

**ANNUAL REPORT
OF THE
CHIEF ELECTORAL OFFICER
ON
THE ELECTIONS FINANCES ACT**

1997





October 8, 1998

The Honourable Louise M. Dacquay
Speaker of the Legislative Assembly
Room 244, Legislative Building
Winnipeg MB R3C 0V8

Dear Mrs. Dacquay:

I have the honour of submitting the Annual Report on *The Elections Finances Act* covering the period from January 1, 1997 to December 31, 1997.

This report is submitted pursuant to section 99 of *The Elections Finances Act* which states that the Speaker shall cause a copy of the Report to be laid before the Assembly forthwith, and if the Assembly is not in session within 15 days of the beginning of the next ensuing session.

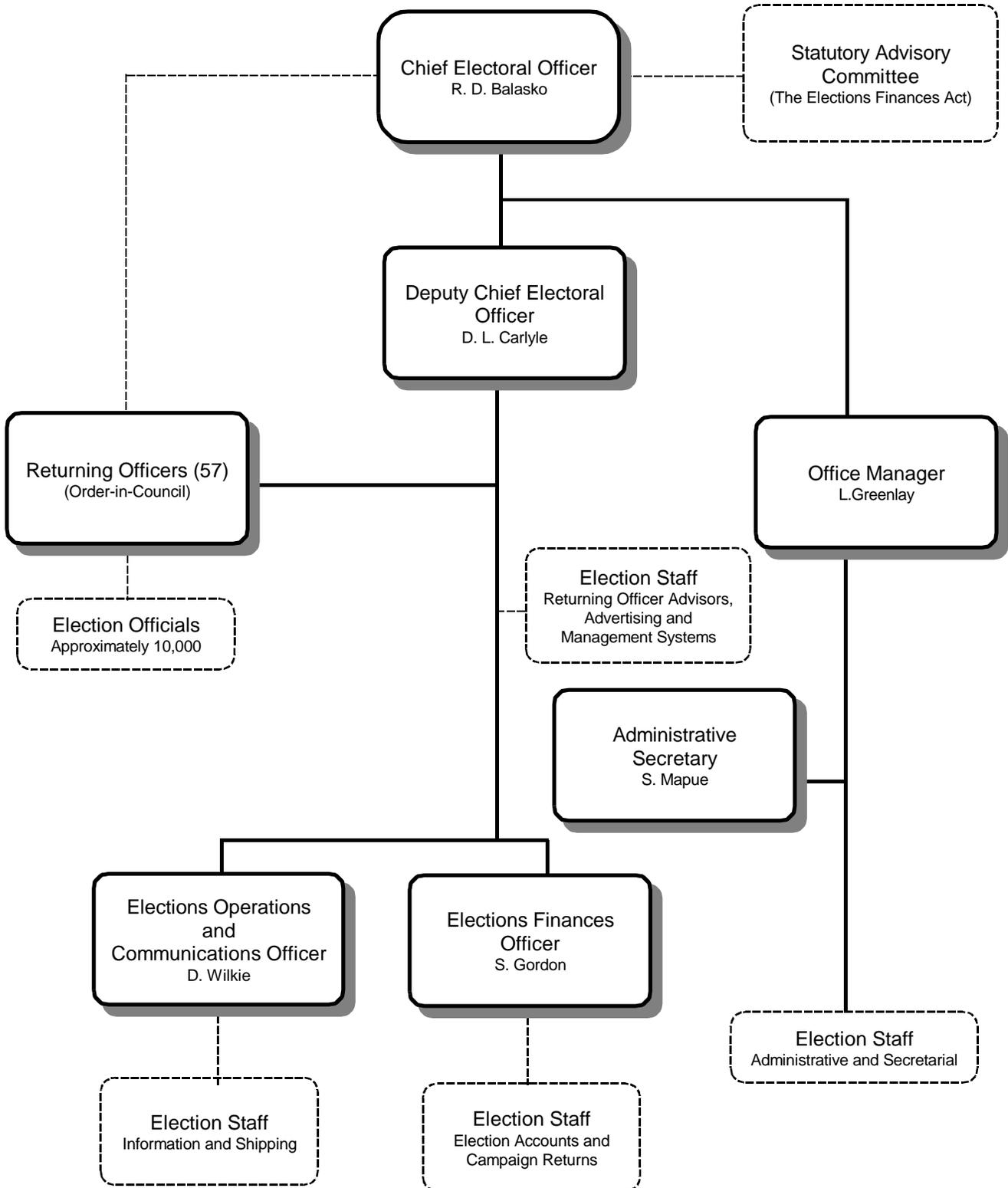
Respectfully submitted,

Richard D. Balasko
Chief Electoral Officer

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Organization Chart Office of the Chief Electoral Officer (1997)



OFFICE OF THE CHIEF ELECTORAL OFFICER (ELECTIONS MANITOBA)

The Office of the Chief Electoral Officer, an independent Office of the Legislative Assembly, is responsible for administering *The Elections Act* and *The Elections Finances Act*, and for conducting a referendum under *The Balanced Budget, Debt Repayment and Taxpayer Protection and Consequential Amendments Act*. The Chief Electoral Officer is a member of the Electoral Divisions Boundaries Commission. The mandate of the Office includes the impartial conduct of fair elections through compliance with legislation, ensuring that voters, candidates, political parties and others are knowledgeable of their rights and responsibilities and that annual reporting by political parties, constituency associations and candidates occurs as provided for in the legislation. The Annual Report on *The Elections Finances Act* is the only annual reporting mechanism to the Legislative Assembly required of the Chief Electoral Officer. Other reports under *The Elections Act* are required only after an election and report on the conduct of an election as well as make recommendations for legislative amendments.

