools and the drivers' licensing program to ensure maximum exposure to the registration process for young voters. The voting age could continue to be 18, with provisional registration becoming active on an individual's 18th birthday.

**Discussion:**

Mr. Reichert asked how provisional registration would work on the provincial Voters List in regards to how the "under eighteens" would be listed.

Mr. Bonner had the same concern.

Ms. Johnson stated that the provisional voter registration would be held until the voter's 18th birthday.

Mr. Neely questioned if the provisional voter would be available on the Voters List.

Ms. Johnson replied that the voters would not appear on the provincial Voters List until their record was activated on their eighteenth birthday.

Mr. MacKay-Dunn remarked that he felt this recommendation was a nice idea. He added that because this age group is transient, Elections BC would not know where they are if they have just graduated from high school and may move or travel.

Ms. Johnson advised the committee that if a voter moves and changes their driver's license, Elections BC could receive the update through the Motor Voter system.

Mr. Reichert commented that if a student was attending college or university elsewhere, they would not necessarily apply for a new drivers license.

Ms. Johnson reminded the Committee that individuals attending an educational facility have a choice to whether to use their new address or their "home" address for voting purposes.

**Proposal - Section - 46 (2) (e) - Updating the Provincial list of voters:**

**Recommendation: Permit the Chief Electoral Officer to establish by regulation criteria by which names may be removed from the list of voters.**

As a result of Where To Vote notices returned during an election, information supplied by provincial and municipal election officials or through the Motor Voter Program, Elections BC regularly becomes aware of voters who no longer reside at the address shown on the list of voters. Section 46 requires that, before a voter's name is removed from the list of voters, a notice be mailed to these voters advising them that their name will be removed if they do not contact the Chief Electoral Officer within 60 days. This is not an effective use of resources as Elections BC knows the voter is no longer at the address on file and the notice will be returned as undeliverable. This recommendation was also in the report on the 1996 general election.

**Discussion:**

Mr. Reichert asked when the mail is returned, can the Chief Electoral Officer remove the voter from the provincial list.

Ms. Johnson replied that the *Election Act* states the voter can only be removed after a 60-day period.

Mr. MacKay-Dunn inquired what the provincial list of voters looked like these days.

Ms. Johnson stated that the 2001 General Election and the recent Referendum resulted in many updates. The list appears to be both current and accurate.

**Proposal - Section 48 - Access to lists of voters during election:**

**Recommendation: It is recommended that the reference to the District Registrar of Voters in subsection (1) be replaced with a reference to the Chief Electoral Officer.**

This section requires candidates in an election to obtain their copies of the lists of voters from their respective District Registrar of Voters. Section 22 of the Act requires that a District Registrar be an individual who is employed in the public service of the Province. For 48 electoral districts these appointments were held by our regional office managers. With the closure of our regional offices due to budget reductions, there are no longer District Registrars in the regions previously administered by these offices. That role has been transferred to headquarters in Victoria. Consequently, there will be no regional District Registrar from whom candidates will be able to obtain their lists of voters. Candidates could obtain their lists of voters from their respective District Electoral Officers if section 48 were amended to read that the Chief Electoral Officer is to provide the lists of voters, which could then be delegated to the District Electoral Officers.

**Discussion:**

There were no comments on this recommendation.

**Proposal - Section 57 - Standing nominations filed with the chief electoral officer:**

**Recommendation: Standing nomination papers of those individuals who have withdrawn or who fail to complete their filing should be retained in the office of the Chief Electoral Officer.**

The *Election Act* requires that all standing nomination papers be forwarded to the respective District Electoral Officers by the Chief Electoral Officer following the close of the standing nomination period. This includes those papers from individuals who have withdrawn their candidacy during the standing nomination period and those who failed to complete the filing required for a standing nomination. As these particular individuals are not candidates, there should not be a requirement to forward their nomination papers to District Electoral Officers. In past elections, a number of these individuals have reconsidered and decided to become candidates and have filed a second set of nomination documents directly with a District Electoral Officer. Having two sets of nomination documents for the same individual in a district electoral office has resulted in considerable confusion for all involved. Consequently, the standing nomination documentation for these individuals should be retained at the office of the Chief Electoral Officer. This recommendation was also in the report on the 1996 general election.

**Discussion:**

There were no comments regarding this recommendation.

**Proposal - Section 64 - Withdrawal of candidate:**

**Recommendation: It is recommended that the deadline for withdrawal as a candidate be changed to 48 hours before the start of Advance Voting.**

The Act permits candidates to withdraw their candidacy up to 48 hours before the start of General Voting. At the 2001 general election over 116,000 voters cast ballots in advance of General Voting Day. At the 1996 general election, over 90,000 voters voted during the Advance Voting period. Also at the 1996 election, four candidates withdrew their candidacy after the Advance Voting period. Consequently, voters were effectively disfranchised by having cast their vote for one of those candidates. This recommendation was contained in the report on the 1996 general election.

