

POLITICAL PARTY AND CAMPAIGN FINANCING IN JAMAICA¹

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I. INTRODUCTION

A) POLITICS: A MARKETPLACE

Mark Hanna, the Republican political strategist who masterminded the successful US presidential campaign of William McKinley in 1896 which outspent that of the Democrats 12 to 1, is quoted as saying:

“There are two things that are important in politics. The first is money.....and I can’t remember what the second one is.”

Politics is, indeed, a marketplace. It involves the selling of ideas to the consumers in that marketplace who make up the electorate. It involves competition in that marketplace because the market demands that all ideas must not only be allowed but must actively be encouraged to contend. And therefore, as in any marketplace, there must be rules to discourage market dominance and prevent unfair trading practices.

As is the case in any marketplace, too, promotion and marketing are important elements of doing business. The more intense is the competition the greater the role and impact of promotion and marketing strategies. The emergence of new technology, especially in communications and “perception management”, has drastically transformed the methodology for promotion and marketing. But it is also expensive and therefore access to resources and the freedom to spend those resources can and do have a profound effect on the behavior of the market.

B) THE JAMAICAN SITUATION

The legal framework governing political financing in Jamaica resides in the Representation of the People Act which was enacted in 1994 when universal adult suffrage was established. The relevant provisions are reproduced at Appendix 1. Apart from periodic revision of monetary limits to reflect changes in the value of our currency, these legal provisions have not been reviewed. They remain archaic, inadequate and inappropriate.

C) MAJOR DEFICIENCIES IN REGULATORY FRAMEWORK

- 1) Political parties are not recognized as legal entities but rather as voluntary associations of private individuals. Indeed, there is not a single reference in the Constitution to political parties although the Representation of the People Act does establish certain rights of political parties in relation to the registration of voters and the administration of elections.

¹ The opinions expressed in this document do not reflect the official position of the Organization of American States.

- 2) Political parties are not required to be registered and are not subject to any reporting requirements. They are not required to produce accounts or financial statements.
- 3) While there are restrictions on the amounts and purposes for which election candidates or their authorized agents are permitted to spend money, these only apply to the period between nomination day and election day which, by law, must be not less than 16 nor more than 23 days. There are no similar restrictions applicable to expenditure in support of a candidate so long as that expenditure is incurred by persons not formally authorized by the candidate.
- 4) There are no restrictions on or regulation of the amounts that may be spent by political parties either generally or in support of a particular candidate. This is of particular significance in Jamaica where voters tend to vote for a political party rather than an individual candidate.
- 5) The mechanism for enforcement of the existing laws, inadequate though they are, is weak. Although candidates are required within 6 weeks after an election to submit returns of expenditure during the defined election period, many candidates over the years have ignored this requirement. Others incredulously submit returns showing nil expenses. These returns have never been investigated or challenged. Nor has any candidate ever been penalized for failure to submit returns.
- 6) There is no legal restriction on a candidate, political party or any individual or organization soliciting funds to finance political activities including campaigns and elections. There is also no restriction on any individual, corporation or organization in making financial contributions for political purposes. These contributions do not have to be reported to any regulatory body nor made public.

C) STATE FUNDING

The state is required by law to provide funding to political parties and individual candidates in limited areas:

- 1) Each political party that meets specific requirements is entitled to appoint an observer or scrutineer for each polling division to accompany the enumerator in the registration of voters. These observers or scrutineers are paid by the state (J\$65.00 for each voter registered).
- 2) Each candidate is entitled to appoint an agent for each polling station on election day to observe proceedings and witness documents on behalf of the candidate. These agents are paid J\$1,500.00 by the state.

In addition, over the last 25 years, the practice has developed, although not legally required, for the state to allow political parties to import, up to a prescribed number, motor vehicles for campaign purposes at significantly reduced tariffs.

II. NATURE OF POLITICAL FINANCING IN JAMAICA

Subject only to the limited regulations outlined above, political financing in Jamaica remains very much a free-for-all, lacking transparency or oversight. The implications for the integrity of the political process – the conduct of the “marketplace” – can readily be appreciated. Political parties that are able to raise large sums of money and are subject to no spending restrictions are better able to promote their ideas and policies and enhance the prospects of their candidates. They are better able to engage voters in their campaign, create the “winning psychology” that is so crucial in tilting the undecided voter and maximizing the turnout of their supporters on election day by providing mobilizers and transportation. Small parties are at a distinct disadvantage because no matter how impressive is their platform the lack of financing prevents them from mounting an effective campaign. They are left appearing in the public mind as non-starters.

The impact on election outcomes of inequitable funding can be significant. In the 2002 elections which were won by the governing party with a majority of only 8 seats, 23 of the 60 seats were won by margins of less than 5% of the electorate. Like so many countries throughout the world there is growing public cynicism toward politics and mistrust of politicians. Driven by the failure of the political system to adequately respond to the needs and aspirations of the people and to reform itself to become more inclusive and participatory, this cynicism is exacerbated by the vulgar display of vote-getting expenditure and the concealment from the public of the sources and amounts of this money.

The public concludes that these funds are derived from the rich and powerful since political parties do not, to any great extent, engage in visible fundraising activities and have no income-earning ventures. He who pays the piper, it is believed, calls the tune and there is a pervading view among the public that the political parties which depend on their votes are so beholden to rich and powerful interests that the power which their votes are used to deliver is then used via government policies and actions to satisfy the interests of the benefactors rather than those of the wider public. This has been a contributing factor to the steady decline in voter turnout over the last 25 years

1980	85.6%
1989	78.3%
1993	68.0%
1997	65.4%
2002	58.1%

The increasing role of money in politics has been driven by the increasing cost of politics. Originally, political parties were decentralized, the focus being on the activities and organization of individual constituencies, the majority of which were rural and remote. Communications were primitive and interpersonal. Political fortunes depended largely on the popularity of the individual candidate among the people in the local communities. Costs were minimal entailing primarily the expenses incurred by the candidate in traveling from village to village. Persons who assisted the candidate in voter registration, mobilization and poll watching did so mostly on a voluntary basis. Over time, all this has changed. Political parties have become monolithic, highly concentrated organizations with multi-tiered structures, large bureaucracies and heavy capital and recurrent costs. Also, in an effort to

secure competitive advantage, they have taken unto themselves many welfare functions normally ascribed to the state. Political parties and candidates now spend enormous resources assisting the poor and needy, financing tuition for students, sporting activities etc. Communications have become an increasingly dominant feature of political activity with expensive media utilization being the most effective and preferred method.

Meeting the cost of this new mode of politicking requires ever increasing resources. Party membership, comprised as it is predominantly of the poor and near-poor, is incapable of generating any significant level of resources for political activities. Added to this is the mindset of the party rank-and-file that party membership or support is about “giving and receiving” – giving the vote in exchange for benefits. Parties, therefore, find themselves forced to turn to the business sector and persons of affluence for the resources they need. In a relatively poor country like Jamaica these represent a tiny minority but one which, because of the dependence on them for financial contributions, wield enormous influence over the political parties in terms of their policies and actions.