The Office of the Chief Electoral Officer has on-going responsibilities under *The Elections Finances Act* as well as activities that are directly associated with the preparation for and conduct of elections, by-elections, referendums and revisions to electoral division boundaries. Annual reporting occurs for registered political parties and constituency associations, as well as for candidates with campaign deficits. This office maintains on-going contact with those responsible to ensure that information is filed as required and is available for public inspection. As well, subsection 4(1) of the Act provides for the establishment of a Political Party Advisory Committee to provide advice to the Chief Electoral Officer on the administration of the Act.

The Office of the Chief Electoral Officer must be ready at all times to conduct elections, by-elections and referendums, and consequently a tremendous amount of time is required to ensure that procedures, forms, manuals, guidelines and other materials are current. The successful conduct of an election rests squarely on the need to undertake extensive advance preparations.

The Chief Electoral Officer wishes to acknowledge the efforts of all candidates, political parties, constituency associations, Chief Financial Officers, auditors, members of the Advisory Committee and the scores of volunteers whose cooperation is essential in carrying out the requirements of the Act. The Chief Electoral Officer also acknowledges the continuing commitment and professionalism which the staff of the office has displayed in carrying out their responsibilities.

ANNUAL REPORT HIGHLIGHTS

This is the thirteenth Annual Report of the Chief Electoral Officer on *The Elections Finances Act* (hereinafter referred to as the "Act"). This report summarizes yearly activities under the Act. Details of annual reporting activities for 1997 are outlined in Part I of this report including reporting by registered political parties, constituency associations, and candidates with financial deficits. Part 1 also includes information on Manitoba political tax credits claimed. There are three items in Part II concerning legal proceedings arising from the 1995 General Election which were concluded in 1997. Part III provides financial information on the 1997 Portage la Prairie By-Election and Part IV provides a brief review of expected activities for 1998. Part V discusses the issue of Third Party Spending.

In December 1997, Bill 3, *The Elections Finances and Consequential Amendments Act* received first reading in the Legislative Assembly. At the time of writing this Report, Bill 3 had received third reading in June of 1998 and was waiting to receive royal assent.

Most of the recommendations for legislative amendments published in previous Annual Reports are addressed in Bill 3 including strengthening accountability, public disclosure and the ability to ensure compliance and enforcement of the Act. Also included in Bill 3 were provisions to clarify and expand the definition of "election expenses" and provisions to further safeguard the integrity of the political tax credit system. Bill 3 does not address the issue of "Third Party Spending" in election campaigns. The issue of Third Party Spending has been raised in previous statutory reports and is discussed in detail in this Report - Part V Legislative Amendments.

1. ANNUAL ACTIVITIES

1.0 POLITICAL PARTY ANNUAL STATEMENTS AND RETURNS FOR CONTRIBUTIONS

Each year the Chief Financial Officer of a registered political party must file with the Chief Electoral Officer an audited financial statement setting out the income, expenses, assets and liabilities of the party. The audited annual financial statement excludes the income, transfers and elections expenses for an election campaign period. A detailed list of contributors is filed with the annual financial statement and discloses the name, address and amount of aggregate contributions of \$250.00 or more made to the political party by any person or organization in that year. The annual financial statement excludes as income any contributions received during the campaign period of an election, as these contributions are reported as income on the election period statement.

The annual statements for 1997 were required to be filed by March 31, 1998. The New Democratic Party of Manitoba statement was filed on March 30, 1998 and The Progressive Conservative Party of Manitoba filed its statement on March 31, 1998. The Libertarian Party of Manitoba filed its statement past the filing deadline on April 2, 1998. The Liberal Party in Manitoba filed its statement past the filing deadline on April 7, 1998.

TABLE 1**Annual Registered Political Party Statements (1997)**

	LIB.² \$	LPM \$	NDP \$	PC \$
INCOME and EXPENSES				
Contributions ¹	259,627	200	627,276	860,435
Transfers			4,344	4,642
Other Income	25,806	2	30,078	(229,837)
Total Income	285,433	202	661,698	635,240
Expenses	366,493	701	822,788	806,251
Surplus (Deficit)	(81,060)	(499)	(161,090)	(171,011)
ASSETS and LIABILITIES				
Assets	67,613	938	103,182	567,524
Liabilities	162,590	0	73,409	84,998
Net Worth (Deficit)	(94,977)	938	29,773	482,526
<small>1 Excludes contributions received during the election period. 2 The Liberal Party in Manitoba's Annual Statement was being reviewed at the time of writing the Report and the amounts reported may change after the review has been completed.</small>				

Unofficial Abbreviations Used in This Report for Registered Political Parties

LIB - Liberal Party in Manitoba
LPM - Libertarian Party of Manitoba
NDP - New Democratic Party of Manitoba
PC - The Progressive Conservative Party of Manitoba

TABLE 2

Contributions Received by Registered Political Parties (1997)¹					
	LIB² \$	LPM \$	NDP \$	PC \$	Total Contributions \$
\$250.00 OR MORE					
Total value	255,571	-	480,233	865,468	1,601,272
No. of contributors	222	-	763	858	1,843
\$25.00 to \$250.00					
Total Value	55,664	200	319,809	285,178	660,851
No. of contributors	600	2	3,185	3,002	6,789
LESS THAN \$25.00					
Total Value	11,925	-	20,220	23,769	55,914
No. of contributors	1,592	-	1,504	2,957	6,053
Total of all Contributions	323,160	200	820,262	1,174,415	2,318,037
¹ Includes all contributions received during the year. ² The Liberal Party in Manitoba's Annual Statement was being reviewed at the time of writing the Report and the amounts reported may change after the review has been completed.					