**Discussion:**

Mr. MacKay-Dunn questioned if this recommendation would change the "wasted" vote.

Ms. Johnson replied that yes, the "wasted" vote would be avoided. Ms. Johnson added that voters who use Advance Voting are doing so based on information at the close of nominations. By moving the withdrawal deadline to before the commencement of Advance voting, the 5% of voters who vote during that period would not risk having the candidate of their choice withdraw.

Mr. MacKay-Dunn asked if this would then allow the party involved to replace the candidate.

Ms. Johnson stated that the party cannot replace a candidate after the close of nominations.

**Proposal - Section 74 - Time off from work for general voting:**

**Recommendation: The number of hours free from employment in order to vote be reduced to three hours from four hours.**

The provision of four hours free from employment in order to vote on General Voting Day dates back to 1902. With modern transportation and the numerous voting opportunities that are available to all voters throughout the election period, there is no justifiable need to provide four hours for a voter to travel to a

voting location. Federal election legislation was recently amended to provide three hours, down from four hours. All other provinces and territories except for Quebec and Yukon provide three hours (except Prince Edward Island, which provides one hour). This recommendation was also in the report on the 1996 general election.

**Discussion:**

Mr. Neely stated that he does not support this recommendation. He also noted that during the federal election this was a huge problem for single parents. After leaving work, getting to daycare and commuting, the voter did not have time to vote.

Ms. Johnson replied that the federal voting places in BC close earlier than those for provincial elections and recognized that the commuting voter will always be a problem.

Mr. Neely reiterated that he was very opposed to this recommendation.

Ms. Hill added that during the last general election a bus strike made it that much more difficult for the 9-5 worker to get to the voting places.

Mr. MacKay-Dunn stated that he didn't think this recommendation was a problem.

**Proposal - Section 77 (4) - Special voting opportunities**

**[also Section 80 (4) - Voting areas]:**

**Recommendation: It is recommended that the term "special voting area" be replaced with the term "reserved voting area" to avoid confusion with "special voting."**

The term "special voting area" implies that voting is conducted on an absentee basis with ballots placed in certification envelopes when, in fact, General Voting procedures are followed with ballots placed directly into a ballot box. These voting areas are established for facilities where the voters are normally resident, such as long term care residences. Each of these voting areas is specifically identified by its physical address. The word "special" should be replaced with another term to eliminate confusion with "special voting".

**Discussion:**

There were no comments regarding this recommendation.

**Proposal - Section 86 (4) - Ballots:**

**Recommendation: In order to permit the Chief Electoral Officer to deal effectively with the ballot issue of candidates with the same name, it is recommended that the words "and the approval of those candidates" be deleted.**

Where two or more candidates in an electoral district have the same name, the Chief Electoral Officer may modify the names or include additional information in order to differentiate those candidates. However, the *Election Act* requires that all of those candidates agree with the Chief Electoral Officer's determination. If agreement is not achievable, candidates and voters will be adversely affected by confusion with the same names. This recommendation was also in the report on the 1996 general election.

**Discussion:**

Mr. MacKay-Dunn questioned if the section read "same" or "similar". He added that the section should read "same or similar" such as the *Company Act*, to differentiate between candidates, as the *Company Act* differentiates between companies.

Ms. Johnson stated that this recommendation is only referring to names as they appear on a ballot.

Mr. Bonner asked how many times Elections BC has encountered this situation.

Mr. Johnson responded that this has occurred once, to date.

Mr. Reichert added that this situation occurred in the Burnaby North electoral district.

Mr. Bonner expressed his opposition to the Chief Electoral Officer having control over a candidate's name and asked if the candidates can use more initials to differentiate themselves.

Mr. MacKay-Dunn stated his total disagreement with Mr. Bonner.

Ms. Johnson reminded the Committee that the overriding problem is the time factor, noting that Elections BC must produce the list of candidates and ballots as soon as possible after the close of nominations and couldn't possibly deal with this situation through the courts in the time frame available.

Mr. Bonner stated that he felt the decision should be up to the candidate.

Mr. Hignell stated that what should be paramount is that the voter can understand.

Mr. Bonner repeated his concern that this recommendation is too much control for the Chief Electoral Officer.

Mr. MacKay-Dunn said that there is not enough time to deal with it in another way, nor is it economical for courts and judges to be involved.

