

April 10, 2003

Honourable Gary Doer
Premier
204 Legislative Building
450 Broadway
Winnipeg, MB R3C 0V8

Dear Premier Doer,

In August of 2000 your government passed Bill 4: The Election Finances Amendment Act which imposes arbitrary spending limits and regulations on citizens and citizen groups during an election period. When Bill 4 was introduced in the Legislature, it was claimed that these changes would "have reasonable limits on third-party activity during an election campaign and will continue to build on Manitoba's integrity on a level playing field during election campaigns." Unfortunately, these amendments will have an effect that is the opposite of their intent.

Section 25 of the Act, which deals with citizens and citizen groups, has not been proclaimed but could come into force on a specified date of your government's choosing. As there is a provincial election looming, the Canadian Taxpayers Federation (CTF) fears that your government will proclaim this portion of the Act into force just prior to the election, thereby forcing citizens of Manitoba to comply with a new set of onerous rules or face a significant fine up to \$50,000.

Under the legislation citizens and citizen groups will be limited to spend only \$5,000 on election advertising, which is a paltry amount compared to the \$1 million political parties can spend during a campaign. These limits obstruct freedom of speech and give political parties a monopoly on ideas and debates during an election.. This is Canada Mr. Premier, not Communist China.

When the Canadian Taxpayers Federation wrote to you on this issue in July of 2000, we had obtained a legal opinion which concluded the gag law provisions in Bill 4 violated the Canadian Charter of Rights and Freedoms. At the same time the CTF also petitioned Justice Minister Gord Mackintosh to file a statutory reference to the Manitoba Court of Appeal based on BC's Supreme Court ruling which quashed the very same law.

In recent years these laws have been struck down in other jurisdictions. In 1998, in *Thomson Newspapers v. Canada (Attorney General)*, the Supreme Court of Canada struck down sections of the Canada Elections Act prohibiting the broadcasting, publication or dissemination of opinion survey results in the final three days of a federal election campaign.

In February of 2000, the B.C. Supreme Court struck down the provincial law imposing citizens and citizen groups spending limits during B.C. provincial elections. This law had been introduced by the NDP government in 1995 and was in force during the 1996 B.C. provincial election. The Court ruled that there was not enough evidence to conclude that citizens and citizen groups advertising had an impact on voter intentions. The court also ruled that there was no evidence of unfair dominance of the electoral process by citizens and citizen groups that required legislative action. The court ruled that overriding the Charter rights require more than a general hypothetical concern about a problem where there is no evidence to demonstrate that it has existed in the past or is likely to exist in the future.

Fast-forward to June of 2001: *Harper v. Canada (Attorney General)*. After reviewing all of the evidence, Alberta Court of Queen's Bench, Justice Cairns ruled that there was

of the evidence, Alberta Court of Queen's Bench Justice Cairns ruled that there was "no evidentiary foundation upon which to conclude that election fairness is adversely affected by third party advertising during an election period."

Proclaiming these sections into force on the eve of an election could well be construed by the Manitoba Court of Queen's Bench as acting in bad faith. When the federal government proclaimed its gag law into force just prior to the 2000 federal election, the Alberta Court of Queen's Bench granted an interim injunction to suspend the validity of this federal gag law during the election.

Mr. Premier, we urge you to repeal section 25 of the Act. Not only would this save the taxpayers of Manitoba thousands of dollars in legal costs when it is challenged in court, but doing so would be consistent with our constitutional freedom of speech and freedom of association.

Sincerely,

Adrienne Batra
Provincial Director, Manitoba
Canadian Taxpayers Federation

CC. Hon. Gord Mackintosh, Minister of Justice
Hon. Stuart Murray, Leader of the Opposition
Hon. Jon Gerrard, Leader Manitoba Liberal Party

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NOTE: The Canadian Taxpayers Federation is a non-profit, non-partisan, educational and advocacy organization funded only by free-will contributions. The CTF receives no government funding and does not issue charitable receipts.

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