2.0 REGISTRATION OF POLITICAL PARTIES

A registered political party may issue official tax receipts for contributions and have its name printed on the ballots with the names of the candidates endorsed by the party.

Outside of an election, a political party may become registered by filing with the Office of the Chief Electoral Officer an application for registration, a financial statement, and a petition signed by not fewer than 2500 persons who were eligible voters during the most recent general election prior to the application. During a general election a political party may be registered by filing an application for registration and a financial statement, and by endorsing five or more candidates. During the year there were four registered political parties in Manitoba.

Several inquiries were received in 1997 related to registering a political party. There were two requests to reserve a proposed registered name under section 13 of the Act. The first request was for the name "Communist Party of Canada - Manitoba" which was reserved for a period of six months from August 13, 1997. The reservation of the name "Communist Party of Canada - Manitoba" subsequently lapsed. The second request was to reserve the name "Reform Party of Manitoba". The second request was denied because the organization making the request did not satisfy the requirements of a "political party" as defined in the Act.

The names of the registered political parties and their Chief Financial Officers are listed in Table 3. A comparison of the number of registered political parties from 1981-1997 is also shown.

TABLE 3

Registered Political Parties (1997)				
Political Party	Date of Registration	Registration Number	Chief Financial Officer	Date of Appointment
Liberal Party in Manitoba	Dec. 12, 1980	P-8003	Tim Ryan	August 18, 1993
Libertarian Party of Manitoba	Mar. 9, 1988	P-8808	Don Ives	December 30, 1993
New Democratic Party of Manitoba	Nov. 17, 1980	P-8001	Tom Milne	September 2, 1997
The Progressive Conservative Party of Manitoba	Nov. 25, 1980	P-8002	Barbara J. McFarlane	October 24, 1991

Yearly Comparison of Registered Political Parties																	
Year	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
Number	3	5	5	6	7	7	7	8	8	7	7	7	7	7	4	4	4

3.0 ADVISORY COMMITTEE

The Advisory Committee established under subsection 4(1) of *The Elections Finances Act* is comprised of one appointed representative from each registered political party. It is also customary and has proven to be of much value to include the Chief Financial Officers of registered political parties at Advisory Committee meetings.

The Chief Electoral Officer may meet with the Committee to seek its advice on the proper administration of the Act. Although a decision or recommendation of the Advisory Committee is not binding on the Chief Electoral Officer, the advice of the Committee members is of great benefit.

Over the years, considerable time and effort including numerous meetings with the Advisory Committee have resulted in over 30 recommendations for legislative amendments to *The Elections Finances Act*. The majority of these recommendations are included in Bill 3. Members of the Committee are listed in Table 4.

TABLE 4

Advisory Committee Members (1997)		
Party	Committee Member	Date of Appointment
Liberal Party in Manitoba	Ailsa Stark	November 2, 1996
Libertarian Party of Manitoba	None appointed	-----
New Democratic Party of Manitoba	Randy Mavins	December 3, 1996
The Progressive Conservative Party of Manitoba	Barbara J. McFarlane	October 24, 1991

4.0 CONSTITUENCY ASSOCIATIONS

The person responsible for the finances of a constituency association must file a return with the Chief Electoral Officer each year disclosing the name and address of all contributors whose aggregate annual contributions totalled \$250 or more to the constituency association. The total amount of additional contributions of less than \$250 to constituency associations is not known because the Act does not presently require that the information be disclosed. Constituency associations may not issue receipts for income tax purposes, however, since 1985 contributions of \$250 or more totalling \$118,957 have been reported as being made to constituency associations.

A yearly comparison of total contributions of \$250 or more to all constituency associations is shown in Table 5A. Constituency Association returns are public information and are available for inspection.

TABLE 5

Contributions of \$250 or more to Constituency Associations (1997)				
	Lib	LPM*	NDP	PC
Total Number of Constituency Associations	57	0	57	57
Number Reporting Contributions of \$250 or more	0	0	2	1
Total Contributions \$250 or more	0	0	\$10,273.71	\$262.50
* The Libertarian Party of Manitoba does not have Constituency Associations				

TABLE 5A

Yearly Comparison												
1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
Number of Constituency Associations												
154	163	161	181	187	176	172	171	171	171	171	171	171
Number Reporting Contributions of \$250 or more												
11	12	6	8	2	6	2	0	0	3	1	0	3
Total Contributions of \$250 or more												
\$34,446	\$27,635	\$9,152	\$23,633	\$2,472	\$6,807	\$925	0	0	\$1,312	\$2,039	0	\$10,536

5.0 CANDIDATES' CAMPAIGN DEFICITS

Contributions of \$250 or more made after the end of a campaign period towards a candidate's campaign deficit must be reported to the Chief Electoral Officer. There were 117 candidates reporting campaign deficits of \$250 or more after the 1990 general election. In 1997 there were no contributions of \$250 or more towards 1990 campaign deficits. Of the 117 candidates, as of the end of 1997, 105 campaign deficits have been eliminated.