**Proposal - Section 134 - Consideration of certification envelopes:**

**Recommendation: Make it clear that where reference is made to a ballot in section 124, it should be read as a certification envelope in relation to section 134 (3).**

This section deals with the consideration of certification envelopes in preparation for final count. It references section 124, which deals with objections to the acceptance of a vote or rejection of a ballot. During the final count of the 2001 general election, the reference in section 124 (4) to ballots became problematic in interpretation of section 134 (3), as the process established in section 124 (4) requires the marking of the back of the ballot, which under section 134 (3) has not yet been removed from the certification envelope. It would be preferable to establish specific rules with respect to the process to be followed in recording an objection to whether a certification envelope is to remain unopened.

**Discussion:**

There were no comments regarding this recommendation.

**Proposal □ Section 155 (3) (g) - Registration of a political party, and  
Section 157 (3) (e) - Registration of a constituency association:**

**Recommendation: Section 155 (3) (g) be amended to require the filing of contact addresses of each of the principal officers of a political party and section 157 (3) (e) be similarly amended for constituency associations.**

Section 155 (3) sets out the information, which a political party must file as part of its application for registration. Clause 155 (3) (i) requires the filing of the name and address of the financial agent. Often the contact address for the political party and the address where records are kept is that of the financial agent. There have been numerous instances where the financial agent has given up that role, and Elections BC has not been informed of the name and address of the new financial agent. Consequently, we have no way to contact that political party. Clause 155 (3) (g) requires that only the names of the principal officers of the political party be filed as part of the application. To ensure that Elections BC has more than one address through which it can correspond with a political party, principal officers of a political party should have contact addresses on file with Elections BC. Similar issues regularly arise with constituency associations, consequently, more information is also needed for principal officers of the associations.

**Discussion:**

Mr. Bonner inquired if the *Election Act* was too vague and perhaps it should be limited to the top three or four officers.

Ms. Western stated that Elections BC must have at least two officers on file.

Mr. Hignell suggested that the number required be limited to two.

Mr. Bonner disagreed.

Mr. MacKay-Dunn stated that the Liberal Party is silent on the number of officers.

Mr. Bonner suggested that perhaps the Committee should clarify what it feels are "principal officers".

Ms. Johnson said that the *Election Act* does not define how parties or constituency associations are structured.

**Proposal - Section 155 (3) (j) - Registration of a political party, and  
Section 157 (3) (h) - Registration of a constituency association:**

**Recommendation: Amend sections 155 (3) (j) and 157 (3) (h) to require the account numbers as well as the names and addresses of the savings institutions to be filed as part of the registration documentation.**

Section 276 of the *Election Act* requires the Chief Electoral Officer to "conduct periodic investigations of the financial affairs of registered political parties, registered constituency associations, candidates, leadership contestants and registered sponsors for the purpose of ensuring compliance with this Act". The Chief

Electoral Officer also conducts audits and other financial investigations. These investigations have been significantly hampered by the inability of this office to access bank account records because there is no requirement to file account numbers when filing the names and addresses of the savings institutions to be used by the political party or constituency association.

**Discussion:**

Mr. MacKay-Dunn asked if, during Elections BC's audit process, Elections BC is able to enter a bank and request to audit an account if the account number is available.

Ms. Western replied that Elections BC is capable of requesting the account information but that the banks are understandably reluctant, and even though the financial agent is contacted, Elections BC has had difficulty in obtaining the information.

Mr. MacKay-Dunn inquired if Elections BC has done this in the past.

Mr. Cockburn replied that the parties involved are always notified first.

Mr. Neely stated he felt if the privacy issue is dealt with, as a party that promotes full disclosure, he fully supports this recommendation.

Mr. Bonner expressed his concern and total disagreement with the recommendation.

Mr. MacKay-Dunn noted that the Liberal Party doesn't have a position on this recommendation. He added that the proposal imposes discipline on an organization, and that the party would have to consider the recommendation, though the right to audit is established.

**Proposal - Section 159 - Changes in registration information:**

**Recommendation: Amend section 159 to include an administrative penalty of suspension of registration of an organization, which does not file notice of a change within 60 days after it occurs, until the updated information is provided.**

This section requires that registered political parties and registered constituency associations file with the Chief Electoral Officer notice of any change in the information contained in their registration documentation within 60 days after the change occurs. The majority of the changes are in relation to changes in principal officers and financial agents. Many organizations fail to advise this office of such changes. This results in considerable administrative effort on the part of this office to find out who the new officers and agents are and how to contact them. Section 262 establishes an offence and provides penalties, up to \$5,000 and/or imprisonment for up to one year, for failure to do so. Realistically, it is unlikely that the Crown would prosecute such an offence. It would be more effective to have an administrative penalty of suspension of registration until the updated information is filed with the Chief Electoral Officer. A suspension of registration prohibits the issuance of tax receipts, the incurring of election expenses, and identification on the ballot.