That influence may be direct or indirect. There are individuals and companies the principals of which are known to be supportive of a particular political party and are seen to benefit handsomely from government decisions (award of contracts, divestment of state assets, etc.) when that party forms the government. But even where no *quid pro quo* appears to exist, it is widely believed that governments, in formulating policies, are mindful not to offend interests on which they depend for financial contributions. In a small economy like Jamaica where some of these interests may be so dominant that a particular government policy may affect them to a greater extent than others, this latent sense of obligation can be extremely pernicious.

The lack of restrictions on fundraising and the absence of any reporting requirements leave the gate wide open for “dirty” money with its attendant “obligations” to find its way into party coffers. Jamaica is particularly vulnerable in this regard. The 2002 Corruption Perception Index published by Transparency International gave Jamaica a score of 3.8 out of 20 and ranked it 57th out of 133 countries surveyed. Our geographic location and porous coastline have made us the preferred transshipment point for Columbian drugs destined for North America and Europe. There is evidence that money laundering activities have penetrated our financial system. It is impossible to determine if and how much illicit money finds its way into the hands of political parties and individual politicians but the possibilities are virtually endless and public perception is overwhelmingly of that view.

The political process is also undermined by the use of state resources to bolster the chances of the party which controls the government at any point in time. The concentration of power that is characteristic of Westminster-type parliamentary systems and the impotence of opposition parties to do more than expose wrongdoing and stimulate public outcry allows a government to misuse its power and the resources of the state in its narrow political interest. Allocation of state benefits (jobs, housing, contracts, welfare disbursements etc.) can and have become an important quiver in the bow of a government which is aimed at its political opponents. It is virtually impossible to eliminate this entirely. It is not always possible to draw a line between the use of resources in pursuit of a legitimate government function or responsibility and the corrupt use of those resources to secure votes. But

appropriate regulations providing for oversight, transparency and accountability can prevent some of the more blatant and vulgar instances of this practice.

The absence of reporting requirements renders it impossible to determine the actual cost of campaigns and elections. The absence of adequate restrictions creates a situation where those costs will vary widely among political parties.

The law stipulates that expenses incurred by a candidate and any person authorized by him must not exceed J\$3 million or US\$50,000. (*See Form of Return at Appendix 2*). However, as pointed out earlier, this applies only to expenses incurred during the defined election period (16-23 days) and does not apply to expenses incurred for the candidate by persons not authorized by him. For this reason and because the information provided by those candidates who do submit returns in compliance of the law is unverified and highly unreliable, there is no official data from which accurate conclusions about campaign and election expenditure can be drawn. My own experience and investigations suggest that expenditure by individual candidates over the 12-month period preceding an election varies between J\$4 million and J\$15 million with the mean average being around J\$6 million. Political parties over the same 12-month period will spend between J\$250 million and J\$400 million. In both cases, approximately 60% of these amounts will be spent in the last 6 weeks before an election. So as to avoid double counting, however, I should point out that a substantial portion (perhaps 50%) of the funds spent by individual candidates is provided by their political parties. These figures do not include the amounts spent by the state for the administration of the elections which include the amounts paid to scrutineers and poll agents. The official cost holding the 2002 elections was J\$700 million. Of this amount, approximately J\$15 million was paid to agents observing the poll on behalf of candidates.

The cost incurred by both political parties and candidates are met from contributions in both cash and kind. Again, because of the lack of reliable data, it is not possible to separate these with any degree of certainty. My estimate based on my own experience is that 80% of the contributions received is in the form of cash.

The major items of expenditure are media advertising and promotions, motor vehicles, employment of campaign and election workers, transportation to and the staging of political rallies and transportation of voters to polling stations. At the candidate level, a significant amount of expenditure is also incurred in “entertainment”, i.e. feting supporters to build goodwill.

III. ACCESS TO THE MEDIA

Jamaica has experienced a positive transformation in the media landscape in recent years. There has been a significant increase in the number of media houses and there is robust competition among them. Fifteen years ago there was only one television station and two radio stations – all government owned – and one daily newspaper (privately owned). Today there are three television stations, seven radio stations and two daily newspapers, all privately owned. In addition, there is a large number of cable operators serving various communities.

The media in Jamaica enjoys substantial freedom subject only to the law of libel and, in respect of the electronic media, broadcasting regulations that are relatively benign. In recent years there has been no evidence of government interference and public vigilance against any such intervention remains very strong. Indeed in the recently released World Press Freedom rankings published by watchdog group *Reporters Without Borders*, Jamaica placed 21st out of 166 countries – ahead of many developed countries including the United States, Britain, France, Italy, Spain and Australia.

The legal provisions relating to political broadcasts are very simple and are concerned more with form than substance, relying on the libel laws to govern content. Access to the media by political parties and candidates is unrestricted and is contingent only on the ability to purchase air time and print space. Access to **resources** and not access to the media is what, therefore, determines the relative use of media facilities by competing political interests.

News output falls within the editorial judgment of the individual media houses. This may be influenced by the political biases of individual media practitioners but the intense competition that exists among media houses mitigates this. Media ownership is relatively diffused thereby facilitating and encouraging media houses to accommodate and cultivate the diverse interests of the broad populace. Their total reliance on advertising revenue in a fiercely competitive environment galvanizes this position and prevents them from being corralled by narrow interests. This, too, causes media houses to be extremely wary of being accused of political bias as this would damage their readership, listenership or viewership and, hence their revenues.

The state provides no assistance to political parties or candidates in terms of free air time or print space. Some media houses do conduct programmes which engage the parties and candidates in debates and presentation of policy positions. In that regard they have been commendably balanced. The Media Association of Jamaica (the umbrella group for media owners), the Press Association of Jamaica (the umbrella group for journalists) and the Jamaica Chamber of Commerce collaborate in staging a limited number (two or three) debates between the major parties prior to elections.

The government has the power, as a condition of broadcasting licenses, to commandeer air time for “national broadcasts” but is prohibited by law from using such broadcasts to promote the election of any individual or political party or to attack their policies. The Broadcasting Commission is empowered, where it deems it necessary, to order that equal time for reply be given to the aggrieved party. It also has the power to direct a licensee to retract and apologize for any material that is broadcast which contains inaccuracies. Importantly, licensees are prohibited from making broadcast time available to any political party on terms less favourable than those applicable to other parties. The relevant provisions of the Broadcast and Rediffusion Act are provided at Appendix 3.

The amounts spent on political advertising are difficult to pin down with any certainty – again, because of the absence of reporting requirements. The use of media advertising is usually intensified in the last 2-3 months before elections. A crude “guesstimate” would put media advertising by each of the two major political parties at J\$80-100 million over this period.

Radio is the most widely used medium because of its penetration and because it gives more “bang for the buck”. Television is the most expensive but also the most effective because of its visual impact. A perspective offered by media researcher, Dr. Hopeton Dunn at Appendix 4 provides further insight into the relative use of political advertising by the two major political parties.

A feature of the 2002 election campaign that undermined balanced access to the media was the significant use of state resources by various government agencies to promote government programmes that have mass appeal. This was unashamedly designed to bolster public perception of the performance of the governing party. When publicly challenged, these agencies disingenuously suggested that this was “mere coincidence”.