During the 1995 general election 45 candidates reported a campaign deficit. In 1997 there were no reported contributions of \$250 or more and as of the end of 1997, 25 of the 45 deficits have been eliminated.

In the 1997 Portage la Prairie by-election, 3 candidates reported a campaign deficit. There were no reported contributions in 1997.

Candidates deficits may be eliminated by ways other than contributions of \$250 or more such as by transfers from a political party, contributions of less than \$250 and by reimbursement of elections expenses. A candidate who pays towards eliminating a deficit has made a contribution which must be reported if the aggregate of the amounts is \$250 or more in any year.

The Office of the Chief Electoral Officer monitors annually those candidates with outstanding deficits. This process continues until deficits are cleared. Candidates' Campaign Deficits returns are public information and are available for inspection.

6.0 MANITOBA TAX CREDIT PROGRAM

In 1980 The Income Tax Act (Manitoba) implemented a tax credit system for political contributions. A percentage of contributions to registered political parties and registered candidates is eligible for a tax credit. The amount that can be deducted from tax payable is:

- a) 75% of the amount contributed if the amount contributed does not exceed \$100;
- b) \$75 plus 50% of the amount by which the amount contributed exceeds \$100 if the amount contributed exceeds \$100 but does not exceed \$550; and
- c) if the amount contributed exceeds \$550, the lesser of
 - i) \$300 plus 33 1/3% of the amount by which the amount contributed exceeds \$550;
 - or
 - ii) \$500;

if the payment is supported by a proper income tax receipt.

The total value of tax credits for 1996, the most current year for which total information is available, is \$1,273,141. In the 1996 tax year, for the first time, Corporate Tax Credits claimed exceed Individual Tax Credits claimed. From 1982 to 1996, over \$11,613,000 in tax credits have been claimed on individual and corporate returns.

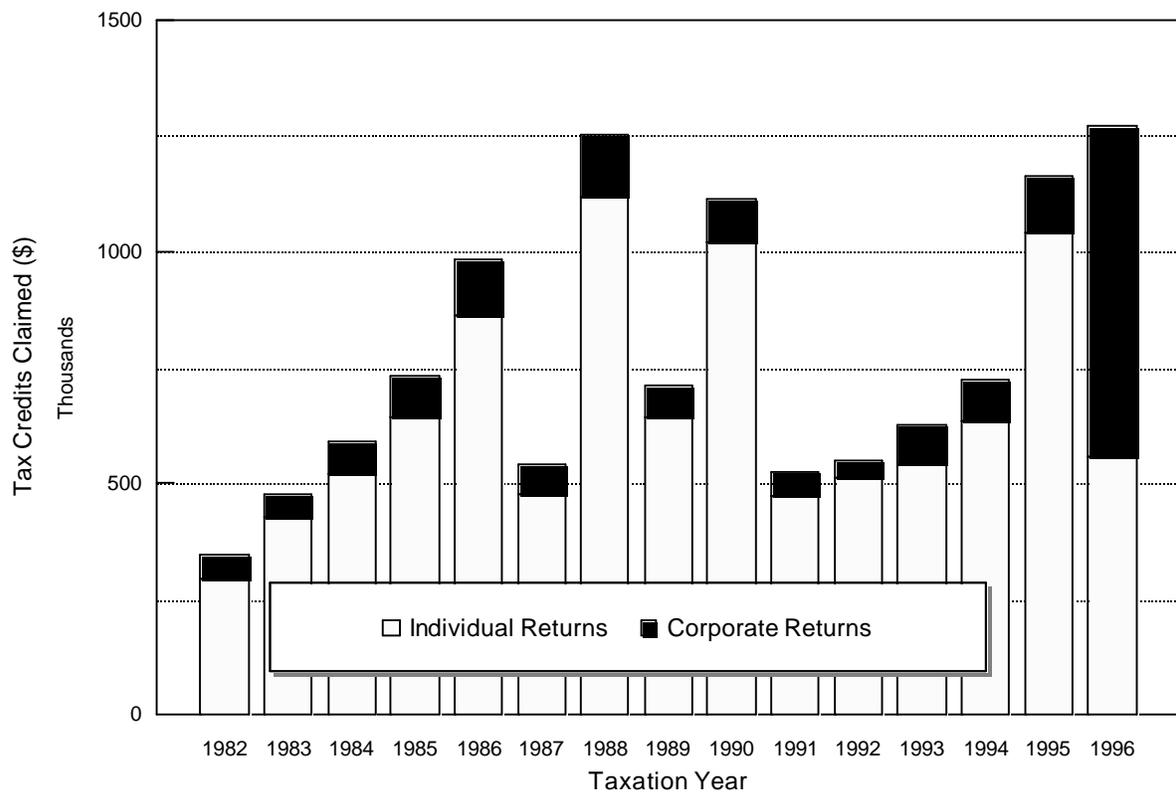
Table 6 Manitoba Tax Credits Claimed For Political Contributions (1982 - 1996)*