**Discussion:**

Ms. Western commented that Elections BC is frequently not notified when an organizational change occurs and this is problematic.

Mr. Neely asked if there had been any consideration of requiring the registration of all constituency associations.

Mr. MacKay-Dunn expressed that registering constituency associations is a financial burden that some parties choose not to take.

Mr. MacKay-Dunn and Mr. Reichert commented that the financial activities of non-registered constituency associations are reported through the party.

Ms. Johnson explained that it is unknown if the registration of a constituency association makes a difference. She stated that what ensures full disclosure is the commitment of the party to compliance with the legislation and the level of control they have over the constituency association. For unregistered constituency associations, it is the party that must make the disclosure.

Ms. Western noted that the problem with total constituency association registration is that Elections BC doesn't know where the constituency associations are. Many parties don't have any constituency associations, registered or unregistered.

For registered constituency associations, Elections BC often can't confirm the contacts when organizational changes are made and Elections BC may not be notified until long after the fact. Ms. Western added that the *Election Act* requires registered parties and registered constituency associations to notify the Chief Electoral Officer within 60 days of a change. The Act establishes fines and/or imprisonment for not submitting the information within 60 days of the change, but it is unlikely that the Crown would prosecute such cases.

Mr. Bonner questioned if an administrative penalty applied if filing errors are found.

Ms. Western commented that there is no penalty for filing errors.

**Proposal - Section 162 - Registers and other information open to the public:**

**Recommendation: Amend section 162 to exclude the account numbers from information available for public inspection.**

This section requires that the registers of political parties and constituency associations, and the information filed by those organizations, be available for public inspection. The recommendation above that account numbers of the savings institutions used by political parties and constituency associations be filed with Elections BC would result in those account numbers being made public. Such information should be confidential.

**Discussion:**

There were no comments regarding this recommendation.

**Proposal - Section 170 - Financial reports required on deregistration, and  
Section 171 - Assets of deregistered organization to be held in trust:**

**Recommendation: It is recommended that a deadline of six months be established for the filing of the final financial report and any surplus funds.**

The Act requires that a deregistered organization submit financial reports and any surplus funds, to be held in trust by the Chief Electoral Officer, following the deregistration. There is no deadline, however, by which the organization is to do so, which can effectively mean no final report or accounting for the organization's funds. This recommendation was also in the report on the 1996 general election.

**Discussion:**

There were no comments regarding this recommendation.

**Recommendation: Add a provision that an audit is only required if there has been \$5,000 or more in expenditures or political contributions since the filing of the last financial report.**

Section 170 requires an organization to file two separate financial reports upon deregistration; one at official deregistration and one upon the financial wrap-up of the organization. Both of these reports must be audited. For a small organization with limited financial resources the required audits may cost more than the funds available. Consideration should be given to setting a financial threshold below which audits would not be required.

**Discussion:**

Mr. Neely questioned if this recommendation would apply to parties with \$5,000.00 or less in assets. He also commented that the amount of money required for administration, auditors, etc. is so great that deregistered organizations simply don't have the cash. He suggested that the threshold should be \$10,000.00.

Mr. Reichert stated that he was opposed to raising the limit.

Mr. Bonner concurred.

Mr. Neely stated that registered constituency associations are an added expense for a party and if the limit is at \$5,000.00 then it is not a level playing field with non-registered constituency associations.

Mr. Hignell agreed to the limit increase to \$10,000.00.

Ms. Western reminded the Committee that the Chief Electoral Officer has the authority to require an audit at any time.

Mr. Bonner suggested that \$7,500.00 splits the difference and added that \$10,000.00 makes more sense, however \$5,000.00 is ideal for transparency.

Ms. Western noted that there are extremely few cases in which the audits would be required if the limit was \$5,000.

Ms. Johnson clarified that audits were not required for deregistration as a result of redistribution of electoral districts.

Mr. MacKay-Dunn stated that he felt this was a transparency issue.

**Proposal - Section 175 - Requirement for financial agent:**

**Recommendation: Amend section 175 (4) to require a registered political party or registered constituency association to appoint a new financial agent within 60 days of the vacancy occurring.**

The Act requires registered political parties and registered constituency associations to have a financial agent, and if the appointment of the financial agent ends for any reason, the organization must appoint a new one "as soon as possible". There is often a considerable delay in appointing new financial agents, and Elections BC finds it very difficult to complete compliance reviews when there is no one in that capacity. The absence of a financial agent is contrary to the intent of the Act, and means no one is accountable for the financial affairs of the organization. It would be appropriate to establish a deadline for replacing financial agents to ensure continuity and compliance with the requirements of the Act.

**Discussion:**

There were no comments regarding this recommendation.