IV. DISCLOSURE AND ACCOUNTABILITY

As earlier indicated, the requirements for disclosure and accountability are very limited, weak and poorly enforced. The only restrictions and reporting requirements relate to expenditure incurred by nominated candidates or their authorized agents during the 16-23 day period between nomination day and election day. Political parties and other organizations or individuals are subject to no restrictions or reporting requirements in relation to expenditure that they may incur for the same purpose or in the interest of the same beneficiaries.

Political parties have been reluctant to address the issue of campaign finance reform, fearful that it will adversely affect its ability to source the required funding. Corporations and individuals are extremely reluctant to have their contributions disclosed especially in a society that is as politically polarized as Jamaica is. Publicly listed companies are fearful of incurring the wrath of those shareholders who do not support the political party to which contributions are made. Contributors are also fearful that disclosure might lead to tax investigations and even harassment.

Political parties, also, wish to avoid a regulatory framework that restricts the type of expenditure that they may incur or one that necessitates detailed accounting and audit procedures.

With the growing public concern about corruption, there have been calls for reform of campaign and political party financing. A compilation of newspaper articles on the issue are attached at Appendix?. In May 2003, the Senate passed a resolution calling for the establishment of a national commission to consider the issue and make appropriate recommendations for legislative and other actions. A commitment was given by the government that such a commission would have been established by June 2003. It has not yet been done, reflecting, perhaps, the general reluctance of the political leadership to venture upon the matter.

V. RECOMMENDATIONS

The issue of the financing of political parties and election campaigns must be addressed with urgency. The evidence suggests that it has and continues to have a corrosive and unleveling effect on the democratic process. The perception of corruption cultivated by the absence of appropriate regulatory mechanisms continues to erode public confidence in our political institutions.

The following recommendations deserve serious consideration:

A) STATUTORY REGISTRATION OF POLITICAL PARTIES

- 1) Every political party should be required by law to be registered annually with the Electoral Commission.
- 2) The criteria for registration should stipulate the minimum required membership and basic requirements of internal democracy. They should, however, not be so stringent as to exclude fledgling parties.

B) FINANCIAL REPORTING

Political parties should be required to file annually with the Electoral Commission audited financial statements detailing income and expenditure, assets and liabilities. These reports should be made public.

C) CONTRIBUTIONS TO POLITICAL PARTIES

- 1) Legislation should be enacted to regulate financial and other contributions to political parties and individual candidates. Political parties should be required to disclose to the Electoral Commission the sources of financial contributions on the monetary value of contributions in kind which in anyone year exceeds Twenty Five thousand Dollars (\$25,000) in the case of individuals or Two Hundred and Fifty Thousand Dollars (\$250,000) in the case of organisations or corporate entities.
- 2) Financial contributions or contributions in kind to individual candidates should only be permitted within a period of three months prior to or after election day and only after the candidate has been duly nominated. Each candidate should be required to disclose to the Electoral Commission the source of financial contributions or the monetary value of contributions in kind which exceed Twenty Five Thousand Dollars (\$25,000) in the case of individuals or Two Hundred and Fifty Thousand Dollars (\$250,000) in the case of organisations or corporate entities.
- 3) Contributions reported to the Electoral Commission would qualify for tax credit upon certification by the Commission.

- 4) The Electoral Commission would be precluded, except with the consent of the contributor or upon judicial enquiry, from disclosing the source of any contribution to any political party. It would, however, be required to disclose annually to the public the total amount of contributions reported by each political party and within six months after every election the total amount of contributions reported by each candidate.
- 5) The monetary limits contained in these provisions would be subject to review by the Electoral Commission and could be amended by order published in the Gazette.

D) STATE FUNDING

While poor countries like Jamaica can ill-afford to provide funding to political parties and would, perhaps, incur public wrath if it did so, a strong case can be made for state-funding to assist political parties to transmit their message to the electorate. It is therefore proposed that:

- (a) during the election period, a substantial portion (say, 80%) of the air time that is required to be reserved for the government by broadcasting licensees be allocated at the discretion of the Electoral Commission to competing political parties.
- (b) budgetary provision be made to assist, at the direction of the Electoral Commission, political parties to defray the cost of printing and publishing material containing the policies and programmes they are offering to the electorate.

E) ENFORCEMENT AND SANCTIONS

- 1) Appropriate sanctions including fines, cancellation of the registration of political parties, disqualification of candidates and removal from office of elected candidates would be applied for violation of these provisions or knowingly false declarations to the Electoral Commission.
- 2) Sanctions would also be applied to contributors who breach the restrictions on contributions to individual candidates.

Appendix 1

Representation of the People Act (Extracts)

Appointment of scrutineers.

12. (1) Each political party having five or more members in the House of Representatives shall be entitled to appoint one person as scrutineer in respect of each polling division and shall, as soon as practicable after the appointment of a scrutineer, supply his name and address in writing to the Chief Electoral Officer.

(2) Every person appointed in accordance with subsection (1) as scrutineer shall receive such remuneration as may be prescribed.

(3) Where at any time only one political party satisfies the requirements of subsection (1) for entitlement to appoint scrutineers those requirements shall be deemed to be satisfied by any political party that, immediately before the then last preceding dissolution of Parliament, had five or more members in the House of Representatives and subsection (1) shall apply accordingly.

(4) Notwithstanding that a political party fails to satisfy the requirements of subsection (1), that political party shall be entitled to appoint scrutineers pursuant thereto if-

(a) it satisfies the Committee that one of its principal objectives as stated in its written constitution is the contesting of elections for membership to the House of Representatives;

(b) its officers are elected at an annual meeting called for that purpose;

(c) it satisfies the Committee that it has a membership of at least five thousand persons; and

(d) it submits to the Committee a petition regarding the right of the political party to have scrutineers, signed by at least fifty thousand persons aged eighteen years or over who support the entitlement and whose ages and addresses are stated in the petition. Duties of scrutineers.

Duties of scrutineers.

14. (1) Subject to the provisions of subsection (2) every scrutineer appointed under section 12 may be present at a registration centre at any time when enumeration is being carried out and may also accompany the enumerator for the polling division for which he is appointed as a scrutineer at all times when such enumerator is verifying an address or making a house-to-house enquiry.

(2) Every scrutineer shall at all times when acting as such wear a badge supplied by the Chief Electoral Officer indicating that he is a scrutineer.

(3) No scrutineer shall, at a registration centre or when accompanying any enumerator, ask any question of or make any remark to any person at a registration centre or upon any premises entered by him under this section with a view to ascertaining or to influencing the

political views of such person or of any other person at a registration centre or upon those premises.

(4) Every scrutineer who acts in contravention of subsection (2) or subsection (3) shall be guilty of an offence and on summary conviction before a Resident Magistrate shall be liable to a fine not exceeding ten thousand dollars; and where a scrutineer is convicted of an offence under subsection (3) the Resident Magistrate may, in addition to imposing a fine, order that the scrutineer be disqualified from carrying out duties as a scrutineer for a period of seven years from the date of conviction. Election agents and sub-agents.

53. (1) On or before nomination day each candidate or prospective candidate shall give notice in writing to the returning officer appointing either himself or some other person as his election agent and specifying an address within the constituency to which all claims, notices, writs, summonses and documents may be sent, addressed to the candidate or to his agent.

(2) Every candidate may at any time give notice in writing to the returning officer revoking the appointment of his agent and in the event of such revocation, or of the death of the agent, whether such event is before, during or after the election, then forthwith another election agent shall be appointed and his name and address declared in writing to the returning officer.