Tax Year	Individual Returns \$	Corporate Returns \$	Total Credits \$
1982	293,500	54,200	347,700
1983	429,200	47,300	476,500
1984	520,400	69,000	589,400
1985	642,900	90,100	733,000
1986	863,356	119,598	982,954
1987	476,617	65,708	542,325
1988	1,115,750	136,091	1,251,841
1989	642,722	68,720	711,442
1990	1,019,617	93,542	1,113,159
1991	470,509	54,817	525,326
1992	512,373	38,387	550,760
1993	539,930	87,426	627,356
1994	634,297	91,109	725,406
1995	1,038,872	123,903	1,162,775
1996	558,774	714,367	1,273,141
Total Tax Credits claimed since 1982	\$9,758,817	\$1,854,268	\$11,613,085

*Figures provided by Manitoba Department Of Finance

Table 7

Tax Credits For Political Contributions Since 1982



7.0 INFORMATION AND ASSISTANCE

The Act directs that the Chief Electoral Officer shall assist candidates and registered political parties, and their Chief Financial Officers, in preparing statements and returns required under the Act and otherwise in complying with the Act. The Chief Electoral Officer may also prepare guidelines for candidates and registered political parties and their Chief Financial Officers and auditors. At present, guidelines for Chief Financial Officers of political parties and candidates have been published. The Office also responds on an ongoing basis to many enquiries made in writing, by telephone and in person.

Another statutory responsibility of the Chief Electoral Officer concerns public information. The statements, returns, registers and records which are required to be kept must be available to the general public as are copies of *The Elections Finances Act*. This information is open to inspection by anyone during regular office hours at Elections Manitoba, Main Floor, 200 Vaughan Street, Winnipeg, Manitoba.

The Act directs that statements and returns filed with the Chief Electoral Officer are available for public inspection immediately upon receipt. It should be noted that such statements and returns may not be complete or may contain errors since the review of the documents may not have been completed at the time of initial public inspection. Following a thorough review and verification all statements and returns are finalized and remain available for inspection. Members of the public and in particular political representatives, the media and academics frequently inspect documents and records.

For those not able to attend the office, information has often been mailed upon request. Election results and financial information in summary form are available through the Internet. The election information can be reviewed several ways including by political party affiliation and by electoral division. Political Party Annual Financial Statements and the Annual Report are also available to be down loaded. In the past year the Web site has had about 600 visits. Additional information is added to the Web site as it becomes available. Contact with Elections Manitoba may be made as follows:

Telephone: (204) 945-3225 or Toll Free in Manitoba 1-800-282-8069

Fax: (204) 945-6011

E-mail: election@elections.mb.ca

WWW: <http://www.elections.mb.ca/elections>

II. THE 1995 GENERAL ELECTION

There were three outstanding matters from the 1995 General Election which were concluded in 1997.

On November 5, 1996 two charges were laid against Naty Yankech, a candidate in the Burrows Electoral Division. The charges were for failing to file a candidate's financial return that substantially disclosed information required to be disclosed by *The Elections Finances Act* and for failing substantially to provide clarifying or verifying information with respect to a financial return as required by the Chief Electoral Officer. The matter was resolved by way of agreement. A stay of proceedings was entered with respect to the first charge and the candidate entered a guilty plea with respect to the second charge. The Judge accepted the guilty plea, registered a conviction and imposed a reprimand upon the candidate. The Judge did not consider a fine to be necessary. The Judge placed much significance on the fact that the candidate had already incurred a financial penalty because the candidate would not receive the reimbursement of election expenses that would otherwise be payable under the Act and that this would be a substantial deterrent for future candidates thereby preserving the integrity of the process.

On November 5, 1996 nine charges were laid against Renato Tuazon, the chief financial officer for Naty Yankech. The charges were for failing to file a candidate's financial return, failing to keep proper records, issuing income tax receipts improperly, and failing substantially to provide clarifying or verifying information with respect to Naty Yankech's financial return as required by the Chief Electoral Officer. The matter was resolved by way of agreement. A stay of proceedings was entered with respect to four charges and the candidate entered a guilty plea with respect to five charges which included failing to file a candidate's financial return, failing to keep proper records, and issuing income tax receipts improperly. Mr. Tuazon was fined a total of \$1,880. The Judge heartily endorsed the objectives of *The Elections Finances Act* and commented to Mr. Tuazon that "...the offences...committed or at least some of the offences strike at the very heart of our democratic system".

On July 18, 1996 a charge was laid against Lyle Morrisseau, an independent candidate in the Point Douglas Electoral Division for failing to file a candidate's financial return. The matter was concluded when the Judge accepted a defence counsel motion to quash the Information charging Lyle Morrisseau with an offence on the basis that the Information was technically defective. The Judge concluded that the absence of a specific time frame in the body of the Information rendered him unable to satisfy himself that the prosecution had been commenced within the limitation period prescribed in the Act. In his view the Information was rendered a nullity which was incapable of amendment.