**Proposal - Section 177 (2) (b) - Obligations of financial agent:**

**Recommendation: It should be made clear that a financial agent of a political party, constituency association or candidate must establish a separate bank account for each organization or candidate.**

The Act requires that the financial agent for every party, constituency association and candidate establish an account in a savings institution to process their respective financial transactions. A clarifying amendment is required to ensure that financial agents recognize that there must be a separate account established for each organization and candidate to prevent the combining of financial transactions and to ensure an adequate audit trail. This recommendation was also in the report on the 1996 general election.

**Discussion:**

Mr. MacKay-Dunn inquired if it was permissible to have more than one account.

Ms. Johnson replied that political parties and constituency associations could have more than one account; it was the use of a single account by more than one candidate or organization that is the problem.

**Proposal - Section 178 - Deputy financial agent for issuing tax receipts:**

**Recommendation: Permit a deputy financial agent to file financing reports in the absence or incapacity of the financial agent.**

The Act restricts the authority of deputy financial agents to the receiving of political contributions and the issuing of income tax receipts for those contributions. The Act should be amended to permit deputy financial agents to file financing reports in the absence or incapacity of the financial agent. This recommendation was also in the report on the 1996 general election.

**Discussion:**

Mr. Reichert questioned if a deputy financial agent would have the same responsibilities as the financial

agent.

Ms. Western and Ms. Johnson agreed that the deputy financial agent would have the same responsibilities.

**Proposal - Section 179 - Appointment of auditor:**

**Recommendation: Amend section 179 (2) to require a candidate, registered political party or registered constituency association to appoint a new auditor within 60 days of the vacancy occurring.**

The Act requires registered political parties, registered constituency associations and candidates to have an auditor, and if the appointment of the auditor ends for any reason, a new one be appointed "as soon as possible". There is often a considerable delay in appointing a new auditor, and Elections BC finds it very difficult to complete compliance reviews when there is no one in that capacity. The absence of an auditor is contrary to the intent of the Act. It would be appropriate to establish a deadline for replacing auditors to ensure availability and compliance with the requirements of the Act.

**Discussion:**

Mr. Neely expressed that constituency associations have auditors therefore the problem is one of notification.

Mr. MacKay-Dunn stated that the recommendation was reasonable.

**Proposal - Section 180 (6) - Political contributions generally:**

**Recommendation: Provisions should be made for transfers between candidates of the same registered party and between registered constituency associations of the same registered party and for transfers between a registered party and its leadership contestants.**

The Act provides for vertical transfers between the various "levels" of a registered political party, but there is no provision for horizontal transfers between entities at the same level, for example between registered constituency associations or between candidate campaigns. The horizontal reallocation of resources, as transfers, should be provided for in the Act. Furthermore, consistent with our recommended amendment to section 193 regarding the incurring and paying of leadership expenses, registered political parties and their leadership contestants should be permitted to make transfers to each other. This recommendation was also in the report on the 1996 general election.

**Discussion:**

Mr. Reichert noted that political parties do not want to lose transparency and questioned if it would prevent disclosure.

Ms. Western stated that this provision was the same as with candidates and that the transfers are disclosed.

Ms. Johnson added that the money gets reported as a transfer, as well as a contribution to the original recipient.

**Proposal - Section 186 (1) (c) - Restrictions on making political contributions:**

**Recommendation: Provision should be made for political contributions by the electronic transfer of funds from a bank account in the name of the contributor and by credit card without the need for a signature.**

The Act requires a signed document (cheque, money order, credit card slip) from a contributor who makes a political contribution in an amount greater than \$100. This requirement does not allow for an electronic transfer of funds by a debit card, or contributions by credit card on the Internet or by telephone, all of which are now standard methods for financial transactions.

**Discussion:**

Mr. MacKay-Dunn questioned if the transaction were completed through a Web site, would the Web site owner have to be registered.

Ms. Johnson answered that the Web site owner would only have to be registered if they qualified as an election advertising sponsor.

**Proposal - Section 183 - Election expenses, and**

**Section 203 - Expenses not to be included in calculating amounts subject to limit:**

**Recommendation: Make a clarifying amendment to section 203 (1) (f) that: although a deficit incurred in holding a fundraising function during a campaign period is an election expense, the cost incurred in holding any fundraising function is not an election expense subject to the expense limit.**

Section 183 (3) provides that "a deficit incurred in holding a fundraising function during a campaign period is an election expense". Section 203 (1) (f) provides that "expenses incurred in holding a fundraising function if no deficit is incurred" are to be excluded from expenses subject to expenses limits. The Act is not clear about how one is to deal with costs incurred in holding a fundraising function that does incur a deficit. If both costs and the deficit itself were reported as separate election expenses, the amount of the costs would be counted twice. This needs to be clarified in the Act.

