

December 6, 2004

## Was a 'criminal organization' behind Adscam?

Three weeks ago, I said I hope that all the political and bureaucratic culprits who are responsible for the federal sponsorship scandal go to prison.

This prompted a letter from someone named John, who exhibits a careless attitude about government that pervades this country.

It's like we think we'll all be better off if we pretend nothing bad happened.

"As a former federal employee and former auditor," writes John, "there is little doubt (in my mind) that the sponsorship program was nothing more than patronage politics.

"To hold politicians and bureaucrats accountable to the law, it must, in fact, be law--not guidelines and Treasury Board regulations.

"Not that I disagree with Mr. Byfield's outrage at the situation, but for him to present a credible argument he should learn the facts."

Okay, John, let's look at the facts, and see what the law actually says.

In February, Auditor-General Sheila Fraser reported to Parliament that between 1996 and 2001 more than \$100 million was paid to Quebec communications agencies with close ties to the Liberal Party "using false invoices and contracts or no written contracts at all." Almost the entire \$100 mil-

lion bought nothing. Agencies received 15% commissions for calling a courier and forwarding a cheque.

Police have already charged four people for sponsorship-related crimes. Meanwhile, sworn testimony continues to accumulate at the Gomery public inquiry that the program was politically directed from the highest levels, and that critical evidence was systematically destroyed.

John, the "former auditor," says this behavior may have been a little fast and loose, but no actual laws were broken.

Well, as neither John nor I is a lawyer, I consulted a Crown prosecutor who has jailed many bad people and has followed the scandal closely.

Section 426 of the Criminal Code makes it punishable by five years in prison for offering "secret commissions." This means corruptly arranging or accepting payoffs that damage an innocent third party, such as the government.

Section 380--"fraud"--earns you up to ten years for dishonestly billing or paying for work that is not done.

Section 336 covers "criminal breach of trust," good for up to 14 years in the slammer. Judge Gomery has heard evidence suggesting that funds went directly from the sponsorship program to a Quebec agency and back to the Liberal Party, a private association.

Section 122 makes it a "breach of trust by a public officer" for someone like a politician or bureaucrat to fraudulently misuse his powers of office.

Section 467 makes it a crime to facilitate or direct a "criminal organization." This is defined as any "three or more persons who have as one of their main purposes or activities the commission of one or more serious offences that if committed would likely result in the direct or indirect receipt of a material benefit by the group or any of them."

In this case, the "criminal organization" would not be the Liberal Party (perish the thought), but specific individuals working together for criminal purposes. They don't need an organizational name, membership card, master plan, or even to know each other to go to jail under this law.

So there you have it, John Q. Public. We don't know who, if anyone, should go to jail for stealing our \$100 million. But for heaven's sake, let's keep an open mind.

- Link Byfield

*Link Byfield is chairman of the Edmonton-based Citizens Centre for Freedom and Democracy.*

*"Just Between Us" is a feature service of the Citizens Centre for Freedom and Democracy. The purpose of the Citizens Centre is to enhance freedom and democracy by enabling ordinary citizens to become active and effective on important issues outside the normal processes of party politics.*