III. THE 1997 PORTAGE LA PRAIRIE BY-ELECTION

Under *The Elections Finances Act* candidates and political parties must file financial statements with the Chief Electoral Officer for income, transfers and expenses covering the election period. A return for contributions disclosing in detail contributions of \$250 or more must also be filed for candidates. Contributions of \$250 or more to registered political parties during an election are disclosed with the annual returns. The candidate and political party elections statements and returns for the 1997 Portage la Prairie By-Election were required to be filed by January 2, 1998. The Progressive Conservative Party of Manitoba was granted an extension to the filing deadline. All candidates and registered political parties filed their election statements and returns by the applicable deadline except for The Liberal Party in Manitoba, which filed its information on January 6, 1998 and for Ralph Jackson an Independent candidate, whose information was filed on January 8, 1998. Summaries of the returns are provided in Tables 8 and 9.

The spending limits for and reimbursement paid to candidates and registered political parties in the by-election are also shown in Tables 8 and 9. Registered political parties qualify for a 50% reimbursement of actual election expenses in each electoral division if their endorsed candidate in that electoral division receives a minimum of 10% of the valid votes cast. Candidates receiving a minimum of 10% of the valid votes cast qualify to receive a 50% reimbursement of their actual election expenses.

Total reimbursement paid for the by-election was \$51,240.93 which represents \$23,093.42 for political parties and \$28,147.51 for candidates. In some instances, part or all of an endorsed candidate's reimbursement may be paid to the endorsing political party depending upon the level of contributions raised by the candidate to cover election expenses. In addition to the reimbursement, subsidies paid to auditors totalled \$1,345.00. Each auditor is paid up to a maximum of \$250 for auditing a financial return.

The Office of the Chief Electoral Officer conducted a training seminar for the Chief Financial Officers of candidates. Three of the five Chief Financial Officers attended. There is a need for training seminars and materials in this area and initiatives will continue in the future.

TABLE 8**SUMMARY OF CANDIDATE INCOME, ELECTION EXPENSES, SPENDING LIMITS AND REIMBURSEMENT 1997 PORTAGE LA PRAIRIE BY-ELECTION**

	David Fauschou \$	Warren Goodwin \$	Connie Gretsinger \$	Ralph Jackson \$	Dave Quinn \$
I. Income					
1. Contributions ¹	12,282.00	5,673.00			7,210.00
2. Transfers					
a. Received from constituency associations	786.00		1,442.00		
b. Received from political party			4,945.00		1,000.00
Total Transfers	786.00	0.00	6,387.00	0.00	1,000.00
3. Other					
a. Total net fund raising activity surplus					
b. Investment income					
c. Other income					
Total Other Income	0.00	0.00	0.00	0.00	0.00
Total Income	13,068.00	5,673.00	6,387.00	0.00	8,210.00
II. Expenses					
1. Election Expenses					
a. Advertising					
1) Newspapers, magazines or other publications	4,419.00	1,687.61	866.00		2,059.39
2) Television or radio broadcasts		960.86	1,005.00		2,125.02
3) Billboards or other material displays					
Total Advertising (\$5,169) ³	4,419.00	2,648.47	1,871.00	0.00	4,184.41
b. Fees for services		3,200.00			5,621.08
c. Transportation, accommodation, meals	1,814.00	424.60	50.00		957.79
d. Office rental	1,331.00	428.00	546.00		450.00
e. Equipment rental	1,456.00	77.52			500.00
f. Utilities	2,638.00	82.11	1,319.00		2,010.73
g. Postage	502.00		29.00		901.83
h. Signs and banners	3,389.00	2,020.66	1,083.00		1,979.50
i. Lumber	548.00	250.43			1,546.16
j. Promotional material	3,173.00	614.46	946.00		2,459.74
k. Other election expenses	809.00	92.43	75.00		1,404.41
Total Other Election Expenses	15,660.00	7,190.21	4,048.00	0.00	17,831.24
Total Election Expenses (\$25,847) ³	20,079.00	9,838.68	5,919.00	0.00	22,015.65
2. Transfers to a Registered Political Party					
Total Expenses and Transfers	20,079.00	9,838.68	5,919.00	0.00	22,015.65
Surplus (Deficit)	<u>(7,011.00)</u>	<u>(4,165.68)</u>	<u>468.00</u>	<u>0.00</u>	<u>(13,806.65)</u>
Candidates' Reimbursement ²					
To Candidates	7,797.00	4,165.68	2,959.50		10,982.83
To Political Parties	2,242.50				

- Contributions include money received and donations-in-kind received.
- Reimbursements are calculated on the total election expenses less donations-in-kind. Donations-in-kind are subject to the spending limits but are not subject to reimbursement.
- The figures in brackets are the spending limits for advertising expenses and total election expenses. The number of names on the revised voters lists for the electoral division by-election (11,569) is multiplied by the amount permitted on a per-voter basis (\$0.4468 for advertising expenses and \$2.2341 for total election expenses). The advertising limit is included in the total expense limit.