(3) Every election agent appointed under subsection (1) may act in relation to any matter required to be done in any polling division by a sub-agent, and anything done for the purposes of this Act by or to a sub-agent in his polling division shall be deemed to be done by or to the election agent and any act or default of a sub-agent, which, if he were the election agent, would be an illegal practice or other offence against this Act, shall be an illegal practice and offence against this Act committed by the sub-agent, and the sub-agent shall be liable to punishment accordingly; and the candidate shall suffer the like incapacity as if the said act or default had been the act or default of the election agent.

(4) Not later than one clear day before the poll the election agent shall declare in writing the name and address of every sub-agent to the returning officer.

(5) The appointment of a sub-agent shall not be vacated by the election agent who appointed him ceasing to be election agent, but may be revoked by the election agent for the time being of the candidate, and in the event of such revocation or of the death of a sub-agent another sub-agent may be appointed, and his name and address shall be forthwith declared in writing to the returning officer, who shall forthwith give public notice of the same.

(6) Every document delivered to the address referred to in the notice under subsection (1) shall be deemed to have been duly served upon the election agent and every election agent may, in respect of any matter connected with the election for which he is acting, be sued in any court having jurisdiction over the place where such address is situated.

Making of contracts and payment of expenses through election agents.

54. (1) The election agent of a candidate by himself or by his sub-agent shall appoint every sub-agent, clerk, and messenger employed for payment on behalf of the candidate at an election, and hire every committee room hired on behalf of the candidate.

(2) A contract whereby any expenses are incurred on account of or in respect of the conduct or management of an election shall not be enforceable against a candidate at such election unless made by the candidate himself or by his election agent, either by himself or by his sub-agent:

Provided that the inability under this section to enforce such contract against the candidate shall not relieve the candidate from the consequences of any illegal practice having been committed by his agent.

(3) Except as permitted by or in pursuance of this Act, no payment and no advance or deposit shall be made by a candidate at an election or by any agent on behalf of the candidate or by any other person at any time, whether before, during, or after such election, in respect of any expenses incurred on account of or in respect of the conduct or management of such election, otherwise than by or through the election agent of the candidate, whether acting in person or by a sub-agent; and all money provided by any person other than the candidate for any expenses incurred on account of or in respect of the conduct or management of the election, whether as gift, loan, advance, or deposit, shall be paid to the candidate or his election agent and not otherwise:

Provided that this section shall not be deemed to apply to a tender of security to or any payment by the returning officer or to any sum disbursed by any person out of his own money for any small expense legally incurred by himself, if such sum is not repaid to him.

Total amount of expenditure that may be incurred.

55. (1) Subject to the provisions of subsection (2), no expenditure shall be incurred in relation to the candidature of any person at any election in excess of three million dollars.

(2) In determining the total expenditure incurred in relation to the candidature of any person at any election regard shall not be had-

(a) to the deposit required to be made by the candidate under paragraph (b) of subsection (5) of section 23; or

(b) to any expenditure incurred before the issue of the writ for the election in respect of services rendered or materials supplied before the issue of such writ.

Who may incur election expenditure.

56. (1) No expenditure shall be incurred in respect of the candidature of any person at any election except by the candidate, or his agent, or some person authorized in writing by the agent.

(2) Every person who contravenes subsection (1) shall be guilty of an offence and, upon summary conviction thereof before a Resident Magistrate, shall be liable to a fine not exceeding one hundred dollars or to be imprisoned for any term not exceeding six months.

Expenditure that may be incurred by candidate.

57. No payments shall be made by any candidate to any person other than his agent in connection with his candidature at any election except -

(a) expenditure for his personal living expenses during the period of the election to an amount not exceeding ten thousand dollars; and

(b) petty expenditure to an amount not exceeding two thousand dollars:

Provided that this section shall not apply to any candidate who is his own official agent.

Who may incur expenditure.

58. (1) No expenditure shall be incurred in respect of the candidature of any candidate at any election, by any person authorized in writing by the agent of such candidate, in excess of the amount specified in the authorization.

(2) Every person who contravenes subsection (1) shall be guilty of an offence and, upon summary conviction thereof before a Resident Magistrate, shall be liable to a fine not exceeding one hundred dollars or to be imprisoned for any term not exceeding six months.

Consequences of unauthorized expenditure.

59. (1) Subject to the provisions of subsection (2), where any expenditure is incurred in contravention of the provisions of section 55, 56, 57 or 58, the person by whom, such expenditure was incurred and the candidate in connection with whose candidature it was incurred shall, in addition to any other penalty to which either of them may be liable, be deemed to be guilty of an illegal practice.

(2) No candidate shall be deemed to be guilty of an illegal practice by reason of any other person having incurred any expenditure in connection with the candidature of the candidate in contravention of any of the provisions of section 55, 56 or 58 if the candidate proves affirmatively that such expenditure was incurred without his knowledge or consent and that he took all reasonable steps to prevent the incurrance of such expenditure.

Election agent to make a return.

60. (1) Within six weeks after election day every election agent shall make an election return to the returning officer for the constituency in which he acted as an election agent.

(2) Every return made under this section shall contain a full statement under the appropriate head specified in the return of all expenditure incurred in connection with the election by or

on behalf of the candidate by whose election agent the return is made and shall be supported by vouchers for all payments in excess of four dollars.

(3) Every return made under this section shall contain a full statement of all moneys, securities, or the equivalent of money, received by the election agent from the candidate or from any other source in connection with the election.

(4) Every return under subsection (1) shall be in the prescribed form and shall be sworn to before a Justice by the agent by whom it is made.

(5) Every return under this section shall be supported by a declaration sworn to before a Justice by the candidate stating -

(a) that the return fully and accurately sets out all payments made by the candidate himself; and

(b) that to the best of his knowledge information and belief the return is a full and accurate return of all expenditure incurred by any person and of all moneys, securities or the equivalent of money received by the election agent from any source in connection with the election:

Provided that where a candidate acts as his own agent this subsection shall not apply.

(6) [Deleted by Act 1 of 1989.]

(7) The returning officer, within ten days after he receives any return under this section, shall publish a summary thereof in a daily newspaper accompanied by a notice of the time and place at which the return and the documents in support thereof can be inspected.

Period for sending in claims and making payments for election expenses.

61. (1) Every claim against a candidate at an election or his election agent in respect of any expenses incurred on account of or in respect of the conduct or management of such election which is not sent in to the election agent within twenty-one days of the date upon which the expenses were incurred shall be barred and shall not be paid; and an election agent who pays a claim which is barred under this section shall be guilty of an illegal practice.

(2) All expenses incurred by or on behalf of a candidate at an election, which are incurred on account of or in respect of the conductor or management of such election, shall be paid within six weeks next after election day and not otherwise; and an election agent who makes a payment in contravention of this provision shall be guilty of an illegal practice.

Providing of money for illegal practice or payment to be illegal payment.

70. Where a person knowingly provides money for any payment which is contrary to the provisions of this Act, or for any expenses incurred in excess of any maximum amount allowed by this Act, or of replacing any money expended in any such payment or expenses,

except where the same may have been previously allowed in pursuance of this Act to be an exception, such person shall be guilty of illegal payment.

