

Luke Beck
Associate Professor
Faculty of Law

13 June 2018

Further Submission to the Parliamentary Joint Committee on Intelligence and Security Review of the Foreign Influence Transparency Scheme Bill 2017

Dear Committee

Thank you for the opportunity to make a further submission concerning the Foreign Influence Transparency Scheme Bill 2017 with proposed amendments.

I am an Associate Professor of Constitutional Law at Monash University.

The amendments to the Bill go a long way towards fixing many of the very serious problems that existed with the Bill in its original form.

However, the proposed amendments do not go far enough. People with improper intentions are likely to simply disobey the requirement to register. The law needs to address directly the methods by which improper foreign influence is exercised.

A major method of influence is the making of political donations. A foreign influence transparency scheme that does not directly confront the issue of foreign donations is inadequate.

The influence of foreign donations should be addressed by:

1. Banning political parties and candidates from receiving foreign donations.
2. Banning the use of foreign money for political advertising generally, including by third parties. Canada has such a law, allowing third parties to receive foreign funds for non-political activities but prohibiting the use of foreign funds for political advertising. Section 358 of the *Canada Elections Act* (SC 2000 c 9) provides:

No third party shall use a contribution for election advertising purposes if the contribution is from

- (a) a person who is not a Canadian citizen or a permanent resident within the meaning of subsection 2(1) of the Immigration and Refugee Protection Act;
- (b) a corporation or an association that does not carry on business in Canada;
- (c) a trade union that does not hold bargaining rights for employees in Canada;
- (d) a foreign political party; or
- (e) a foreign government or an agent of one.

Faculty of Law
15 Ancora Imparo Way
Monash University
Clayton VIC 3800

3. Banning foreigners from attempting to induce voters to cast their vote in a particular way. Canada has such laws. The relevant sections of the *Canada Elections Act* (SC 2000 c 9) provide:

331 No person who does not reside in Canada shall, during an election period, in any way induce electors to vote or refrain from voting or vote or refrain from voting for a particular candidate unless the person is

- (a) a Canadian citizen; or
- (b) a permanent resident within the meaning of subsection 2(1) of the Immigration and Refugee Protection Act.

351.1 A third party shall not incur election advertising expenses of a total amount of \$500 or more in relation to a general election or a by-election, or, if the election periods of two or more by-elections overlap with each other in whole or in part, in relation to those by-elections, unless

- (a) if the third party is an individual, the individual
 - (i) is a Canadian citizen,
 - (ii) is a permanent resident as defined in subsection 2(1) of the Immigration and Refugee Protection Act, or
 - (iii) resides in Canada;
- (b) if the third party is a corporation, it carries on business in Canada; and
- (c) if the third party is a group, a person who is responsible for the group
 - (i) is a Canadian citizen,
 - (ii) is a permanent resident as defined in subsection 2(1) of the Immigration and Refugee Protection Act, or
 - (iii) resides in Canada.

I am confident that such laws would be constitutionally valid.

I trust this submission is of assistance.

Yours sincerely

Luke Beck