TABLE 9**SUMMARY OF REGISTERED POLITICAL PARTY INCOME, ELECTION EXPENSES,**

SPENDING LIMITS AND REIMBURSEMENT 1997 PORTAGE LA PRAIRIE BY-ELECTION

	Lib	NDP	PC
	\$	\$	\$
I. Income			
1. Contributions ¹	63,532.66	192,986.00	313,980.00
2. Transfers			
a. Received from constituency associations			4,642.00
b. Received from endorsed candidates			
Total Transfers	0.00	0.00	4,642.00
3. Other			
a. Total net fund raising activity surplus	929.55	1,602.00	57,710.00
b. Investment income			
c. Other income	2,211.43		3,375.00
Total Other Income	3,140.98	1,602.00	61,085.00
Total Income	66,673.64	194,588.00	379,707.00
II. Expenses			
1. Election Expenses			
a. Advertising			
1) Newspapers, magazines or other publications	2,508.08		8,051.00
2) Television or radio broadcasts			7,260.00
3) Billboards or other material displays			
Total Advertising (\$15,508) ³	2,508.08	0.00	15,311.00
b. Fees for services	2,500.00	8,018.00	6,115.00
c. Transportation, accommodation, meals	809.29		2,417.00
d. Office rental			
e. Equipment rental	1,368.00		
f. Utilities	217.40	727.00	
g. Postage	1,010.50	29.00	
h. Signs and banners	6.88		
i. Lumber			
j. Promotional material	4,019.35	27.00	610.00
k. Other election expenses	475.35	5.00	513.00
Total Other Election Expenses	10,406.77	8,079.00	10,382.00
Total Election Expenses (\$31,016) ³	12,914.85	8,079.00	25,693.00
2. Transfers			
a. To constituency associations		1,442.00	
b. To endorsed candidates	1,000.00	4,945.00	
Total Transfers	1,000.00	6,387.00	0.00
Total Expenses and Transfers	13,914.85	14,466.00	25,693.00
Surplus (Deficit)	52,758.79	180,122.00	354,014.00
Reimbursement to Political Parties ²	6,457.42	4,039.50	12,596.50

1. Contributions include money and donations-in-kind received.
2. The amounts shown for reimbursement do not include candidate reimbursements paid to political parties. The amount reimbursed is 50% of actual election expenses (total election expenses less donations-in-kind).
3. The figures in brackets are the spending limits for advertising expenses and total election expenses. The number of names on the revised voters lists for the electoral division by-election (11,569) is multiplied by the amount permitted on a per-voter basis (\$1.3405 for advertising expenses and \$2.6809 for total election expenses). The advertising limit is included in the total expense limit.

IV. INNOVATIONS, FUTURE DIRECTIONS

Besides on-going annual activities the main focus in 1998 will be on legislative amendments, redistribution of provincial electoral boundaries, general election preparations and the

preparation for and the conduct of the Charleswood by-election.

At the time of writing this report, Bill 3 which amends *The Elections Finances Act* received second reading and was referred to a Committee of the House. The Bill provides for a ninety-day lead time to make necessary changes to forms, materials and guidelines.

Preparations for the Electoral Divisions Boundaries Commission began in 1997. The proposed new boundaries will be recommended by the Commission late in 1998 and one of the impacts will be the necessity to prepare for an election on the existing and the proposed new electoral boundaries.

At the time of writing this report our office was in the midst of conducting a by-election in the Charleswood Electoral Division. The candidate and political party election statements for the by-election are required to be filed on July 29, 1998 and the statements will be available for public inspection then. Election preparations for a general election will continue especially considering the proposed new amendments and that the Legislative Assembly will be into the fourth year of its mandate.

V. RECOMMENDATIONS FOR LEGISLATIVE AMENDMENTS

This section is an update for one of the major recommendations from the *Annual Report of the Chief Electoral Officer on The Elections Finances Act* (1995). The update concerns Recommendation 1.1 and the issue of Third Party Expenditures.

The recommendation essentially was that reasonable limits on third party expenditures during elections should be considered but that it may be prudent to wait for pending court cases which could provide further direction. It had been recommended, nevertheless, that there be public disclosure requirements applicable for third parties incurring election expenses above a certain threshold. The public disclosure requirements included the requirement to display an authorization on all advertising and promotional material, and a requirement to disclose a financial statement and a detailed contributors' list.

The Royal Commission on Electoral Reform and Party Financing(1991), as a result of its hearings and research, proposed recommendations to restrict third party spending during a federal election which it considered to be a reasonable limit and therefore constitutional. The Royal Commission concluded that unlimited third party spending where it occurs is a threat to the effectiveness of campaign finance legislation. The Royal Commission recommended that election expenses incurred independently from registered political parties and candidates not exceed \$1,000; that there be no pooling of funds; and that the sponsor be identified on all advertisements and promotional material for such independent expenditures. It was also recommended that the black out period for advertising in federal elections apply to the election advertising of third parties but that there be no restrictions on third parties that communicate directly and exclusively with bona fide members.

Amendments to the *Canada Elections Act* concerning third party spending were passed in Bill C-114 in 1993 and subsequently challenged in Court by David Sommerville of the National Citizens Coalition. The new provisions contained a ceiling on advertising expenditures between the date of the issue of the writ and the day immediately following polling day as opposed to a total ban on election expenditures which existed in the Act prior to Bill C-114. Also included were provisions to identify the name of the sponsor of the advertising, and a restriction on pooling advertising spending if the total exceeds the limit. The restrictions on third parties does not apply to third parties that communicate directly and exclusively with bona fide members. The initial judgement of the Court of Queen's Bench of Alberta was that the provisions were unconstitutional. The matter was appealed by the Attorney General of Canada to the Court of Appeal of Alberta and was heard in the Spring of 1995. The Court of Appeal dismissed the appeal in June of 1996. There was no further appeal in this matter and the present status of the third party provisions in the *Canada Elections Act* is that they have been judged unconstitutional and are therefore not being applied.