Use of motor vehicles, etc., for conveying of voters to the poll.

71. (1) Subject to the provisions of subsection (3), a person shall not, with a view to supporting or opposing the candidature of any individual as against any other or others at an election, either let, lend or employ, or hire, borrow or use, any motor vehicle or any animal drawn vehicle or any animal for the purpose of the conveyance of electors to or from the poll, and if he does so, he shall be guilty of an illegal hiring and shall be guilty of an illegal practice.

(2) Where any motor vehicle or any animal drawn vehicle or any animal is let, lent, employed, hired, borrowed or used for the purpose of the conveyance of electors to or from the poll, it shall be presumed until the contrary is proved that the motor vehicle, animal drawn vehicle or animal was so let, lent, employed, hired, borrowed or used with a view to supporting or opposing the candidature of some individual as against some other or others at the election.

(3) Nothing in this section shall -

(a) prevent any motor vehicle, any animal drawn vehicle or any animal being let to or hired, employed or used by an elector, or several electors at their joint cost, for the purpose of being conveyed to or from the poll; or

(b) prevent any person employing any motor vehicle or any animal drawn vehicle or any animal for the purpose of conveying to or from the poll himself or any member of the same household, or borrowing any such vehicle or animal from a member of the same household to be employed for that purpose; or

(c) subject to the provisions of section 73, apply to any motor vehicle registered as an electoral vehicle on behalf of any candidate, in relation to the user of such vehicle in accordance with the provisions of section 74:

Provided that in any prosecution under this section the burden of proving any exemption under either paragraph (a) or paragraph (b) or paragraph (c) shall be on the person charged.

Registration of motor vehicles as electoral vehicles.

72. (1) Subject to the provisions of this section and of section 73 at any time between nomination day and the fifth day next before election day any duly nominated candidate or the election agent of such candidate may by notice in writing require the appropriate police officer to register as electoral vehicles on behalf of such candidate so many and such motor vehicles as may be specified in such notice, so, however, that notice shall not be given in respect of the registration as electoral vehicles on behalf of any candidate of more than one motor vehicle for each five hundred electors whose names appear upon any official list for the relevant constituency.

(2) Every notice under subsection (1) shall specify -

- (a) the name of the candidate by or on behalf of whom it is given; and
- (b) the constituency for which he is a duly nominated candidate; and
- (c) the total number of vehicles which are desired to be registered as electoral vehicles on his behalf; and
- (d) the name and address of the owner of each such vehicle and the type, make and registration number under the Road Traffic Act of each such vehicle.

(3) So soon as may be after the receipt of any notice under subsection (1) the appropriate police officer shall satisfy himself by personal enquiry or otherwise as he may think fit -

- (a) as to the truth of the matters specified pursuant to the provisions of subsection (2) in such notice; and
- (b) that the owner of each motor vehicle specified in such notice consents to the use of such motor vehicle as an electoral vehicle on behalf of the candidate by or on whose behalf the notice was given; and
- (c) that application has not been made for the registration of such motor vehicle as an electoral vehicle on behalf of any other candidate in such constituency or in any other constituency.

(4) Where the appropriate police officer is satisfied as to the matters referred to in subsection (3) he shall notify the candidate by or on whose behalf the notice under subsection (1) was given of the registration of the vehicles to which such notice relates as electoral vehicles on behalf of such candidate and shall supply to such candidate or to his election agent an electoral vehicle placard in respect of each vehicle so registered.

(5) Every electoral vehicle placard shall specify -

- (a) that the vehicle to which the placard relates is a registered electoral vehicle; and
- (b) the registration number (under the Road Traffic Act) of such vehicle; and
- (c) the name of the candidate on whose behalf such vehicle is registered as an electoral vehicle; and
- (d) the name of the constituency in respect of which such vehicle is registered as an electoral vehicle.

(6) In this section "appropriate police officer" means the police officer in charge of the parish in which is comprised the constituency to which the notice under subsection (1) relates.

Special provisions relating to urban constituencies.

73. (1) The provisions of paragraph (c) of subsection (3) of section 71 and the provisions of section 72 shall not apply to any constituency comprised in the parish of Kingston.

(2) The provisions of section 72 shall apply to any constituency situated in the parish of Saint Andrew subject to the following modification -

the deletion from subsection (1) of the section of the words "list for the relevant constituency" and the substitution therefor of the words "lists for such of the polling divisions in the relevant constituencies as are wholly comprised in the rural district of the Corporate Area of Kingston and Saint Andrew".

(3) Subsection (1) of section 74 shall take effect in relation to any constituency comprised in the parish of Saint Andrew as if there were substituted for paragraph (b) of the subsection the following paragraph -

(b) outside the boundaries of such portion of the rural district of the Corporate Area of Kingston and Saint Andrew as is comprised in the constituency in respect of which it is a registered electoral vehicle:

Provided that this paragraph shall not apply to the presence of any motor vehicle upon a public road outside the boundaries of such portion of the rural district of the Corporate Area of Kingston and Saint Andrew as is situated within the constituency in respect of which such vehicle is registered as an electoral vehicle at any time when such vehicle is actually transporting electors in such constituency from some point in such portion of such constituency as is comprised in such rural district to some other point in such constituency which is comprised in such rural district by the most direct route between such points practicable for motor traffic.

(4) In this section "the rural district of the Corporate Area of Kingston and Saint Andrew" means the rural district of such area as defined in the Second Schedule to the Kingston and St. Andrew Corporation Act.

Restriction on user of registered electoral vehicles.

74. (1) No registered electoral vehicle shall be at any time during polling hours on election day on any public road -

(a) unless there is prominently displayed upon such vehicle the electoral vehicle placard in respect of such vehicle; or

(b) outside the boundaries of the constituency in respect of which it is a registered electoral vehicle:

Provided that this paragraph shall not apply to the presence of any motor vehicle upon a public road outside the boundaries of the constituency in respect of which such vehicle is

registered as an electoral vehicle at any time when such vehicle is actually transporting electors in such constituency from some point in such constituency to some other point in such constituency by the most direct route between such points practicable for motor traffic.

(2) Every person who -

(a) drives or causes or permits to be driven any registered electoral vehicle; or

(b) is or causes any other person to be a passenger upon any such vehicle at a time when he knows or has reasonable cause to believe that such vehicle is being driven,

in contravention of the provisions of this section shall be guilty of an illegal hiring and of an illegal practice.

Conveyance of non-voters.

75. (1) Subject to the provisions of subsection (3), a person shall not either let, lend or employ or hire, borrow or use or drive any motor vehicle or animal drawn vehicle for the purpose of conveying into or within any constituency during an election therein within a period of three hours before the hour appointed for the opening of the poll and one hour after the closing thereof, any persons not registered as electors in such constituency for the purpose of supporting or opposing the candidature of any individual against any other or others at such election and if-

(a) he is a candidate in such constituency he shall be guilty of an offence against this section;

(b) he is a person other than a candidate referred in paragraph (a) he shall be guilty of an illegal hiring and shall be guilty of an illegal practice.