**Discussion:**

Mr. Reichert and Mr. MacKay-Dunn questioned if this provision affected public policy.

Ms. Johnson commented that legislative counsel identified this as a drafting error, and that it was not intended to affect public policy.

Mr. Neely suggested that the Committee revisit this recommendation another time.

Mr. MacKay-Dunn clarified that they (Liberal Party) support technical changes.

**Proposal - Section 189 (3) - Prohibited contributions must be returned:**

**Recommendation: It is recommended that instead of destroying the tax receipts, as is now required, the financial agent be required to mark them "Void" and retain the receipts for at least 5 years, the same time period established by section 177 (2) d) for the retention of financial records by the financial agent.**

The Act requires a financial agent to recover and destroy tax receipts that have been issued for prohibited contributions. Should the Commissioner of Income Tax wish to conduct an audit, there is no assurance that invalid receipts were actually recovered and not used by the taxpayer. This recommendation was also in the report on the 1996 general election.

**Discussion:**

There were no comments regarding this recommendation.

**Proposal - Section 177 (2) □ Obligations of financial agent, and**

**Section 207 (3) (g) □ Annual financial reports by registered political parties and constituency associations, and**

**Section 209 (2) (e) □ Election financing reports by candidates, and**

**Section 210 (2) (e) □ Election financing reports by registered political parties and constituency associations, and**

**Section 211 (2) (c) □ Leadership contestant financing reports:**

**Recommendation: Amend section 177 (2) to include the due date as information that must be recorded at the time a loan is made. Amend sections 207 (3) (g), 209 (2) (e), 210 (2) (e) and 211 (2) (c) to require the disclosure of the due date of loans.**

These sections establish the information that must be disclosed in relation to loans. The Act does not specify that the due date of the loan be recorded or disclosed. However, section 181 (3) establishes that a debt becomes a political contribution if it remains unpaid for six months after becoming due if no legal proceedings to recover the debt have been commenced by the creditor. It is therefore important that the due date of the loan be recorded and disclosed to establish whether the debt has become a political contribution.

**Discussion:**

Mr. Bonner inquired about the payback period and if it were extended.

Mr. MacKay-Dunn asked about the status of the unpaid portions, how they would be disclosed.

Ms. Johnson answered that the time frame could be as long as initially agreed. When the debt was due, the unpaid portion became a political contribution after six months if no action was taken. This was why it was necessary to know the due date, so Elections BC could determine if the debt was properly characterized.

**Proposal - Section 183 - Election expenses, and Section 184 - Contestant expenses**

**Recommendation: Amend sections 183 (4) (b) and 184 (4) (b) to cover travel "from" the electoral district.**

In clause (4) (b) of both sections 183 and 184, the Act refers of travel "to or within" an electoral district - but not travel "from" the electoral district. For candidates, this was temporarily dealt with at the May 1996 general election by a regulation referred to in section 183 (4) (f). A preferable solution would be to amend both sections, to address this drafting error. This recommendation was also in the report on the 1996 general election.

**Discussion:**

There were no comments regarding this recommendation.

**Proposal - Section 193 - Restrictions on who may incur election and contestant expenses:**

**Recommendation: Permit persons authorized in writing by the financial agent to incur election and contestant expenses and be reimbursed upon production of receipts.**

a) The vastness of the Province and the particular geography of electoral districts often make it impractical to expect the financial agent, of a political party or of a candidate, to incur and/or pay all election expenses. The Act does permit the financial agent to authorize others to incur election expenses, however, in a restrictive manner. The Act should be amended to permit those authorized in writing by the financial agent to incur and pay for election expenses and be reimbursed for the expenses from the designated account in a savings institution. Permit the same for leadership contestants. This recommendation was also in the report on the 1996 general election.

**Discussion:**

There were no comments regarding this recommendation.

**Recommendation: Permit the registered political party to pay for leadership contestant expenses of all contestants.**

b) Political parties may have leadership contestants who do not have access to sufficient financial resources to allow travel throughout the Province or to undertake some other contestant activity. A party may wish to assist those contestants by paying for some expenses. The Act does not provide for this situation. This recommendation was also in the report on the 1996 general election.

**Discussion:**

There were no comments regarding this recommendation.

**Proposal - Section 201 - Political party expenses on behalf of leadership contestant:**

**Recommendation: Add a provision to section 201 that if a registered political party incurs a contestant expense on behalf of a leadership contestant, the expense must be included in the contestant expenses of the leadership contestant and that the financial agent of the party must notify the contestant's financial agent of any such expenses.**

This section stipulates that if a registered political party incurs an election expense on behalf of a candidate the financial agent of the political party must notify the financial agent of the candidate and that the election expense must be included in the election expenses of the candidate. If our recommended amendment to section 193, permitting registered political parties to pay for expenses on behalf of their leadership contestants is accepted, such expenses should be deemed to be contestant expenses of the leadership contestant and the financial agent of the party should be required to notify the contestant's financial agent.