A recent decision of the Supreme Court of Canada is significant to the issue of limiting third party expenditures during elections - *Libman vs. Quebec (Attorney General)*. The Supreme

Court of Canada declared sections of Quebec's Referendum law which regulated the expenses that may be incurred by third parties during a referendum campaign to be of no force or effect because the impugned sections infringe upon the freedoms of expression and association guaranteed by ss. 2(b) and (d) of the *Canadian Charter of Rights and Freedoms*. At the same time, however, the Supreme Court explicitly recognized the important policy objective of preserving fairness in referendum campaigns and the need to regulate third party spending such as contained in Quebec's *Referendum Act* and also in the *Canada Elections Act*. The Court, however, did not agree with the way in which the Quebec *Referendum Act* gave effect to the policy objective. The Court's view was that the Quebec limits on third party spending in referendums failed the test of minimal impairment because they were so restrictive that they came close to being a total ban. The Court's view was that there were better alternative solutions than the limits imposed under the Quebec *Referendum Act* stating, "The Lortie Commission's recommendation on third party expenses is one possible solution." (paragraph 77). In paragraph 78 the Court elaborated further:

78 To guarantee the operation of the system of election spending limits, the Lortie Commission recommended, *inter alia*, that groups and individuals not connected with a political party or candidate (independents) be prohibited from incurring election expenses exceeding \$1,000 and from pooling these amounts (Lortie Commission, *supra*, at pp. 350-56). This recommendation made it possible for all practical purposes to ensure that the balance in the financial resources of the parties and candidates was respected without radically restricting the freedom of expression of independents. By allowing a certain amount without limits on how it was to be used, the Commission ensured that independents would be able to assert their points of view and that they would have some leeway in choosing forms of expression. Furthermore, by allowing a relatively low amount and prohibiting pooling, the Commission removed the temptation for parties or organizations of candidates to split into small groups in order to multiply and thus increase the limits imposed on their campaigns by the *Canada Elections Act*. In this way, the Commission ensured that the impact of its infringement of the principle of limiting election spending by parties and candidates would be minimal enough for the system to remain effective. It wrote the following in this regard at p. 355 of its report:

While it is possible that, in certain circumstances, a \$1000 spending limit might jeopardize the effectiveness of candidate and party spending limits, the risk that fairness would be compromised by spending at this level would not be so significant as to justify a lower limit, provided that individuals or groups not be permitted to combine resources to augment the spending limit. The regulation of independent expenditure thus must include an explicit restriction against individuals or groups pooling their financial resources to

overcome the spending limit. Without such a restriction, the effectiveness of spending limits on individuals and groups could easily be destroyed.

Parliament adopted the Lortie Commission's recommendations concerning regulating third party spending during elections by enacting ss. 259.1 and 259.2 of the *Canada Elections Act*. As mentioned, a 1996 Alberta Court of Appeal decision declared the sections to be unconstitutional. In the most recent decision the Supreme Court commented on the Alberta Court of Appeal decision by stating in paragraph 79:

In *Somerville v. Canada (Attorney General)*, *supra*, the Alberta Court of Appeal declared these provisions to be unconstitutional. With respect, we have already mentioned that we cannot accept the Alberta Court of Appeal's point of view because we disagree with its conclusion regarding the legitimacy of the objective of the provisions (para. 55).

This Supreme Court of Canada decision in *Libman* provides important guidance in the issue of regulating third party spending during election campaigns. The essence of the Supreme Court decision seems to be that ensuring electoral fairness by limiting independent third party spending during Referendums (and presumably during elections - see paragraph 46) is a laudable policy objective and a reasonable limit so long as the limits are proportional and do not ban or effectively ban third party involvement. Election spending limits are essential to ensure the principle of fairness in democratic elections and over time it can be expected that the spending limit system will lose its effectiveness if independent spending is not also limited.

In July 1995 British Columbia passed Bill 28 establishing a new Election Act which contains third party advertising and spending provisions. Third parties are prohibited from incurring expenses equivalent to election expenses unless the spending is in relation to a public policy issue. Third party entities that advertise during an election must be registered and are restricted to a \$5000 advertising spending limit. Advertisements must show the name of the registered sponsor and a financial report including a contributors' list must be filed with the Chief Electoral Officer unless the advertising incurred is less than \$500. These provisions were challenged as unconstitutional in July 1995 by an individual supported by the National Citizens Coalition. The petition was subsequently withdrawn, but a similar claim was filed by Pacific Press, in April 1996. The case has not yet been heard. As a result of the *Libman* decision, however, arguments are being heard in court at the time of writing this report on whether or not the case should be dismissed. The third party provisions were applied in the most recent British Columbia general election and administrative penalties under the Election Act resulted for one individual and one group which each incurred advertising expenses in excess of the limit provided for in the Election Act. The Attorney General of British Columbia has the authority to enforce the administrative penalties in the Election Act but has decided not to enforce the penalty provisions pending the outcome of the court decisions.

Recommendation: In light of the Supreme Court of Canada judgement in *Libman vs. Quebec (Attorney General)* it is recommended that third party spending in elections should now be reexamined and careful consideration given to adopting spending limits. Given the current Court actions in British Columbia which bear directly on the constitutionality of such third party spending limits it may be prudent to await a judgement in that jurisdiction. Nevertheless, public disclosure requirements as outlined in Recommendation 1.1 of the *Annual Report of the Chief Electoral Officer on The Elections Finances Act (1995)* are also recommended.