(2) Where any motor vehicle or any animal drawn vehicle is let, lent, employed, hired, borrowed, used or driven for the purpose of the conveyance into or within any constituency during an election therein within a period of three hours before the hour appointed for the opening of the poll and one hour after the closing thereof of any persons not registered as electors in such constituency it shall be presumed until the contrary is proved that such motor vehicle or animal drawn vehicle was let, lent, employed, hired, borrowed, used or driven for the purpose of supporting or opposing the candidature of an individual against some other or others at the election.

(3) Nothing in this section shall prevent the conveyance-

(a) into or within any constituency of-

(i) any election officer; or

(ii) any election agent duly appointed by a candidate in such constituency or any subagent duly appointed by such agent; or

(iii) any person who has reason-able grounds for believing that he is registered as a voter in such constituency;

(b) of a candidate into or within the constituency for which he is a candidate at any election taking place in the constituency on that day

Provided that in any prosecution under this section the burden of proving that any person so conveyed is one of the persons aforesaid shall be on the person charged.

(4) Any candidate who contravenes sub-section (1) or subsection (3) (b) shall be guilty of an offence against this section and on summary conviction before a Resident Magistrate shall be liable to a fine not exceeding five hundred thousand dollars and in default of payment thereof to imprisonment with or without hard labour for a term not exceeding three years.

Power to question passengers and detain vehicles.

76. (1) It shall be lawful for a constable to stop any motor vehicle or animal drawn vehicle which he has reason to believe is being driven or has been driven contrary to the provisions of section 71 or of section 74 or of section 75 and to question the driver of or any passenger in or upon such vehicle, whether stopped on his instructions or not, with a view to determining whether a breach of any of such sections is being or has been committed.

(2) If as the result of the questioning referred to in subsection (1) it reasonably appears to a constable that a breach of section 71, 74 or 75 may have been committed, he shall require the driver to drive the vehicle to the nearest police station where it shall be detained until he, or in his absence some other constable, is satisfied that no breach of section 71, 74 or 75 has been committed or until one hour after the closing of the poll, whichever is the earlier.

(3) Any driver of any such vehicle who, upon being required to do so in accordance with the provisions of subsection (2), refuses or fails to drive such vehicle to the nearest police station shall be guilty of an offence against this section and shall be guilty of an illegal practice and on summary conviction before a Resident Magistrate shall be liable to a fine not exceeding forty thousand dollars or in default of payment thereof to be imprisoned with or without hard labour for any term not exceeding six months.

(4) Any driver of any such vehicle or any passenger in or upon such vehicle who refuses or fails to answer questions lawfully put to him by a constable under the provisions of subsection (1) shall be guilty of an offence against this section and on summary conviction before a Resident Magistrate shall be liable to a fine not less than five thousand dollars nor more than twenty thousand dollars and in default of payment thereof to imprisonment with or without hard labour for a term not exceeding six months.

Influencing of electors to vote for any candidate.

78. (1) During the hours that the poll is open upon election day no person (including a person appointed an outdoor agent) shall upon any public road or in any public place within one hundred metres of any premises in which a polling station is situated seek to influence

any elector to vote for any candidate or to ascertain for what candidate any elector intends to vote or has voted.

(1A) No person who is a member of the Jamaica Constabulary Force, the Island Special Constabulary Force, the Rural Police or the Jamaica Defence Force shall, while acting in the execution of his duty during an election, seek to influence any elector to vote for any candidate or in any manner seek to improperly influence the outcome of any election.

(2) Every person who contravenes the provisions of subsection (1) shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not less than ten thousand dollars or to imprisonment for any term not exceeding twelve months or to both such fine and such imprisonment.

(3) Any person who contravenes the provisions of subsection (1A) shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not less than fifty thousand dollars nor more than two hundred thousand dollars or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

Punishment of illegal payment, employment or hiring.

85. (1) A person guilty of an offence of illegal hiring or illegal payment shall, on summary conviction before a Resident Magistrate, be liable to a fine not less than ten thousand dollars nor more than forty thousand dollars and in default of payment to imprisonment with or without hard labour for a term not exceeding twelve months.

(2) A candidate or an election agent of a candidate who is personally guilty of an offence of illegal hiring contrary to the provisions of section 83 or of illegal payment shall be guilty of an illegal practice.

Bribery and treating.

91. (1) The following persons shall be deemed guilty of bribery within the meaning of this Act -

(a) every person who directly or indirectly, by him self or by any other person on his behalf, gives, lends, or agrees to give or lend, or offers, promises, or promises to procure or endeavour to procure, any money or valuable consideration to or for any voter or to or for any person on behalf of any voter, or to or for any person in order to induce any voter to vote or refrain from voting, or corruptly does any such act as aforesaid on account of such voter having voted or refrained from voting at any election;

(b) every person who directly or indirectly, by himself or by any other person on his behalf, gives or procures, or agrees to give or procure, or offers, promises, or promises to procure or to endeavour to procure any office, place or employment, to or for any voter, or to or for any person on behalf of any voter, or to or for any other person in order to induce such voter to vote or refrain from voting, or corruptly does any such act as aforesaid on account of any voter having voted or refrained from voting at any election;

(c) every person who directly or indirectly by himself or by any other person on his behalf makes any such gift, loan, offer, promise, procurement or agreement as aforesaid, to or for any person, in order to induce such person to procure or endeavour to procure the return of any person as an elected member of the House of Representatives, or the vote of any voter at an election;

(d) every person who, upon or in consequence of any such gift, loan, offer, promise, procurement or agreement, procures or engages, promises or endeavours to procure the return of any person as an elected member of the House of Representatives, or the vote of any voter at any election;

(e) every person who advances or pays, or causes to be paid, any money to or to the use of another person with the intent that such money or any part thereof, shall be expended in bribery at any election, or who knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election;

(f) every voter who, before or during any election, directly or indirectly, by himself or by any other person in his behalf, receives, agrees or contracts for, any money, gift, loan or valuable consideration, office, place or employment, for himself or for any person for voting or agreeing to vote or for refraining or agreeing to refrain from voting, at any election;

(g) every person who, after any election, directly or indirectly, by himself or by any other person on his behalf, receives any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or refrain from voting at any election.

(2) The following persons shall be deemed guilty of treating within the meaning of this Act -

(a) every person who corruptly, by himself or by any other person, either before, during or after an election, directly or indirectly gives or provides, or pays wholly or in part the expenses of giving or providing any food, drink, entertainment or provision, to or for any person for the purpose of corruptly influencing that person or any other person to vote or refrain from voting at such election, or on account of such person or any other person having voted or refrained from voting at such election;

(b) every elector who corruptly accepts or takes any such food, drink, entertainment or provision.

Penalty for bribery, treating, or undue influence.

94. Every person who is guilty of bribery, treating or undue influence, shall, on summary conviction before a Resident Magistrate, be liable to a fine not less than twenty thousand dollars nor more than eighty thousand dollars or to imprisonment, with or without hard labour, for a term not less than three years nor more than five years; and the Resident Magistrate may, in addition to such fine and imprisonment order that the person be

disqualified from holding any post of election officer for a period not less than seven years from the date of conviction.

Disqualifying effect of conviction for bribery, treating, etc.