**Discussion:**

Mr. MacKay-Dunn questioned if consideration had been allowed for media-related costs during a campaign (e.g. accompanying leader on a campaign bus, etc.).

Mr. Bonner asked what was the legislation in that regard.

Ms. Western stated that currently political parties cannot incur expenses on behalf of leadership contestants.

Note: During the 2001 general election the Chief Electoral Officer made a regulation regarding media accompanying campaign tours. A copy of BC Reg. 136/2001 is appended.

**Proposal - Section 207 (3) (d) - Annual financial reports by registered political parties and constituency associations,**

**Section 209 (2) (d) - Election financing reports by candidates, and**

**Section 210 (2) (d) - Election financing reports by registered political parties and constituency associations:**

**Recommendation: Require reporting of transfers of 'goods and services' as well as money to be consistent with section 180 (6).**

These clauses require the reporting of transfers of money, but not the transfer of goods and services. To be consistent with section 180 (6), however, this clause should be amended to include the transfer of goods and services. This recommendation was also in the report on the 1996 general election.

**Discussion:**

There were no comments regarding this recommendation.

**Proposal -Sections 207, 209, 210 and 211 - Filing of annual financial reports and election or leadership contestant financing reports:**

**Recommendation: Require financial agents to file copies of supporting documentation along with the financing reports required under sections 207, 209, 210 and 211, if the reported income or expenses (excluding transfers) exceeds \$5,000.**

In order to conduct proper compliance reviews of financing reports it has become more evident each year that supporting documentation to these reports, including copies of bank statements, deposit slips, cancelled cheques, invoices and tax receipts are required to facilitate the work. Without supporting documentation, Elections BC staff spend numerous hours in communication with the financial agents clarifying information in the reports. However, there should be a threshold below which filers would be exempt from providing the supporting documentation.

**Discussion:**

Mr. MacKay-Dunn stated that without a change in the time limit for filing, this recommendation was asking too much.

Mr. Bonner agreed that this was way too much to ask in the time frame allowed.

Mr. Neely agreed.

It was suggested that this recommendation be dropped, and that Elections BC advise specific filers if such documentation will be required.

**Proposal - Section 207 - Annual financial reports by registered political parties and constituency associations, and**

**Section 210 - Election financing reports by registered political parties and constituency associations:**

**Recommendation: Add a section to clarify the requirement that financing reports of registered political parties and registered constituency associations include the financial information for all organizations controlled by the political entity.**

To ensure adequate and consistent reporting of registered political parties and constituency associations, the financial activities and information of all controlled organizations must be disclosed. Failure to do so could result in political parties having control over significant assets which are not reported. This recommendation was also in the report on the 1996 general election.

**Discussion:**

There were no comments regarding this recommendation.

**Proposal - Section 211 (a) - Leadership contestant financing reports:**

**Recommendation: Add a provision requiring transfers made or received by the leadership contestant be disclosed in the leadership contestant financing report.**

This section establishes the information that must be disclosed in a leadership contestant financing report. If our recommended amendments to section 180 (b) regarding the permitting of transfers between registered parties and their leadership contestants are accepted, any such transfers made or received by the leadership contestant should be disclosed.

**Discussion:**

There were no comments regarding this recommendation.

**Proposal - Section 213 - General requirements for reports:**

**Recommendation: Remove the requirement that financing reports be prepared in accordance with "generally accepted accounting principles" and replace with an accounting basis that is prescribed by regulation.**

The term "generally accepted accounting principles" (GAAP) has a very strict interpretation. GAAP is established by the Canadian Institute of Chartered Accountants and requires significantly more disclosure than that of the *Election Act*. Reference to GAAP should be removed from the Act and another standard be prescribed by regulation, for example using the accrual basis of accounting. This will give flexibility for all who have to work with the Act and be more easily amended to meet changing needs. This recommendation was also in the report on the 1996 general election.

**Discussion:**

Mr. Bonner concurred that GAAP is pretty broad.

Mr. MacKay-Dunn cautioned that the Committee should be careful of what is accepted by law.

Ms. Western stated that accounting standards that can be more easily understood by their volunteers would be more appropriate.

Mr. Hignell suggested that perhaps a prescribed method would be good.

Ms. Western stated that she and Mr. Cockburn were working on an electronic bookkeeping process, as part of electronic filing. However budget cuts won't allow them to continue at this time.