96. Every person who is convicted of bribery, treating, undue influence or Personation, or of aiding, counselling or procuring the commission of the offence of Personation, shall (in addition to any other punishment) be incapable during a period of seven years from the date of his conviction -

(a) of being registered as an elector or voting at any election of a member of the House of Representatives or of any Parish Council or of a Councillor of the Kingston and Saint Andrew Corporation; and

(b) of being elected a member of the House of Representatives or of any Parish Council or a Councillor of the Kingston and Saint Andrew Corporation, or, if elected before his conviction, of retaining his seat as such member or Councillor:

Provided that in the event of any appeal the incapacity shall continue until the appeal is determined and thereafter, unless the conviction is quashed, remain in force for a period of seven years from the determination of the appeal except the court hearing the appeal shall direct that the period of seven years shall run from the date of conviction.

Offences by election agents and candidates.

101. (1) Every election agent who -

(a) contravenes or fails to comply with the provisions of section 60;

(b) in any return made under section 60 makes an entry which he knows to be false or does not believe to be true, commits an offence.

(2) Every candidate who -

(a) at an election contravenes or fails to comply with the provisions of subsection (5) of section 60;

(b) in any declaration made under subsection (5) of section 60 makes any statement which he knows to be false or does not believe to be true,

commits an offence.

(3) Every election agent who commits an offence under subsection (1) or candidate who commits an offence under subsection (2) shall be guilty of an offence and on conviction before a Circuit Court be liable to a fine not less than twenty thousand dollars nor more than eighty thousand dollars or to imprisonment for such term as the Court may impose being a term not less than three years; and the Court may, in addition to such fine or imprisonment,

order that the election agent or candidate be disqualified from holding any post of election officer for a period not less than seven years from the date of conviction.

Consequences of illegal practice.

103. Any person who is convicted of any offence declared to be an illegal practice under this Act shall, in addition to any other penalty for such offence be incapable during a period of ten years from the date of his conviction -

(a) of being registered as an elector or voting at any election of a member of the House of Representatives or of any Parish Council or of a Councillor of the Kingston and Saint Andrew Corporation; and

(b) of being elected a member of the House of Representatives or of any Parish Council or a Councillor of the Kingston and Saint Andrew Corporation or, if elected before his conviction, of retaining his seat as such member or Councillor:

Provided that where the person convicted is a candidate -

(a) the reference to ten years shall be a reference to fifteen years; and

(b) he shall be disqualified from holding any post of election officer for a period of fifteen years.

Provided further that in the event of any appeal the incapacity shall continue until the appeal is determined and thereafter unless the conviction is quashed, remain in force for a period of ten years or fifteen years, as the case may be, from the determination of the appeal except the court hearing the appeal shall direct that the period of ten years or fifteen years, as the case may be, shall run from the date of conviction.

Appendix 2

FORM NO. 22 (Section 60 (4) (6))

THE REPRESENTATION OF THE PEOPLE ACT

*Return of Election Expenses
Payments made by candidate to persons other than his agent*

(1) Personal living expenses of Candidate (not to exceed \$100.) \$ _____ c
 (2) Petty expenses incurred by Candidate (not to exceed \$20.) \$ _____

Expenditure incurred by Agent

Expenditure upon hire of premises

Particulars of premises	Period for which hired	Rate per day	Total expenditure
.	\$ c	\$ c	

Expenditure on lighting in connection with hired premises
\$ _____

Expenditure on Printing

Expenditure on newspaper advertising \$c

Expenditure on distribution of advertising material

Expenditure on canvassing

Names of canvassers	Amount paid to canvassers
\$	c

Expenditure on allowances to speakers

Date	Name of speaker	Meetings addressed by speaker	Amount paid to speaker
.	\$	c	

Expenditure on Clerks and Messengers

Expenditure on postage, stationery and miscellaneous expenses not above enumerated

*Moneys, Securities or Money's worth received by Agent from any
Source in connection with election*

Date	Amount or value \$ c	Nature of article received	Source from which received
------	-------------------------	----------------------------	----------------------------

Declaration of Candidate

I _____ of _____ a candidate at the election of a member of the House of Representatives held on the _____ day of _____ 19_____ do swear (or solemnly declare) that-

- (1) I have examined the attached return and the vouchers in support thereof; and
- (2) I have made no payments to any person other than my official agent in connection with my candidature except as set out in the attached return;
- (3) to the best of my knowledge, information and belief the attached return is in every respect a true and accurate return of all expenditure incurred in promoting my candidature at the said election and of moneys, securities and money's worth received by my agent from any source in connection with my candidature.

Signature

Declared to by _____ before me this _____ day of _____ 19_____

Justice of the Peace

Declaration of Official Agent

I, _____ of _____ at the election of a member of the House of Representatives held on the _____ day of _____ 19_____ do swear (or solemnly declare) that-

(1) to the best of my knowledge, information and belief the attached return is a true and accurate return of all expenditure incurred by any person in promoting the candidature of the said _____ at the said election between the issue of the Writ for the said election and the return thereto;

(2) that I have not received from the candidate or from any club, society or organization any sum of money, securities or money's worth for promoting the said candidature between the said dates, except as set out in the return.

Signature

Declared to by _____ before me this _____
day of _____ 19 _____

Justice of the Peace

Appendix 3

Broadcasting and Rediffusion Act (Extracts)

Licensee's duty regarding political broadcasts.

12. (1) In relation to a political broadcast, a licensee who engages in commercial broadcasting shall -

(a) ensure that the name of the political party or sponsor, if any, on whose behalf the broadcast is made, is announced in any announcement or advertisement of that broadcast, immediately before the commencement and immediately after the end of, such broadcast;

(b) not permit any such broadcast other than an advertisement thereof to be dramatized.

(2) In paragraph (1) "political broadcast" means a broadcast which is designed to promote or reduce the popularity of a political party, a member of the House of Representatives, a candidate for election to the House of Representatives, a member of or a candidate for election to the Council of the Kingston and St. Andrew Corporation or a member of or candidate for election to a Parish Council.

21. Impartiality in political broadcasts.

21. (1) Where, under any broadcasting licence issued under this Act, time is allocated to the Government for broadcasts for reasons of emergency or in the national interest, such time shall not be used for broadcasting any matter which is likely, or intended -

(a) to solicit support for any political party or to promote the election of any individual or of any political party to any public or municipal office or to the House of Representatives; or

(b) to attack the policies, plans or programmes of any political party or parties.

(2) Where on any broadcasting station time is allocated to the Government or any political party for a broadcast which is used as mentioned in subsection (1) (a) or (1) (b), on terms whereby the time so allocated is free of charge or at a rate which is less than the normal commercial rate, equal time shall be allocated on that broadcasting station on similar terms to any political party which the Commission is satisfied is likely to be prejudicially affected by that broadcast.

(3) For the purpose of ensuring compliance with subsection (1) or subsection (2) the Commission shall investigate any allegation of non-compliance made not later than twenty-one days after the date of the relevant broadcast and, if satisfied of the truth of the allegation, shall -

(a) if the allegation relates to subsection (1), direct -

(i) that equal time be afforded to such other political party or parties as may be approved by the Commission to reply to matters arising out of such broadcast; and

(ii) that any such reply is broadcast at such time, on such terms with regard to payment or otherwise and in such circumstances as are in the opinion of the Commission necessary to ensure that the reply is given exposure equivalent to that given to the broadcast which was the subject of the allegation;

(b) if the allegation relates to subsection (2), give such directions as it thinks appropriate to ensure compliance with that subsection.

(4) Where it is alleged that any broadcast contains information which is inaccurate the Commission shall, upon being required to do so by any person not later than twenty-one days after the broadcast, investigate the allegation and, if satisfied as to the truth of the allegation -

(a) direct the licensee to broadcast -

(i) an apology; or

(ii) if the Commission thinks fit, a correction of the inaccuracy,

in such form as the Commission may determine; or

(b) subject to subsection (5), direct the licensee to afford to any person prejudiced by the broadcast the opportunity of broadcasting a reply for the purpose of rebutting any information alleged to be inaccurate; or

(c) direct the licensee to do both (a) and (b) above.

(5) A direction pursuant to subsection (4) (b) shall be on such terms as the Commission may determine, so, however, that, without prejudice to the generality of the foregoing -

(a) if, in the opinion of the Commission, the licensee did not exercise due care in ensuring the accuracy of the information where it was possible to do so, the broadcast in rebuttal shall be free of charge; and

(b) in any other case, the broadcast in rebuttal shall be on such terms as to payment to the licensee as the Commission may determine.

(6) For the purposes of this section "political party" means a political party which, at the time when the matter arises has five or more members in the House of Representatives or which had, immediately prior to the then last preceding dissolution of that House, five or more such members.

Appendix 4

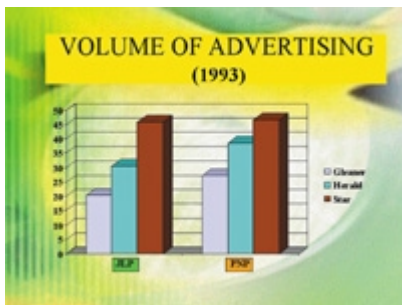
The media won election 2002
 DR HOPETON S DUNN
 Observer Sunday, October 27, 2002

MEDIA owners and a few advertising agencies in Jamaica's print and electronic media sectors must be smiling all the way to the bank. What seemed at points to be unlimited political party spending in the run-up to Election Day, should translate into big bucks for the main media houses.

This added boost of unprecedented election advertising over the last month means that it is really the major newspapers, radio and television services that have won the promotional aspect of the campaign. The challenge will be for these media houses to collect the additional revenue, generated by the intensity of a hotly contested election battle in the media where parties may have overspent their budgets.



The dramatic reduction in the use of street posters and graffiti was more than compensated for by party messages in all forms of traditional media and even on local cable television and on websites on the Internet.



Content Analysis

The major players in the print media -- the Gleaner and the Jamaica Observer -- carried the equivalent of 167 full page ads by the two major political parties taken together. As Chart 1 indicates, the People's National Party (PNP) placed 60% or just over 100 of these full page equivalents, while the Jamaica Labour Party (JLP) placed 66 full page equivalents or 40 % of the total, between August 1 and October 15.

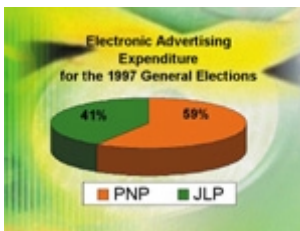
This 20% difference in the relative balance of newspaper advertising between the two major parties is consistent with the pattern over the last two general elections. In 1997, the PNP placed 57 % of the newspaper ads, while the JLP placed 38 % and the NDM and others placed 5% in that campaign. In 1993, the numbers were JLP 40% and PNP 60% of the newspaper full page equivalents.

However, in what has been a far more aggressive campaign this year, the total number of full page ads used by the two major parties doubled compared to the 1997 General Elections. In 1997, the PNP placed 52 full page or full page equivalents to this year's 101, while the JLP's 35 full page/equivalents



in 1997 rose to 66 in 2002, in the two major daily newspapers. This year was thus a bonanza for the media. While a large volume of advertising does not necessarily translate into message effectiveness, the PNP managed both, by taking an early march on the JLP and by constantly generating new 'episodes' and capturing issues as they arose in the campaign. On some occasions, the JLP responded successfully, but in other cases their message appeared defensive or in reaction to PNP media offensives. Overall, however, this multi-media bombardment, using well-produced promotional materials conveyed the message and the music of either 'logging on' or 'making the change'. Although the PNP's numerical advantage had been established earlier, by the last week of the campaign, the two parties were running neck and neck in the number of commercial spots and newspaper ads in the media advertising stakes.

Party Expenditure



It is estimated that in this campaign, the parties together spent over \$15m in just print ads in the two major papers. When other newspapers such as the Star and the Herald are taken into account, as well as special supplements, billboards and published manifesto highlights, the expenditure in print alone by the PNP and the JLP would exceed \$20m. That's a lot to spend in just over two months, with each colour or otherwise enhanced newspaper advertisement costing an average of \$90,000 a page.

TV Commercial Spots

In the electronic media, the overall print media expenditure figure would more than triple for the total value of commercial spots in radio and television. During prime time, a 60-second spot costs about \$25,000 and when placed in the major evening newscast, that spot cost almost \$37,000. On one of the TV stations, a 5-minute presentation cost \$75,000 while a 10 minute party broadcast or 'infomercial' cost \$93,000. And those figures would not include the substantial production costs, especially for some of the TV commercials which were made overseas. While all the data for this sector are not yet available, it is clear that the number of spots far exceeded those used in previous elections, with rates also increased since then.

In the last week of the campaign, CVM and TVJ were each logging close to fifteen (15) 60-seconds spots a day in prime time, or about 8 minutes of commercial time per party, not including the 5 or 10 minuters.

We could add to that the expenditure in radio commercials which were being aired with great frequency in prime time and in major programmes, as well as expensively produced interactive websites on the Internet.

The 'Golding' Factor

There was a definite increase in the volume of JLP advertising in the last two weeks of the campaign. This coincided with the period of Bruce Golding's return to the party. Whether the increase resulted from more campaign funds released on his return, as was widely speculated, or caused just from the natural intensification of the campaign is anybody's guess. However, even while his overall campaign message converged with that of his old party, Mr Golding's unit produced and presented a whole additional stream of advertising products aimed at countering negative responses about his return to the JLP.

Corporate Displacement

The overall volume of party advertising in television and radio meant that many traditional commercial advertisers had to suspend their scheduled airing to accommodate the party messages. TV advertising often ran at an average of over 6 minutes per half hour segment

nightly in the last two weeks of the campaign, exceeding conventional Broadcasting Commission regulations. And viewers had a new and entertaining soap opera to go home to in the evenings.

Campaign Finance

Overall, the day-to-day campaign was almost as aggressive in the media as on the ground. It was a daily battle with changes in script, music and visuals to meet competing needs. Some of the commercials were excellently produced, others were quite ordinary and some were in poor taste. While the print media were used mostly to present formal campaign messages, the parties used electronic media intensively to respond, counteract and otherwise engage opposing messages, while showcasing their own issues and candidates.

Among the important issues emerging from this analysis, is how as a society we are prepared to handle campaign financing, and the extent of disclosure that could be required concerning the sources of these vast sums of money spent in the campaign.

Another aspect of the content analysis deals with the messages contained in the commercials and printed ads. This comparative message content by the parties will be discussed in a follow-up article.