**Proposal - Section 223 - Deregistration of political party or constituency association for failure to file financial reports:**

**Recommendation: A registered political party be deregistered if 50% or 15, whichever is the lesser number, of its constituency associations do not comply with the financial filing requirements of the *Election Act*.**

This section requires the deregistration of a political party or a constituency association of a political party if it fails to file a required financing report under Division 6 of Part 10 of the *Election Act*. Section 213 of the Act permits the financial agent of a political party to file a financial report on behalf of a constituency association of the party and on behalf of party candidates. Section 224 requires that a political party be deregistered if a specified number of its candidates at a general election do not file their election financing reports.

Experience has shown that political parties are not keeping contact with their constituency associations and, as a result, many constituency associations are not meeting their financial filing obligations under the Act. A deregistration consequence similar to that under section 224 in relation to candidates should be placed on political parties with regard to the financial filings of constituency associations.

**Discussion:**

Mr. Bonner pointed out that the recommendation was not setting a specific number.

Mr. Cockburn suggested that the number would be 50% or 15, similar to the candidate's guidelines.

Mr. MacKay-Dunn asked if either number would apply.

Mr. Cockburn stated the threshold would be which ever is lower.

Mr. Neely agreed with the recommendation.

Mr. Hignell asked if there was any other penalty.

Mr. Cockburn stated what is set out in the Act.

**Proposal - Section 224 - Deregistration of political party for failure of candidates to file election financing reports:**

**Recommendation: Reference to the failure to file a supplementary financial report under section 212 should be made in section 224.**

Upon review of a financial report submitted under section 209, it may be discovered that significant information would be disclosed in a supplementary financing report required under section 212. The failure to file such a supplementary report should be recognized and reflected in section 224. This recommendation was also in the report on the 1996 general election.

**Discussion:**

Ms. Western stated that this recommendation was "housekeeping".

**Proposal - Section 228 - Election advertising and opinion surveys:**

**Recommendation: The definition of election advertising be amended to exclude the expression of individuals' personal political views on the Internet.**

The current definition of election advertising is so broad in its scope that certain contraventions cannot realistically be enforced, in particular, the transmission of messages by individuals on the Internet.

**Discussion:**

Mr. MacKay-Dunn questioned if the recommendation included email or the running of Web sites. He added that this is so significant that their party must discuss and contemplate the recommendation.

Mr. Neely asked if this recommendation would apply to a political party's Web page.

Ms. Western pointed out that this recommendation is aimed at individuals' Web sites where a political view is expressed.

Mr. Bonner questioned if an ad on a person's Web site would qualify.

Mr. Neely asked how this is currently handled.

Ms. Western stated that Elections BC does not have the manpower to search the Internet for personal views on Web sites, however if someone finds it and brings it to the attention of Elections BC, Mr. Cockburn will research the site and contact the individuals.

Ms. Johnson explained that the *Canada Elections Act* specifically exempts media that not within the jurisdiction of the CRTC.

Mr. MacKay-Dunn repeated that this issue needs further study.

Mr. Bonner suggested that this recommendation should be withdrawn.

**Proposal - Section 231 - Election advertising must identify sponsor:**

**Recommendation: The Act should be amended to either exempt certain classes of such "advertising" or to specify the classes of advertising to which sponsor identification would apply.**

It is impractical to print 'authorization' statements on many minor items of personal wear or use, such as buttons, caps, T-shirts, bumper stickers. This recommendation was also in the report on the 1996 general election.

**Discussion:**

Mr. MacKay-Dunn said that this has to be the most popular change.

Mr. Bonner remarked that he was not a fan of the legislation.

Ms. Johnson stated that the Chief Electoral Officer could identify classes of advertising media.

Mr. MacKay-Dunn agreed and added that the Chief Electoral Officer could expressly exempt items but give flexibility.

Mr. Reichert commented that there are some things that challenge this recommendation, such as a stage banner at a fundraising rally.

Mr. MacKay-Dunn said that flexibility is key. He also asked about displaying the political party's financial agent name as opposed to the candidate's financial agent on advertising.

Ms. Johnson stated that Elections BC would consider adding Mr. MacKay-Dunn's request to the recommendations.

Mr. Neely agreed.

Mr. Hignell asked if the telephone number was essential in sponsor disclosure on advertising.

Ms. Western confirmed the telephone number was required under the Act.

**Next Steps:**

Ms. Johnson advised the attendees that minutes would be drafted and forwarded to them for review. The Report of Chief Electoral Officer on the 37th General Election would be tabled in the Fall sitting of the Legislative Assembly. She reminded the attendees that a committee had been formed to recommend a new Chief Electoral Officer and suggested that the next meeting be set following that appointment.

Ms. Johnson welcomed further comments about the recommendations and invited the members to forward them to Elections BC.

**Adjournment:**

The meeting was adjourned at 12:30 p.m.